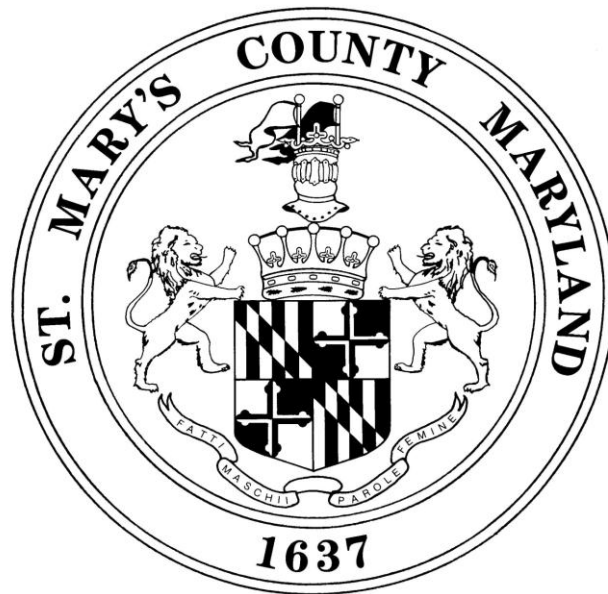


THE
ST. MARY'S COUNTY
SUBDIVISION ORDINANCE



ADOPTED AUGUST 31, 2010
EFFECTIVE SEPTEMBER 14, 2010
(AMENDED DECEMBER 18, 2012)
(AMENDED DECEMBER 31, 2013)

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ORDINANCE

WHEREAS, Article 66B of the Maryland Annotated Code empowers the St. Mary's County Board of County Commissioners (hereinafter the "Board") to adopt a Comprehensive Plan and to enact implementing ordinances to promote the health, safety and welfare of St. Mary's County and to provide for the administration, enforcement and amendment thereof in accordance with the Comprehensive Plan; and

WHEREAS, on March 23, 2010, the Board executed Ordinance 2010-01 to adopt the St. Mary's County Comprehensive Plan (hereinafter the "Comprehensive Plan") and to make the Plan effective as of April 6, 2010; and

WHEREAS, the Plan establishes a growth management strategy for the future development, conservation and preservation of the County's physical lands and waters and for the promotion and protection of the public health, safety, morals and general welfare; and

WHEREAS, a portion of that growth management strategy embraces land use regulation, including zoning, subdivision and environmental protection regulations in response to the provisions of Article 66B and the Natural Resources Article of the Maryland Annotated Code; and

WHEREAS, the Board thereafter directed the St. Mary's County Planning Commission (hereinafter the "Planning Commission") to prepare amendments to the St. Mary's County Subdivision Ordinance to implement the Comprehensive Plan; and

WHEREAS, the Planning Commission directed the St. Mary's County Department of Land Use and Growth Management (hereinafter "Staff") to accordingly prepare a draft Subdivision Ordinance, dated April 30, 2010 (hereinafter the "Draft Subdivision Ordinance"); and

WHEREAS, the Planning Commission and the Board conducted joint public hearings on said Draft Subdivision Ordinance on May 18, 19 and 20, 2010, following due notice published in the April 30 and May 5, 2010 editions of *The Enterprise*, a newspaper of general circulation in St. Mary's County; and

WHEREAS, the public hearing record remained open for additional written testimony until June 15, 2010; and

WHEREAS, during May and June 2010 the Planning Commission held eight (8) work sessions to deliberate on the public testimony received at the hearings and during the open record period, and gave direction to Staff to make certain changes to the Draft Subdivision Ordinance; and

WHEREAS, on June 28, 2010, Staff delivered to the Planning Commission a modified Draft Subdivision Ordinance, which incorporated all revisions directed by the Planning Commission; and

WHEREAS, the Planning Commission completed its deliberations and by way of adopting Planning Commission Resolution No. 10-04, did recommend to the Board the repeal of the St. Mary's County Subdivision Ordinance (Ordinance Z-02-02), and the adoption of said revised Draft Subdivision Ordinance, dated June 28, 2010 (hereinafter the "Recommended Subdivision Ordinance"); and

WHEREAS, during July and August 2010 the Board held seven (7) work sessions to deliberate on the public testimony received at the hearings and during the open record period, as well as on said Recommended Subdivision Ordinance; and

WHEREAS, as a result of these deliberations the Board gave direction to Staff to make certain changes to the Recommended Subdivision Ordinance; and

WHEREAS, on August 31, 2010, Staff delivered to the Board a Final Subdivision Ordinance, which incorporates all revisions directed by the Board; and

WHEREAS, the Board finds that adoption and implementation of the Final Subdivision Ordinance is necessary to protect and promote the public health, safety and welfare.

NOW THEREFORE BE IT ORDAINED by the St. Mary's County Board of County Commissioners that the St. Mary's County Subdivision Ordinance (Ordinance Z-02-02) is hereby repealed in its entirety; and

BE IT FURTHER ORDAINED by the St. Mary's County Board of County Commissioners that said Final Subdivision Ordinance dated August 31, 2010 as set forth in Attachment 1 hereto, is hereby adopted as the St. Mary's County Subdivision Ordinance; and

BE IT FURTHER ORDAINED by the St. Mary's County Board of County Commissioners that the foregoing recitals are hereby incorporated and adopted as if fully set forth; and

BE IT FURTHER ORDAINED by the St. Mary's County Board of County Commissioners that in the event any portion of this ordinance is found to be unconstitutional, illegal, null or void, by a court of competent jurisdiction, it is the intent of the Board of County Commissioners to sever only the invalid portion or provision, and that the remainder of the ordinance shall be enforceable and valid, unless deletion of the invalid portion would defeat the clear purpose of the ordinance, or unless deletion of the invalid portion would produce a result inconsistent with the purpose and intent of the Board of County Commissioners in enacting this ordinance; and

BE IT FURTHER ORDAINED by the Board of County Commissioners for St. Mary's County that this enactment shall be effective on the date written below.

Those voting Aye: 4 Mattingly, Dement, Russell, Raley

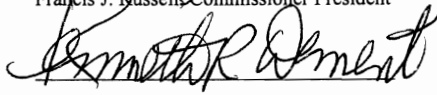
Those voting Nay: 1 Jarboe

DATE OF ADOPTION: August 31, 2010

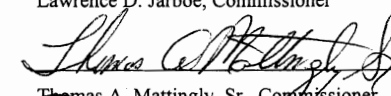
EFFECTIVE DATE: September 14, 2010

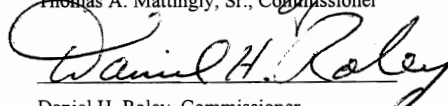
BOARD OF COUNTY COMMISSIONERS
ST. MARY'S COUNTY, MARYLAND


Francis J. Russell, Commissioner President

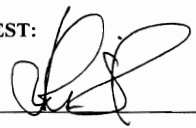

Kenneth R. Dement, Commissioner

No
Lawrence D. Jarboe, Commissioner



Thomas A. Mattingly, Sr., Commissioner


Daniel H. Raley, Commissioner

ATTEST:


John Savich
County Administrator

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:


George Sparling
County Attorney

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1 **ARTICLE 1. GENERAL PROVISIONS**

2 **CHAPTER 10 TITLE, PURPOSE AND ORGANIZATION**

3 Sections:

- 4 10.1 Title.
- 5 10.2 Authority.
- 6 10.3 Purpose.
- 7 10.4 Organization of the Subdivision Ordinance.
- 8 10.5 Applicability.
- 9 10.6 Minimum Standards.
- 10 10.7 Approval of Subdivision Plat.

11 **10.1. Title.**

12 This document shall be known as the "St. Mary's County Subdivision Ordinance" and may also
13 be referred to as "the Subdivision Ordinance", or "this Ordinance".

14 **10.2. Authority.**

15 Pursuant to the authority and provisions of Title 5, Article 66B of the Maryland Annotated Code,
16 the following regulations governing the subdivision of land within the unincorporated areas of St.
17 Mary's County, Maryland are hereby established.

18 **10.3. Purpose.**

19 This Subdivision Ordinance is intended:

- 20 1. To guide, regulate and control the division, portioning and conveyance of land within the
21 unincorporated area of St. Mary's County in a manner consistent with the St. Mary's
22 County Comprehensive Plan, Comprehensive Zoning Ordinance and Article 66B of the
23 Maryland Annotated Code.
- 24 2. Land shall be suitable for the purpose for which it is subdivided and adequate and
25 effective public facilities shall be available, as determined by the Planning Commission.
26 In addition, the public improvements shall conform to and be compatible with all other
27 County laws, regulations, plans, programs and standards.
- 28 3. To protect and provide for the public health, safety, and general welfare and to prevent
29 overcrowding of land and undue congestion of population.
- 30 4. To encourage the orderly and beneficial development of all parts of the County.
- 31 5. To protect and conserve the value of land throughout the County and the value of
32 buildings and improvements upon the land, by minimizing conflicts among the uses of
33 land and buildings.
- 34 6. To guide public and private policy and action in order to provide adequate, effective and
35 efficient public facilities and services.
- 36 7. To provide the most beneficial relationship between the uses of land and buildings and
37 the circulation of traffic throughout the County, having particular regard to the avoidance
38 of congestion in the streets and highways, and the pedestrian traffic movements
39 appropriate to the various uses of land and buildings, and to provide for proper location
40 and width of streets and building lines.
- 41 8. To establish reasonable standards of design and procedures for subdivisions and
42 resubdivisions, in order to further the orderly layout and use of land; and to insure proper
43 legal descriptions and recording of subdivided land.

- 1 9. To prevent the pollution of air, surface waters; to assure the adequacy of drainage
2 facilities; to safeguard the water table; and to encourage the wise use and management of
3 natural resources throughout the County in order to preserve the integrity, stability, and
4 beauty of the County and the value of the land.
- 5 10. To preserve for open space through the most efficient and effective design and layout of
6 the land, including the use of average density in providing for minimum width and area
7 of lots, while preserving the density of land as established by the County Comprehensive
8 Zoning Ordinance.

9 **10.4. Organization of the Subdivision Ordinance.**

10 This Ordinance consists of five (5) articles. Without superseding the specific regulations set forth
11 in each article, the general structure and content of the articles are as follows:

- 12 1. **Article 1: General Provisions.** The overall organization and applicability of the
13 regulations are included in this article. General rules are provided for interpretation,
14 conflicts with other laws and regulations, relation to deed restrictions and prior
15 regulations, construction of language, and severability.
- 16 2. **Article 2: Administration.** This article outlines detailed procedures for the administration
17 of this Ordinance, including responsibilities of decision-making bodies, common
18 procedures that apply to all development applications, notice and public hearing
19 procedures, and requirements for (a) administrative decisions; (b) appeals of
20 administrative decisions; (c) vested rights and authority to continue nonconforming
21 projects; and (d) amendments to the Ordinance.
- 22 3. **Article 3: Subdivision Standards and Approvals.** This article establishes standards and
23 procedures for review of subdivisions and plats..
- 24 4. **Article 4: Enforcement.** This article provides for the prosecution of violations of this
25 Ordinance.
- 26 5. **Article 5: Definitions.** This article provides a list of terms and their meanings.

27 **10.5. Applicability.**

28 The provisions of this Ordinance shall apply to the partitioning and use of all land within the
29 unincorporated areas of St. Mary's County unless expressly and specifically exempted or
30 provided otherwise in this Ordinance. No subdivision may be undertaken without prior
31 authorization, or exemption from regulation, by this Ordinance. All regulated development shall
32 comply with the standards, criteria, and procedures of this Ordinance and any other applicable
33 statute, law or regulation.

34 **10.6. Minimum Standards.**

35 Unless otherwise provided herein, the provisions of this Ordinance are minimum standards
36 necessary to accomplish the purposes of this Ordinance, and nothing herein is intended, nor shall
37 it be construed to, prevent any development or land use in St. Mary's County from exceeding the
38 minimums.

39 **10.7. Approval of Subdivision Plat.**

40 Until a plat of the subdivision is approved in accordance with these regulations or is deemed
41 otherwise legally of record, no land within the unincorporated area of St. Mary's County shall be
42 subdivided nor shall any lot be sold or transferred, building erected, or subdivision plat recorded.

1 **CHAPTER 11 RULES**

2 Sections:

- 3 11.1 Purpose.
4 11.2 General Rules.
5 11.3 Rules for Construction of Language.
6 11.4 Severability.

7 **11.1. Purpose.**

8 The purpose of this chapter is to establish general rules for the application of this Subdivision
9 Ordinance. The meaning and construction of words and phrases defined in this chapter apply
10 throughout this Ordinance. Definitions of general terms are presented in Article 5 Definitions.

11 **11.2. General Rules.**

- 12 1. **Zoning Permit Required.** No preliminary subdivision plat shall be approved by the
13 Planning Commission until a valid zoning permit is obtained by the applicant from the
14 Planning Director.
- 15 2. **Compliance Required.** No person, firm or entity may use, occupy, or develop land or
16 structures, or any part thereof, or authorize or permit the use, occupancy, or development
17 of land or structures under the control of such person, except in accord with all applicable
18 provisions of this Ordinance.
- 19 3. **Lot of Record.** Every building hereafter erected, reconstructed, converted, moved, or
20 structurally altered shall be located on a lot of record. There may be more than one
21 principal building or use on a lot of record provided, however, that each such principal
22 use shall be assessed density of residential use or intensity (F.A.R.) of non-residential use
23 as if on a subdivided lot.
- 24 4. **Conflict with Other Laws and Regulations.** Where a conflict occurs between this
25 Ordinance and a state statute or another county ordinance or regulation, the more
26 restrictive provision shall control.
- 27 5. **Relation to Deed Restrictions and Other Private Agreements.** This Ordinance does not
28 abrogate or annul a private easement, covenant, agreement, deed restriction, recorded plat
29 or other restrictive covenant. If, however, this Ordinance imposes a greater restriction
30 than that imposed by such easement, covenant, agreement, recorded plat, deed restriction,
31 or other restrictive covenant, this Ordinance shall control. In no circumstances, however,
32 shall the County have any obligation to enforce a restrictive covenant, easement, or
33 equitable servitude, not required as a condition of approval for any development activity
34 or land use.
- 35 6. **Relation to Prior Regulations.** This Ordinance does not validate or legalize a division of
36 land established, developed or maintained in violation of a prior ordinance, county
37 resolutions or ordinances, easements, covenants, agreements, plots, deed restrictions or
38 other restrictive covenants running in favor of the County in effect prior to the effective
39 date of this Ordinance.

40 **11.3. Rules for Construction of Language.**

41 The following rules shall apply to the construction of language in this Ordinance:

- 42 1. The specific controls the general.

- 1 2. Unless the context clearly indicates the contrary, the following conjunctions shall be
2 interpreted as follows:
 - 3 a. "And" indicates that all connected words or provisions apply;
 - 4 b. "Or" indicates that the connected words or provisions may apply singly or in any
5 combination; and
 - 6 c. "Either or" indicates that the connected words or provisions apply singly but not
7 in combination.
- 8 3. In case of conflict between the text and a diagram, the text controls.
- 9 4. References to departments, commissions, boards, and other offices or instrumentalities
10 are to those of St. Mary's County, unless otherwise indicated.
- 11 5. A reference to days is to calendar days unless otherwise indicated in this Ordinance or
12 specified by state law. If a deadline falls on a weekend or County holiday, the time for
13 performing an act is extended to the next working day. A working day is any day that is
14 not a Saturday, Sunday or official County holiday.
- 15 6. In computing a period of days, the day of the act or event from which the designated
16 period of days begins to run is excluded, and the last day of the period is included, unless
17 the last day is not a working day. If the last day is not a working day, the period runs until
18 the end of the next day which is a working day. In computing a period of less than seven
19 days, Saturdays, Sundays and County holidays are excluded.
- 20 7. Use of "shall," "will" or "must" is mandatory; "should" is directive, but not binding, and
21 "may" is permissive.
- 22 8. Use of "including," "includes," "such as," "additional," or "supplemental" is illustrative
23 and not intended as an exhaustive listing, unless the context clearly indicates the contrary.
- 24 9. Section and subsection headings contained in this Ordinance are for convenience only
25 and do not govern, limit, modify or in any manner affect the scope, meaning or intent of
26 any provision of this Ordinance.
- 27 10. Words used in the present tense include the future, words masculine in gender shall
28 include the feminine gender and words used in the singular include the plural, and the
29 plural, the singular, unless the context clearly indicates to the contrary.
- 30 **11.4. Severability.**
31 If any provision, section, subsection, sentence, paragraph, clause or phrase or portion of this
32 Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the
33 remainder of this Ordinance shall not be affected. If any application of this Ordinance to a
34 particular structure, land or water is adjudged unconstitutional or invalid by a court of competent
35 jurisdiction, such judgment shall not be applicable to any said structure, land or water not
36 specifically included in said judgment.

ARTICLE 2. ADMINISTRATION
CHAPTER 20 AUTHORITY OF REVIEWING/DECISION MAKING BODIES AND OFFICIALS

Sections:

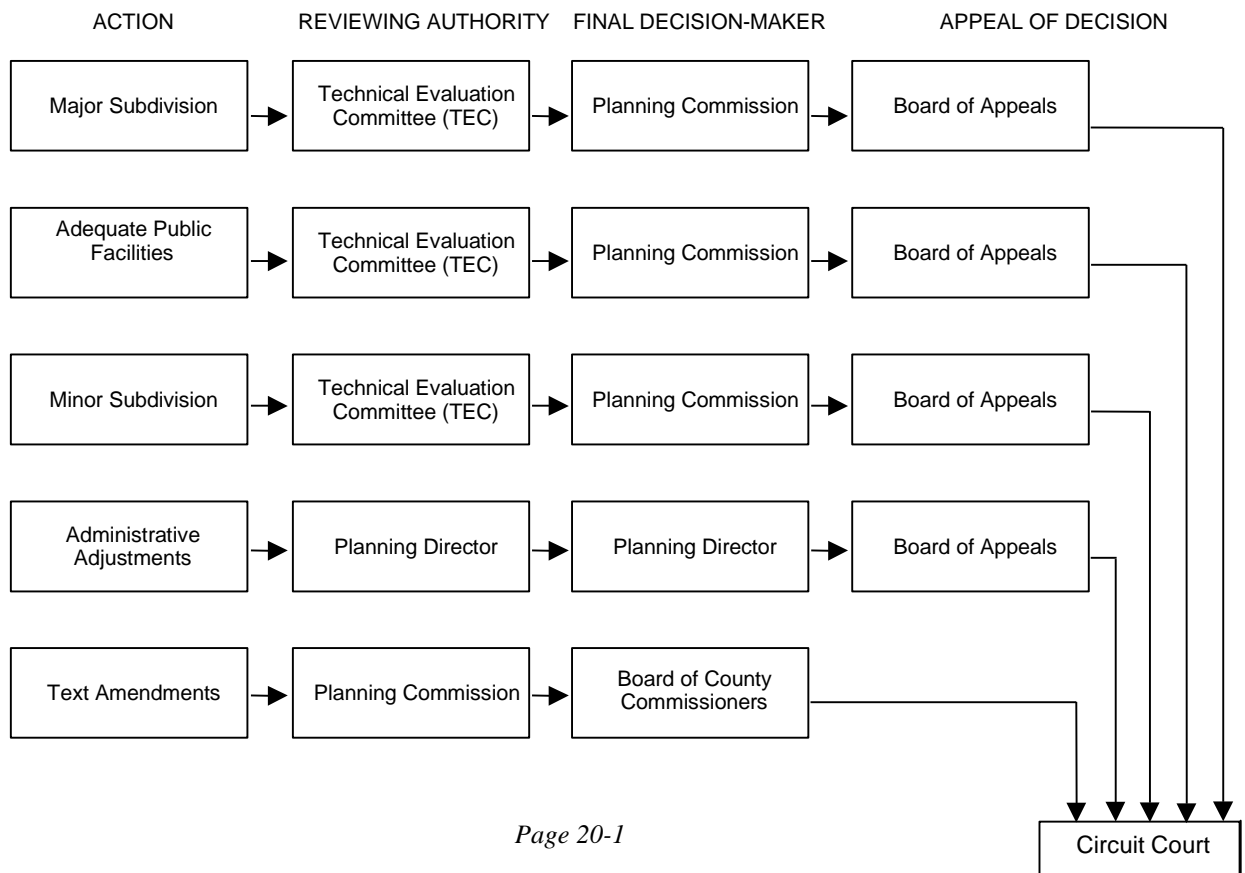
- 20.1 Board of County Commissioners.
- 20.2 Planning Commission.
- 20.3 Board of Appeals.
- 20.4 Director of Department of Land Use and Growth Management.
- 20.5 Technical Evaluation Committee (TEC).

20.1. Board of County Commissioners.

1. **Powers and Duties.** In addition to any authority granted by general or special law, the Board of County Commissioners shall have the following powers and duties under the provisions of this Ordinance:
 - a. To initiate, review, hear, consider and approve or disapprove the adoption of an Ordinance to amend the text of this Ordinance pursuant to Chapter 25 of this Ordinance.
2. **Decision-Making Responsibilities.** See Figure 20.1 for a summary of the Board's decision-making responsibilities as they relate to Planning Commission, the Board of Appeals and the Planning Director.

Figure 20.1

Decision Making Responsibilities Under this Ordinance



1 **20.2. Planning Commission.**

- 2 1. **Establishment.** The St. Mary's County Planning Commission, (the "Commission"), is
3 established pursuant to Section 3.01 of Article 66B of the Maryland Annotated Code.
- 4 2. **Commission Membership.** The Commission consists of seven members appointed by the
5 County Commissioners.
- 6 3. **Powers and Duties.** Without limiting the authority otherwise denied, the Commission
7 shall have the following powers and duties under this Ordinance:
- 8 a. To review, hear, consider, and make recommendations to the County
9 Commissioners to approve or disapprove the adoption of an ordinance to amend
10 the text of this Ordinance.
- 11 b. To report annually to the Board of County Commissioners on development and
12 planning activities and Comprehensive Plan implementation.
- 13 c. Within six (6) months after appointment to the Planning Commission and once a
14 year thereafter, a member shall complete an education course as prescribed in
15 article 66B, § 3.02.
- 16 4. **Meetings and Rules.** The Commission shall meet at least once a month. One such
17 meeting shall be a regular meeting that shall be selected and published annually prior to
18 the first regular meeting scheduled in January. Additional meetings may be scheduled at
19 the call of the Chairman at such times as the Commission may determine. In accordance
20 with Maryland Annotated Code, Article 24, Section 4-201, et seq., all meetings shall be
21 open to the public. Any person may appear and testify at a public hearing either in person
22 or be represented by duly authorized agent or attorney. The Commission may request
23 testimony at its hearings for purposes of securing technical and/or factual evidence from
24 experts or any County agency or office. The Commission shall keep minutes of its
25 proceedings, showing the vote of each member upon each question, or if absent abstains,
26 shall indicate such fact.

27 **20.3. Board of Appeals.**

- 28 1. **Establishment.** The Board of Appeals for St. Mary's County is established and
29 designated the "Board of Appeals" pursuant to Section 4.07 of Article 66B of the
30 Maryland Annotated Code.
- 31 2. **Board Membership.** The Board consists of five members appointed by the County
32 Commissioners.
- 33 3. **Powers and Duties.** Without limiting the authority otherwise denied, the Board of
34 Appeals shall have the following powers and duties under this Ordinance:
- 35 a. To hear and decide appeals when it is alleged by an aggrieved person that there is
36 an error in any order, requirement, decision, or determination made in regard to
37 the administration of this Ordinance or of any amendments adopted pursuant
38 thereto.
- 39 b. To authorize, upon appeal in specific cases, a variance from the terms of this
40 Ordinance as will not be contrary to the public interest, and when, owing to
41 special conditions, the enforcement of the provisions of this Ordinance will result
42 in practical difficulty or unwarranted hardship. Only those variances shall be
43 allowed that accomplish the purpose and intent of the regulations of this
44 Ordinance and are consistent with the Comprehensive Plan.

- 1 c. To adopt and promulgate such rules and regulations as it shall deem necessary in
2 the conduct of its hearings.
- 3 4. **Meetings and Rules.** All meetings of the Board of Appeals shall be held at the call of the
4 chairman, and at such other times as the Board may determine. In accordance with
5 Maryland Annotated Code, Article 24, Section 4-201, et seq. all hearings conducted by
6 the Board shall be open to the public. Any person may appear and testify at a hearing
7 either in person or be represented by a duly authorized agent or attorney. The chairman,
8 or in his absence the acting chairman, may administer oaths and compel attendance of
9 witnesses. The Board may request testimony at its hearings for purposes of securing
10 technical and/or factual evidence from experts or any County agency or office. The
11 Board may require a report and recommendation from the Planning Commission on
12 variances and the Planning Commission shall file said report within 30 days of the
13 request by the Board. The Board shall keep minutes of its proceedings, showing the vote
14 of each member upon each question and indicating if a member is absent or abstains.
- 15 5. **Decision of Board of Appeals.** The Board of Appeals shall have all the powers of the
16 administrative officer from whom the appeal is taken. In exercising its powers, the Board
17 of Appeals may, in conformity with the provisions of this Ordinance:
- 18 a. Wholly or partly reverse the order, requirement, decision, or determination from
19 which the appeal is taken;
- 20 b. Wholly or partly affirm the order, requirement, decision, or determination from
21 which the appeal is taken;
- 22 c. Modify the order, requirement, decision, or determination from which the appeal
23 is taken; or
- 24 d. Issue a new order, requirement, decision, or determination. The Board of
25 Appeals shall have all the powers of the administrative officer from whom the
26 appeal is taken.
- 27 6. **Finality of Decisions of the Board of Appeals.** All decisions and findings of the Board of
28 Appeals on appeals or on applications for a variance shall be final administrative
29 decisions and shall be subject to judicial review as prescribed in Section 4.08 of Article
30 66B of the Maryland Annotated Code. All decisions of the Board of Appeals shall
31 become final upon the adoption of a written order, which shall be rendered in writing
32 within 60 days of the close of the public hearing.
- 33 **20.4. Director of Department of Land Use and Growth Management.**
- 34 This Ordinance shall be administered and enforced by the Director of the St. Mary's County
35 Department of Land Use and Growth Management, (the "Planning Director"), who shall be
36 appointed by the County Commissioners.
- 37 1. **Powers and Duties.** The Planning Director shall have the following powers and duties:
- 38 a. To administer and enforce the provisions of this Ordinance.
- 39 b. To approve or disapprove applications for a variance from dimensional
40 requirements pursuant to 22.4, Administrative Variances..
- 41 c. To determine, with input from other agencies, the adequacy of public facilities
42 (APF) affected by applications for minor subdivision approval.
- 43 d. To provide expertise and technical assistance to the Board of County
44 Commissioners, Planning Commission, Board of Appeals, or Historic
45 Preservation Commission, upon request.

- 1 e. To establish application requirements and schedules for review of applications
2 and appeals, to formulate and promulgate rules and procedures, and to take any
3 other actions necessary to implement and enforce the provisions of this
4 Ordinance.
- 5 f. To ensure that the Department of Land Use and Growth Management (LUGM)
6 will conduct and manage various planning studies, accept and process
7 applications, collect and file applicant data, and maintain files. Coordinate input
8 from other agencies, assure that cooperating agencies have conducted their
9 normal reviews and provide recommendations to the Planning Commission and
10 the Board of County Commissioners on various planning issues and development
11 applications.

12 2. **Specific Enforcement Responsibilities.** The Planning Director shall have all necessary
13 authority on behalf of the Board of County Commissioners to enforce the provisions of
14 this Ordinance, including remedying any condition found to be in violation of this
15 Ordinance, by bringing appropriate legal action or proceedings to gain compliance with
16 the Ordinance. The Planning Director shall be guided in all actions pursuant to this
17 Ordinance by the purposes, intent, and standards set forth in the respective articles of the
18 Ordinance.

- 19 a. *Enforcement of Planning Commission and Board of Appeals decisions.* It shall
20 be the duty of the Planning Director to assure compliance with the decisions of
21 the Planning Commission and the Board of Appeals.
- 22 b. *Enforcement of Minimum Requirements.* In enforcing the minimum requirements
23 and standards of this Ordinance and assuring compliance with decisions of the
24 Board of Appeals, Planning Commission or Board of County Commissioners and
25 conditions imposed by these bodies on planned developments, the Planning
26 Director shall have the authority to:
 - 27 (1) Investigate inquiries and complaints relating to building and land use
28 activities and to take action when appropriate; and
 - 29 (2) Issue civil citations and penalties, as may be prescribed by resolution of
30 the Board of County Commissioners, against any person, firm, or
31 corporation that shall violate this Ordinance; and
 - 32 (3) Post stop work orders on any lot, parcel, site, structure, or property that is
33 in violation of any section of this Ordinance. The Planning Director may
34 require that all work and activity shall immediately cease on the
35 designated premises, and may remove and suspend the zoning permit
36 issued for the project until the violation is rectified. A fine may be levied
37 against any person, firm, or corporation that shall violate the stop work
38 order.

39 3. **Records of the Planning Director.** The Planning Director shall keep records of all
40 subdivision plats and variances or appeals and decisions of the Planning Commission and
41 Board of Appeals.

42 **20.5. Technical Evaluation Committee (TEC).**

43 The Technical Evaluation Committee (TEC) is established and consists of a designated
44 representative from the St. Mary's County Department of Land Use and Growth Management, the
45 State Highway Administration, the St. Mary's Soil Conservation Service, St. Mary's Health
46 Department, the St. Mary's Metropolitan Commission and the St. Mary's County Department of

1 Public Works and Transportation, and from other state and County departments and agencies as
2 designated by the Board of County Commissioners. A citizen appointed by the Board of County
3 Commissioners serves on the TEC as well. For purposes of reviewing development in the
4 Critical Area, the TEC shall also include the County's environmental planner. The Planning
5 Director shall serve as the chair of the TEC. The TEC shall be responsible for advising the
6 Planning Director in the review of subdivision applications and any other application for a
7 proposed activity requiring approval pursuant to this Ordinance.

1 **CHAPTER 21 GENERAL APPLICATION AND PUBLIC HEARING PROCESS**

2 Sections:

- 3
- 4 21.1 General Application Procedures.
- 5 21.2 Actions Requiring Public Hearings.
- 6 21.3 Public Hearing Notice Requirements.
- 7 21.4 Public Hearing Procedures.

8 **21.1. General Application Procedures.**

9 All applications that the provisions of this Ordinance require to be reviewed by the Technical
10 Evaluation Committee shall be processed in accordance with the following procedures:

- 11 1. **Determination of Completeness of Application.** Applications for development approvals
12 shall be submitted on the appropriate form designated by the Planning Director. After
13 receipt of an application, the Planning Director shall determine whether the application is
14 complete. The time period allowed for review of an application shall not begin until the
15 application is determined to be complete. If the application is not complete, the Planning
16 Director shall notify the applicant in writing within three days, specifying the deficiencies
17 of the application and the additional information that must be supplied and advising the
18 applicant that the County will take no further action on the application until the
19 deficiencies have been corrected.
- 20 2. **Remedy of Deficiencies.** If the applicant fails to correct the specified deficiencies by the
21 end of the business day following the notification of deficiency, the application for
22 development approval shall be deemed withdrawn and will be returned to the applicant
23 with any fees that have been paid.
- 24 3. **Extensions of Time.**
- 25 a. Upon written request, the Planning Director may, for good cause shown and
26 without any notice or hearing, grant extensions of any time limit imposed on an
27 applicant by this Ordinance. An extension of time may also be granted by any
28 body acting pursuant to this Ordinance unless this Ordinance expressly provides
29 otherwise.
- 30 b. No permit, variance or approval in effect as of January 1, 2013, shall expire prior
31 to May 4, 2017, unless required by a statute, rule or regulation of the State of
32 Maryland.
- 33 4. **Fees.** The application shall be accompanied by all required fees. The applicant shall also
34 be responsible for payment of all expenses incurred providing any public notice required
35 by Section 21.3. Application fees and refund policy shall be as established by resolution
36 of the Board of County Commissioners.
- 37 5. **General Development Review Process.** Figure 21.1 summarizes the general
38 development review process under this Ordinance, which is described in detail in the
39 following parts of this chapter.

40 **21.2. Actions Requiring Public Hearings.**

- 41 1. **Variations and Appeals of Administrative Decisions.** The Board of Appeals shall hold at
42 least one public hearing to review, consider, and approve, approve with conditions, or
43 deny each application for a variance, or to consider an appeal from any administrative
44 decision made pursuant to this Ordinance. Such hearing shall be held after public
45 notification pursuant to Section 21.3.

1 2. **Amendments to the Text of this Ordinance.** The Planning Commission shall conduct at
2 least one public hearing to formulate a recommendation regarding any text amendment to
3 this Ordinance. The Board of County Commissioners shall hold at least one public
4 hearing on an amendment to the text of this Ordinance following receipt of the Planning
5 Commission recommendation. Such hearings may be held jointly upon the concurrence
6 of the Planning Commission and the Board of County Commissioners.

7 **21.3. Public Hearing Notice Requirements.**

8 Providing all the information necessary for notice of all public hearings required under this
9 Ordinance shall be the responsibility of the applicant. The applicant shall supply the information
10 in the form established by the Planning Director, and the information is subject to the approval of
11 the Planning Director pursuant to the standards and requirements of this section.

12 1. **Publication.** At least 15 calendar days in advance of the public hearing on an application
13 for any development approval, Ordinance amendments or appeal listed in Section 21.2,
14 the Department of Land Use and Growth Management shall give notice of such public
15 hearing. Notice shall be published in a newspaper of general circulation in St. Mary's
16 County once each week for two successive weeks.

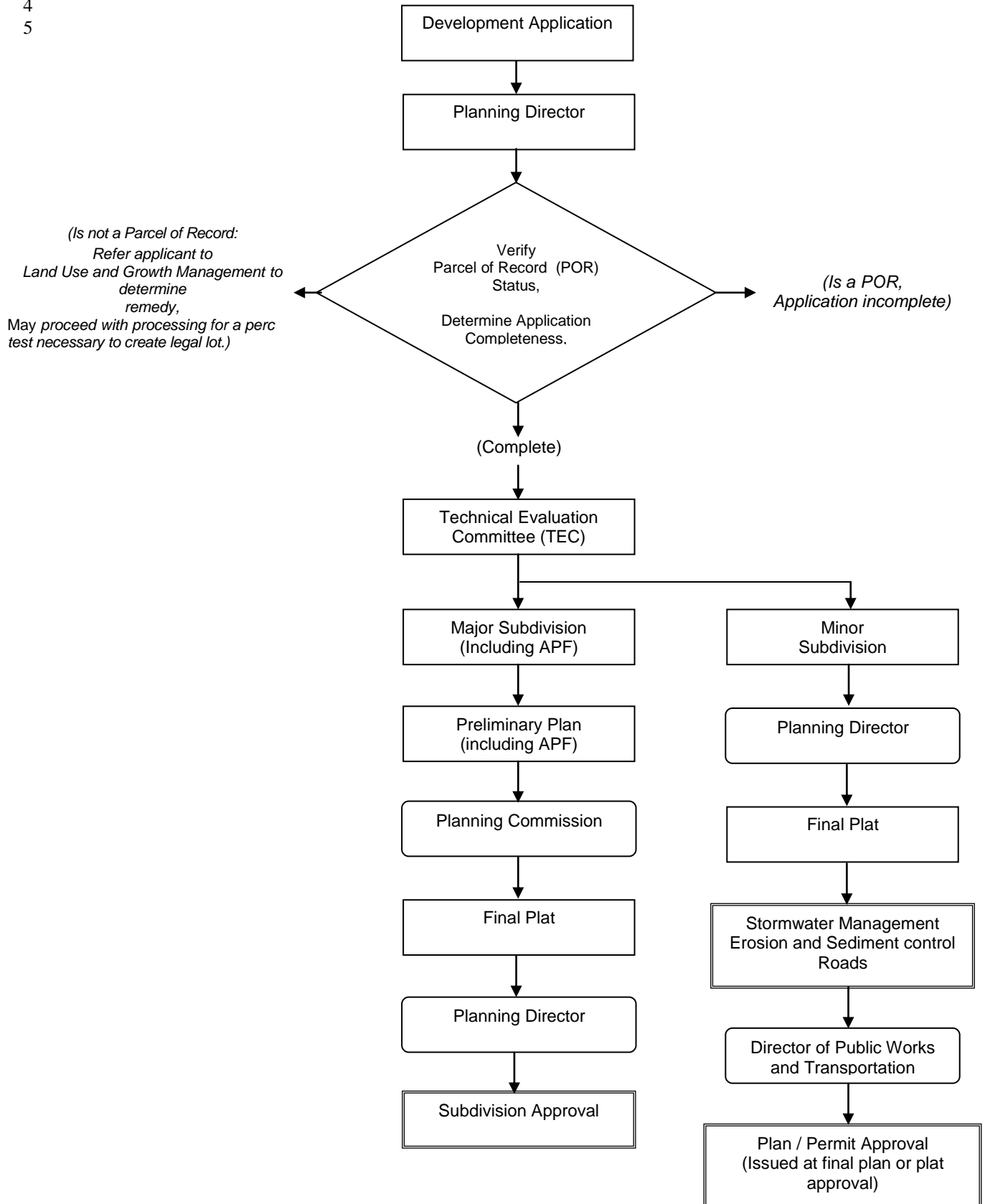
17 2. **Mailing.** At least 15 calendar days before the public hearing on an application for any
18 variance appeal or Ordinance amendment, listed in Section 21.2, the applicant shall send
19 notice by registered or certified mail in a format provided by the County to all owners of
20 contiguous property (as shown on the latest published property tax records of the
21 Maryland Department of Assessment and Taxation), including lands across any public or
22 private rights-of-way adjacent to the land subject to the application. Notice shall be
23 given to each individual property owner if an affected property is held in common
24 ownership. In the case of a request for a variance from Section 30.14.3 the maximum
25 allowable lots on a private right-of-way, all property owners, whether their property is
26 contiguous or not contiguous with the subject property, shall be informed of the
27 scheduled public hearing by registered or certified mail. Required notice shall also be
28 given to a municipality if the application concerns land adjacent to its municipal
29 boundaries. The applicant shall provide the Planning Director, in an approved form, with
30 names and addresses of all property owners required to receive notice of a public hearing
31 pursuant to this Ordinance.

32 a. **Contents of Notice for Mailing.** The notice for any public hearing or meeting to
33 be mailed required by this section shall state the substance of the application and
34 the date, time, and place of the public hearing or meeting, and the place where
35 such application may be inspected by the public. The notice shall also advise that
36 interested parties may appear at the public hearing or meeting and be heard with
37 respect to the application.

1 Figure 21.1

12/18/12 2

3 Development Review Process to Create New Lots



1
2 3. **Requirements for Posting Notice.** At least 15 calendar days in advance of the public
3 hearing, the property(ies) subject to an application listed in Section 21.2 shall be posted
4 by the applicant with a notice on a block printed sign at least 24 inches x 36 inches. The
5 applicant shall notify the Department of Land Use and Growth Management the same
6 day notice is posted.

7 a. Content. Posted notice shall contain the following information:

8 (1) Application number and property owner name

9 (2) Request (as defined by the Department of Planning & Zoning).

10 (3) Date, time, and location of the hearing.

11 (4) A statement that the file is available at the Department of Land Use and
12 Growth Management for public review and comment.

13 b. Location. One notice shall be posted for each 500 feet of frontage along a public
14 street. The sign(s) shall be located on the property no more than 25 feet from the
15 front property line and shall be clearly visible from the nearest public road or
16 street. Where the land does not have frontage on a public street, signs shall be
17 posted within the nearest street right-of-way with an attached notation indicating
18 generally the direction and distance to the land that is the subject of the
19 application.

20 c. Removal. The applicant shall remove the sign after the hearing on the
21 application has concluded. If the sign is removed through no fault of the
22 applicant before the hearing, such removal shall not be deemed a failure to
23 comply with the standards or grounds to challenge the validity of any decision
24 made on the application.

25 d. Exemption. This posting requirement shall not apply during amendment of these
26 regulations generally, which would apply to the entire County.

27 **21.4. Public Hearing Procedures.**

28 A public hearing held pursuant to the provisions of this Ordinance shall comply with the
29 following procedures:

30 1. **Scheduling the Public Hearing.** When an application requires a public hearing, the
31 hearing shall be scheduled to occur within a reasonable time, allowing for the complexity
32 of the case, available staff resources, and public notice requirements.

33 2. **Conduct of Public Hearing.**

34 a. **Rights of All Persons.** Any person may appear at a public hearing and submit
35 evidence orally or in writing, either individually or upon written authorization as
36 a representative of a person or an organization. Each person who gives testimony
37 at a public hearing may be duly sworn, shall be identified as to name and address,
38 and, if appearing on behalf of a person or an organization, shall state the name
39 and mailing address of the person or organization being represented.

40 b. **Exclusion of Testimony.** The body conducting the public hearing may exclude
41 testimony or evidence that it finds to be irrelevant, immaterial, unduly
42 repetitious, or otherwise inadmissible.

43 c. **Ruling on Objections.** The body or official conducting the hearing shall rule on
44 all objections made during the hearing.

- 1 d. *Continuance of Public Hearing.* The body or official conducting the public
2 hearing may, upon the body's or official's own motion, continue the public
3 hearing or meeting to a fixed date, time, and place without additional
4 notification. Two-thirds of the voting members present at the hearing or meeting
5 at which a quorum is present shall be required for a continuance. An applicant
6 may request and be granted a continuance at the discretion of the body or official
7 conducting the public hearing only upon good cause shown.
- 8 **3. *Record of Public Hearing or Meeting.***
- 9 a. *Recording of Public Hearing or Meeting.* Except where required otherwise by
10 statute, the body or official conducting the public hearing or meeting shall record
11 the public hearing or meeting by any appropriate means. A copy of the public
12 hearing or meeting record may be acquired upon request to the Planning Director
13 and payment of a fee to cover the cost of duplication of the record.
- 14 b. *The Record.* The minutes; tape recordings; all applications, exhibits, papers and
15 reports submitted in any proceeding before the decision-making body or official;
16 and the decision of the decision-making body or official shall constitute the
17 record.
- 18 c. *Location of Record and Inspection.* All records of decision-making bodies or
19 officials shall be public records, open for inspection at the offices of the decision-
20 making body or official during normal business hours and upon request.
- 21 d. *Examination and Copying of Application and Other Documents.* Any person
22 may examine an application and materials submitted in support of or in
23 opposition to an application in the appropriate County office. Copies of such
24 materials shall be made available at reasonable cost, subject to copyright laws.
- 25 **4. *General Procedures for Findings and Decisions.***
- 26 a. *General.* Action shall be taken in compliance with any time limits established in
27 this Ordinance and as promptly as possible in consideration of the interests of the
28 citizens of St. Mary's County and the applicant, and shall include a clear
29 statement of approval, approval with conditions, or disapproval.
- 30 b. *Findings.* Except for those of the Board of County Commissioners, whose
31 decisions shall be made by motion, ordinance, or resolution, as appropriate, all
32 decisions made following a public hearing shall be in writing and shall include at
33 least the following elements:
- 34 (1) A summary of the information presented before the decision-making
35 body or official;
- 36 (2) A summary of all documentary evidence submitted to the decision-
37 making body or official and which the decision making body or official
38 considered in making the decision;
- 39 (3) A statement of the policies of the Comprehensive Plan and the general
40 purposes of this Ordinance that are relevant to the findings and the
41 standards as required by this Ordinance;
- 42 (4) A statement of specific findings of fact or other factors considered, as
43 appropriate, with specific reference to the relevant standards set forth in
44 this Ordinance; and
- 45 (5) A statement of approval, approval with conditions, or disapproval.

1 c. *County Attorney Signature.* Before any decision shall become final, the County
2 Attorney or designee shall approve the decision as to form and legal sufficiency.

3 5. ***Notification.***

4 A letter notifying the applicant of the decision of the decision-making body or official shall be
5 sent by first-class mail, postage prepaid, within 10 days of the decision. A copy of the decision
6 shall also be made available to the applicant at the offices of the decision-making body or official
7 during normal business hours, within a reasonable period of time after the decision has been
8 rendered.

1 **CHAPTER 22 ADMINISTRATIVE DECISIONS**

2 Sections:

- 3 22.1 Environmental Permits.
- 4 22.2 Parcel of Record; Lot of Record.
- 5 22.3 Forms, Information, and Specifications Required.
- 6 22.4 Administrative Variances.
- 7 22.5 Zoning and Building Permits.
- 8 22.6 Schedule of Fees, Fines, and Penalties.

9 **22.1. Environmental Permits.**

10 No building, structure, or land or any part thereof shall be used, created, enlarged or subdivided
11 until an environmental permit is issued if required pursuant to Chapter 71, Resource Protection
12 Standards of the St. Mary's County Comprehensive Zoning Ordinance.

13 **22.2. Parcel of Record; Lot of Record.**

14 Except as provided herein, no permit pertaining to the use of land or buildings shall be issued by
15 any cooperating agency, department, or employee unless a parcel of record or lot of record exists.
16 Any permit or authorization issued in conflict with the provisions of this Ordinance shall be null
17 and void.

18 **22.3. Forms, Information, and Specifications Required.**

19 An application for subdivision approval shall be made to the Director of Land Use and Growth
20 Management on forms provided for that purpose. The Planning Director shall require and be
21 furnished with all plans and documents as may be required to determine compliance with the
22 provisions of this Ordinance and decisions of the Board of Appeals, the Planning Commission
23 and the Board of County Commissioners. Subdivision applications shall be accompanied by the
24 items specified in Chapter 30, or as many thereof as the Planning Director deems pertinent, and
25 such additional information as the Planning Director may require to determine compliance with
26 the provisions of this Ordinance and decisions of the Board of Appeals, the Planning
27 Commission, and the Board of County Commissioners.

28 **22.4. Administrative Variances.**

- 29 1. An applicant seeking a variance may request the same directly of the Board of Appeals,
30 pursuant to Chapter 21, without first applying to the Planning Director.
- 31 2. **Purpose.** The purpose of Administrative Variances is to delegate to the Planning Director
32 approval authority to apply the standards for variance for proposed construction activities
33 requesting relaxation of the minimum lot dimensions or minimum setback standards of
34 Schedule 32.1 of the St. Mary's County Comprehensive Zoning Ordinance, or the
35 elevation requirement for substantially renovated historic structures located in the 100-
36 year floodplain.
- 37 3. **Variance from Dimensional Requirements.**
 - 38 a. **Application.** A person may apply to the Planning Director for a variance from the
39 dimensional requirements specified in the Comprehensive Zoning Ordinance. An
40 administrative variance may not reduce specified dimensional requirements by
41 more than 50 percent. The application shall be made on a form and in a manner
42 prescribed by the Planning Director.
 - 43 b. **Procedure.** The Planning Director shall conduct a public hearing on the
44 application for the variance. The hearing shall be open to the public, and anyone

1 in attendance shall have an opportunity to be heard concerning the application.
2 Prior to the hearing, the applicant shall provide notice in the manner provided in
3 this Section 21.3 of the Ordinance.

- 4 c. *Decision.* Within 15 days of the close of the hearing, the Planning Director shall
5 decide the issue raised by the application. The decision shall be in writing and
6 provide a brief explanation of the law, the standards for variance, and facts that
7 support the decision. In making the decision, the Planning Director may grant
8 the variance only in cases where strict compliance with the terms of the
9 Ordinance would result in practical difficulty or unwarranted hardship that have
10 not been caused by act of the applicant or the applicant's predecessors in title.
11 The Planning Director shall not grant a variance if to do so would violate the
12 spirit and intent of this Ordinance, the Comprehensive Plan, or functional or area
13 plans in the Comprehensive Zoning Ordinance, or cause or be likely to cause
14 substantial injury to the public health, safety, and welfare. The Planning Director
15 shall be guided in making this decision by the considerations set forth in Section
16 24.3, General Standards for Granting Variances of the Comprehensive Zoning
17 Ordinance.

18 4. *Denial of Application.*

- 19 a. If the application is denied, the Planning Director shall take no further action on
20 another application for substantially the same proposal on the same premises
21 until after 2 years from the date of such denial.

22 5. *Appeal of Administrative Decisions.*

- 23 a. Appeals of decisions made pursuant to this section may be filed to the Board of
24 Appeals by an aggrieved person within 30 days of the date of the Planning
25 Director's decision.

26 **22.5. Zoning and Building Permits.**

27 A zoning permit shall be required as specified in the Comprehensive Zoning Ordinance before
28 any application may be filed for subdivision approval. A building permit shall be required in
29 accordance with the building code adopted by the Board of County Commissioners before start of
30 construction.

31 **22.6. Schedule of Fees, Fines, and Penalties.**

32 The County Commissioners may establish by resolution a schedule of fees, charges, expenses,
33 and fines and a collection and refund procedure for subdivision approval, variances, appeals,
34 violations, and other matters pertaining to this Ordinance. The schedule of fees shall be available
35 from the Department of Land Use and Growth Management and may be altered or amended only
36 by the County Commissioners.

1 **CHAPTER 23 APPEALS**

2 Sections:

- 3 23.1 Scope of Appeals
4 23.2 Stay of Proceedings on Appeal.
5 23.3 Postponement.
6 23.4 Continuance.
7 23.5 Appeals.

8 **23.1. Scope of Appeals.**

- 9 1. An appeal may be filed with the Board of Appeals by:
10 a. Any person aggrieved by any order, requirement, decision, or determination
11 made in regard to the administration or the enforcement of this Ordinance, as
12 may be amended from time to time;
13 b. Any officer, department, board, or bureau of the County.
14 2. Such appeal shall be taken within 30 days of the date of the action being appealed by
15 filing an application for Board of Appeals review with the Department of Land Use and
16 Growth Management. An application for appeal shall identify with specificity all
17 grounds for the appeal.
18 3. The Planning Director shall process the application and forward it, along with all papers
19 constituting the record of the action appealed to the Board of Appeals.

20 **23.2. Stay of Proceedings on Appeal.**

21 An appeal shall stay all proceedings in furtherance of the action appealed unless, after notice of
22 the appeal has been filed with him or her, the Planning Director certifies to the Board of Appeals
23 that by reason of fact stated in the certificate a stay would, in his or her opinion, cause imminent
24 peril to life or property. In such case, proceedings shall only be stayed if the Board or court of
25 competent jurisdiction grants such an order.

26 **23.3. Postponement.**

27 Requests for postponement of a scheduled hearing shall be filed in writing with the secretary of
28 the Board of Appeals prior to the date of hearing, and shall be accompanied by a sum of money
29 sufficient to pay the cost of advertising the postponement and the rescheduled hearing. The
30 granting of such requests shall be at the discretion of the chairman of the Board of Appeals. The
31 Board may, upon its own initiative, postpone a scheduled hearing at any time. Hearings may not
32 be postponed for more than 30 days unless the Board of Appeals and all interested parties agree.
33 Failure of an appellant to reschedule a hearing within the agreed period in accordance with
34 Chapter 21 shall constitute withdrawal of the appeal.

35 **23.4. Continuance.**

36 The Board of Appeals may, at the Board's sole discretion, continue a hearing to another time
37 once the hearing has started. However, the Board shall announce the location, date and hour of
38 the continued hearing while in session, unless new notice is provided as required by Section 21.3.

39 **23.5. Appeals.**

40 The Board of Appeals shall render a decision within a reasonable time, but in no instance more
41 than 60 days following the close of the hearing. Any person or party aggrieved by a decision of
42 the Board may appeal that decision to the Circuit Court for St. Mary's County.

1 **CHAPTER 24 VESTED RIGHTS AND AUTHORITY TO CONTINUE**
2 **NONCONFORMING PROJECTS**

3 Sections:

- 4 24.1 Purpose.
5 24.2 Vested Rights.
6 24.3 Grandfathering Provisions.
7 24.4 Grandfathering of Phasing Plans and Schedules.
8 24.5 Effect of Previous Regulations.
9 24.6 Annual Update.

10 **24.1. Purpose.**

11 The purpose of this Chapter is to permit the continuation of projects for which certain plan
12 approval has been given prior to the effective date of applicable ordinance changes or revisions.

13 **24.2. Vested Rights.**

14 St. Mary's County recognizes and accepts the standard of vested rights as established by
15 Maryland common law.

16 **24.3. Grandfathering Provisions.**

17 Transitional provisions to be known as grandfathering provisions are hereby adopted to provide
18 for the continuance of certain development activities. No extensions of the stated time periods
19 below shall be granted, except as noted in Section 24.4.2, below.

20 1. **Subdivisions:** Subdivisions shall be vested pursuant to the provisions listed below.

- 21 a. **Major Subdivisions:** Projects that have been granted preliminary subdivision
22 plan approval prior to September 14, 2010 will have a maximum of two years
23 from the date of such approval to be granted final subdivision approval. From
24 the date of final subdivision approval a project will have one year in which to
25 record the record plat. Those projects that must be phased in accordance with the
26 Annual Growth Policy may continue toward recordation in accordance with the
27 yearly allocations allowed.
- 28 b. **Minor Subdivisions:** Projects that have been processed through the Technical
29 Evaluation Committee (TEC) prior to September 14, 2010 shall have twelve
30 months (from adoption of this amendment) to achieve final subdivision or site
31 plan approval.

32 2. **Planned Unit Developments:** Grandfathering of a Planned Unit Development as
33 approved by the Board of County Commissioners shall be governed by Chapter 44,
34 Section 44.4.3.b of the Comprehensive Zoning Ordinance

35 **24.4. Grandfathering of Phasing Plans and Schedules.**

- 36 1. All commercial or residential phasing plans and schedules approved prior to the
37 enactment of this Ordinance shall remain in effect. Construction and development
38 relating to such plans may be completed in accordance with the terms of the previously
39 approved phasing plan. Any revisions proposed under this chapter shall conform with all
40 Maryland state rules, regulations, and statutory provisions, and any construction
41 standards as set forth in the rules, regulations, and ordinances of St. Mary's County, in
42 effect when the applicant applied for a revision to the phasing plan and schedule, unless
43 said plans, schedules, and/or revisions are exempted under said rules, regulations
44 statutory provisions, and/or ordinances.

- 1 2. Any applicant shall be allowed to apply for a revision to any phasing plan and schedule
2 grandfathered under the provisions of this chapter, and such revisions may be approved
3 by the Planning Commission provided the applicant can show that there are compelling
4 circumstances to warrant a revision. The Planning Commission shall consider the
5 following factors in determining whether to approve applications for revisions:
- 6 a. The extent to which any delay was caused by the action or inaction of the appli-
7 cant as opposed to other factors beyond the control of the applicant;
 - 8 b. The amount of investment not including architectural and engineering costs made
9 in the project as of the date of the application for revision;
 - 10 c. Any impact to the health and welfare of the County cause by the revision or any
11 delay associated therewith; and
 - 12 d. Market conditions.
- 13 3. **Continuation of Project:** Project development may proceed in accordance with the plan
14 approved unless the approval expires by failure to act within the defined time periods as
15 stated above. In the case of expiration, re-approval shall be in conformity with all provis-
16 ions of this Ordinance.

17 **24.5. Effect of Previous Regulations.**

18 To the extent that projects are grandfathered under this section, the provisions of Ordinance 02-
19 01, as amended, and regulations in effect at the time of plan approval, shall remain in full force
20 and effect.

21 **24.6. Annual Update.**

22 An annual update of development commenced during the past year and plans for development in
23 the upcoming year shall be presented to the Planning Commission by the developer of the project.
24

1 **CHAPTER 25 AMENDMENTS**

2 Sections:

3 25.1 Purpose and Authority.

4 25.2 Requirements for Amendments.

5 25.3 Review Procedures.

6 25.4 Action by Board of County Commissioners on Receipt of Planning
7 Commission's Recommendation.

8 25.5 Record.

9 **25.1. Purpose and Authority.**

10 1. **Purpose.** The purpose of this Chapter is to provide a means for changing the text of this
11 Ordinance.

12 2. **Authority.** The Board of County Commissioners may, upon receipt of a recommendation
13 from the Planning Commission, supplement, modify, or repeal provisions of the text of
14 this Ordinance.

15 **25.2. Requirements for Amendments.**

16 Any application to amend, supplement, modify, or repeal any portion of this Ordinance shall be
17 filed with the Planning Director in such form and accompanied by such information and fees as
18 may be required by the Planning Director.

19 **25.3. Review Procedures.**

20 The Planning Commission upon application or upon its own motion shall promptly consider
21 amendment of this Ordinance through the conduct of a public hearing. Generally, within 60 days
22 from its final hearing, the Planning Commission shall transmit its recommendations for approval
23 or disapproval to the County Commissioners.

24 1. **Review by Departments and Agencies.** Upon determination by the Planning Director
25 that an application is complete the application shall be promptly submitted for comment
26 and review to TEC agencies. Following notification that this administrative review is
27 complete, the applicant must request in writing that the Planning Director submit an
28 application for amendment. The Planning Commission shall conduct a public hearing
29 according to the provisions of Chapter 21 and forward a recommendation to the Board of
30 County Commissioners.

31 **25.4. Action by Board of County Commissioners on Receipt of Planning Commission's**
32 **Recommendation.**

33 Before approving or disapproving any application for amendment, the Board of County
34 Commissioners shall hold at least one public hearing in accordance with the procedures for notice
35 and public hearings set forth in Chapter 21 of this Ordinance. At the sole discretion of the the
36 Board of County Commissioners, such public hearing may be held concurrent with the public
37 hearing of the Planning Commission on the application.

38 **25.5. Record.**

39 The record of all amendments shall include any request, all documents or communications
40 submitted regarding the proposal, the recorded testimony from all public hearings held on the
41 proposal, any reports or communications to or from any public officials or agencies concerning
42 the proposal, and the final decision of the County Commissioners. The record shall be open to
43 public inspection and shall be maintained in the office of the Planning Director.

1 **ARTICLE 3. SUBDIVISION STANDARDS AND APPROVALS**

2 **CHAPTER 30 GENERAL SUBDIVISION PLATTING**

3 Sections:

- 4 30.1 Purpose.
- 5 30.2 Permits and Approvals Required.
- 6 30.3 Types of Subdivisions and Plats.
- 7 30.4 Authority.
- 8 30.5 Preliminary Plan.
- 9 30.6 Preliminary Plan Application Procedures.
- 10 30.7 Preliminary Plan Amendments.
- 11 30.8 Final Plat.
- 12 30.9 Final Plat Approval.
- 13 30.10 Final Plat Amendments.
- 14 30.11 Condominium Plat
- 15 30.12 Boundary Line Adjustment Plat (BLAP)
- 16 30.13 Confirmatory Plat
- 17 30.14 Private Roads.
- 18 30.15 Subdivision Design Standards.
- 19 30.16 Lot and Right-of-Way Requirements.
- 20 30.16 Public Improvement and Infrastructure Requirements.

21 **30.1. Purpose.**

22 The purpose of this Chapter is to:

- 23 1. Ensure the orderly subdivision and development of land.
- 24 2. Establish procedures and standards for subdivisions in order to further the orderly layout
25 and use of land, and to ensure proper legal descriptions and monumenting of subdivided
26 land.
- 27 3. Provide for the coordination of streets and other roadways and the installation of public
28 utilities and other public facilities
- 29 4. Provide for the dedication or reservation of rights-of-way or easements for improvements
30 within proposed subdivisions.
- 31 5. Provide for adequate light, air, and privacy, to secure safety from fire, flood, and other
32 danger, and to prevent overcrowding of the land and undue congestion of population.
- 33 6. Guide the future growth and development in accordance with the Comprehensive Plan.

34 **30.2. Permits and Approvals Required.**

- 35 1. ***Subdivision Plat Required.*** No person shall subdivide land for the purpose of creating a
36 building site without preparing and recording a final subdivision plat in full compliance
37 with the provisions of this Article and all other State and local laws and regulations
38 applying to subdivisions. The owner who desires to subdivide land for the purpose of
39 creating one or more building sites shall be required to submit a plat of subdivision to the
40 Department of Land Use and Growth Management, which is responsible for coordinating

1 the processing of such plats. The subdivision plat must be prepared in accordance with
2 the requirements of this Chapter.

3 a. Divisions of land exempt from subdivision plat requirements may be established
4 by deed, provided the deed is approved by the Planning Director prior to the
5 recordation of the deed.

6 b. If a parcel created through agricultural division, or any part thereof, is developed
7 for nonagricultural use, a subdivision plat must be recorded prior to issuance of
8 building permit.

9 2. **Sale or Transfer of Lots.** Until a final subdivision plat is approved and recorded in
10 accordance with this Ordinance, no land within the unincorporated area of St. Mary's
11 County shall be subdivided, nor shall any lot be sold or transferred or any building
12 erected.

13 3. **Permits and Certificate of Occupancy.** No permits for grading, or for construction of
14 buildings, roads, or storm water management and no Certificate of Occupancy shall be
15 issued for any development within a subdivision until the final plat has been recorded and
16 fees and bonds required by this Ordinance are paid.

17 4. **Appeals.** Any person or persons aggrieved by any action of the Planning Director or
18 Planning Commission pursuant to this Article may appeal within 30 days of the action to
19 the Board of Appeals.

20 5. **Voiding of Plats.**

21 a. Any plat or any part of a plat may be vacated by the owner, at any time before the
22 sale of any lot therein, or by all the owners, by a written instrument, in recordable
23 form declaring that plat to be null and void.

24 b. The instrument shall be approved by the Planning Commission in like manner as
25 plats of subdivisions. The Planning Commission may reject any instrument that
26 abridges or destroys the public rights in any public uses, improvements, streets or
27 alleys within the subdivision.

28 c. The instrument, once recorded, shall render the subdivision a nullity and divest
29 all public rights in the streets, alleys and public grounds, and all dedications laid
30 out or described on the plat.

31 **30.3. Types of Subdivisions and Plats.**

32 1. **Residential Subdivisions.** Residential subdivisions shall be classified as one of the
33 following:

34 a. **Minor Subdivision.** A Minor Subdivision is the division of a parcel or lot of
35 record which creates one (1) to seven (7) lots.

36 b. **Major Subdivision.** A Major Subdivision is any subdivision that involves a
37 division of a parcel of record into more than seven (7) lots.

38 c. **Farmstead Subdivision.** Subdivision of any number of lots, each of which is at
39 least fifteen (15) acres in size.

40 2. **Nonresidential Subdivisions.** Commercial and Industrial subdivisions shall be subject to
41 all the requirements of site plan approval set forth in the Comprehensive Zoning
42 Ordinance. Nonresidential subdivisions shall require a public or private right-of-way for
43 access to lots, and an approved entrance at public roads, and are subject to the public road

- 1 standards or other road design/construction standards. Site plan approval and subdivision
2 plat approval may proceed simultaneously at the discretion of the Planning Commission.
- 3 3. **Condominium Plat.** A plat which describes the horizontal and vertical boundaries of a
4 condominium regime as required by Article 11-101 of the Real Property title of COMAR.
- 5 4. **Boundary Line Adjustment.** A plat which has the effect of adjusting property boundaries
6 of parcels or lots of record.
- 7 5. **Confirmatory Plat.** A plat which makes minor corrections to a previously recorded plat
8 that does not involve adjustment of any boundary lines or create new lots.
- 9 6. **Plat Exempt Division.**
- 10 a. An exempt division, created without making provisions for roads, water supply
11 or sewage disposal or other public improvements, is permitted under the
12 following circumstances:
- 13 (1) To settle estate or other court ordered partitions.
- 14 (2) To add land to an existing agricultural parcel.
- 15 (3) To transfer land for purposes other than development.
- 16 (4) To transfer land to an immediate family member for development in the
17 future.
- 18 (5) For road right of way dedication or acquisition.
- 19 b. Plat Exempt Divisions may be established by deed, provided the deed is
20 approved by the Department of Land Use and Growth Management prior to
21 transfer and recordation.
- 22 c. In all cases (1) through (4) above, or when a Plat Exempt Division parcel is
23 proposed to be converted to a building lot, a standard subdivision plat must be
24 recorded prior to issuance of a building permit.
- 25 7. **Subdivision Around Lawfully Existing Single-family Dwellings.**
- 26 a. A parcel containing more than one lawfully existing dwelling may be divided into not
27 more than seven (7) residential lots of record each of which contains one such lawfully
28 existing dwelling.
- 29 b. Subdivision standards and adequate public facility requirements are not applicable to a
30 minor subdivision around lawfully existing dwellings approved pursuant to Section
31 30.3.7; provided however, that any existing nonconformity of such lots shall not be
32 increased.
- 33 **30.4. Authority.**
- 34 1. **Residential and Non Residential, Boundary Line and Plat Exempt Subdivision.** The
35 Planning Commission is vested with the authority to review, approve, conditionally
36 approve and disapprove plats for subdivisions of land.
- 37 2. **Delegation.** The Planning Commission may delegate authority to the Planning Director
38 to:
- 39 a. Approve minor subdivision plats (including farmsteads), boundary line
40 adjustment plats, Condominium plats, Confirmatory plats, and plat exempt
41 divisions; and

12/31/13

- 1 b. Approve final plats for major subdivisions and nonresidential subdivisions
2 (provided that Planning Commission approval of the final plat was not a
3 condition of approval for the Preliminary Plan); and
- 4 c. Review and approve minor amendments and adjustments to approved plats, in
5 accordance with the criteria established in this Chapter.

6 **30.5. Preliminary Plan.**

- 7 1. **Purpose.** A Preliminary Plan is a formal submission of a plan for the proposed
8 subdivision. Approval of a Preliminary Plan shall constitute Planning Commission or
9 Planning Director acceptance of the land use mix, development intensity, general street
10 drainage and lot patterns, general location of parks and open space lands, and the general
11 layout of pedestrian and bicycle trails, except that these may be modified in conjunction
12 with subsequent approvals if additional information reveals development constraints that
13 are not evident during Preliminary Plan review.
- 14 2. **When a Preliminary Plan Is Required.** Approval of a Preliminary Plan shall be required
15 for any subdivision. No final plat shall be approved until a Preliminary Plan for the
16 property has been approved.
- 17 3. **Preliminary Plan Approval.**
- 18 a. If the Preliminary Plan is approved by the Planning Commission, the applicant
19 shall be advised in writing of such action. Approval of the Preliminary Plan shall
20 not constitute approval of the Final Plat. The Preliminary Plan and conditions of
21 its approval shall serve as a guide in the preparation of the final subdivision plat.
22 For minor subdivisions, approval from all TEC agencies shall constitute
23 Preliminary Plan approval.
- 24 b. Approval of the Preliminary Plan shall be valid for a period not to exceed 2
25 years.
- 26 4. **Criteria for approval of a Preliminary Plan.** In approving a Preliminary Plan, the
27 Planning Commission shall make each of the following findings:
- 28 a. The proposed development, including lot sizes, density, access and circulation, is
29 consistent with the Comprehensive Plan and applicable zoning standards and is
30 compatible with the existing and/or permissible future use of adjacent property.
- 31 b. Sufficient number of access points for ingress and egress are provided.
32 Generally, two access points are required, with no less than one access point for
33 each 75 lots or fraction thereof and reservation of land or dedication of rights-of-
34 way to allow interconnection of subdivision streets to adjacent parcels,
35 subdivisions and for connection to planned roads.
- 36 c. Public facilities are adequate in accordance with the provisions of Chapter 70 of
37 the St. Mary's County Comprehensive Zoning Ordinance, Adequate Public
38 Facilities.
- 39 d. Is consistent with the Annual Growth Policy, including approval of a phasing
40 plan if required by said Annual Growth Policy.
- 41 e. Access to adjoining land is provided for in the proposed plan and will allow
42 development of those adjoining lands in accordance with this Ordinance. Street
43 system adequacy shall be based on the street system's ability to safely
44 accommodate trips from existing and planned land uses on the existing and
45 proposed street system.

- 1 f. The drainage, erosion control, and construction proposed comply with accepted
2 engineering and construction practices and the requirements of this Ordinance.
- 3 g. The lot, block, and street layout are consistent with the subdivision design
4 standards of this and the Comprehensive Zoning Ordinance.
- 5 h. Adequate developed recreational and other community amenities are provided in
6 accordance with the Comprehensive Plan, Comprehensive Zoning Ordinance,
7 and this Subdivision Ordinance.
- 8 5. **Conditions on Approvals.** In approving a Preliminary Plan, the Planning Commission
9 may impose modifications or conditions to the extent necessary to insure compliance
10 with the standards of this Ordinance, the Comprehensive Zoning Ordinance and
11 Comprehensive Plan.
- 12 **30.6. Preliminary Plan Application Procedures.**
- 13 1. **Submission Procedures.** An application for approval of a Preliminary Plan shall be
14 submitted to the Department of Land Use and Growth Management on or before the due
15 date for submissions to the Technical Evaluation Committee (TEC). The application form
16 approved by the Planning Director shall establish the appropriate number of plats to be
17 submitted and other submission requirements.
- 18 2. **Prerequisites.** In addition to any submission requirements specified on the application
19 form, an application for a Preliminary Plan must be accompanied by the following:
- 20 a. Zoning permit application.
- 21 b. An approved Forest Stand Delineation or an approved waiver from the Forest
22 Conservation provisions in the Comprehensive Zoning Ordinance.
- 23 c. A certificate of title.
- 24 d. A phasing plan, if proposed by the applicant or if required by the County's
25 Annual Growth Policy.
- 26 3. **Completeness Review.** The Planning Director shall check the submittal for completeness.
27 If, in the opinion of the Planning Director, an application is incomplete, the applicant
28 shall be notified and shall have three (3) business days to make the application complete
29 or withdraw the plan. If the applicant does not respond within three (3) business days, the
30 application will be rejected. Complete applications will be referred to the TEC for review
31 and comments.
- 32 4. **Preliminary Plan Requirements.** Preliminary plans shall be at a scale of 1 inch to 100
33 feet, except that a scale of 1 inch to 200 feet may be used if the plan involves property
34 over 100 acres in size. At least one copy shall be at a scale of 1 inch to 600 feet to
35 facilitate uniform addressing. The preferred paper size is 24" x 36", with the maximum
36 sheet size of 36" x 48". The plan shall include an Owner's and Surveyor's Certificate, be
37 signed and sealed, and include approval/signature blocks for Land Use and Growth
38 Management, Health Department, Metropolitan Commission (if public water and sewer),
39 and Public Works (if plan contains public roads). The plan and accompanying documents
40 shall be in accordance with the appropriate subdivision checklist, and as a minimum
41 show the following information for the site and for 200 feet around the perimeter of the
42 site.
- 43 a. Title Block
- 44 (1) Date of Original.

- 1 (2) Election District.
- 2 (3) Name, address and telephone number of Surveyor or Engineer.
- 3 (4) Subdivision name, including type of subdivision.
- 4 (5) Drawn by, checked by initials.
- 5 (6) Sheet number of sheet number
- 6 b. Vicinity Map
- 7 (1) Scale of at least 1" to 2,000' or as appropriate to show the entire site and
- 8 surrounding road network including at least two intersections.
- 9 (2) North Arrow.
- 10 (3) Critical Area Boundary (if applicable).
- 11 (4) Zoning Boundary (if applicable).
- 12 c. General Notes
- 13 (1) Tax Map, Grid, and Parcel.
- 14 (2) Site Area in acres (square feet if less than 1 acre).
- 15 (3) Zoning and Overlay Zone.
- 16 (4) Setbacks stating setbacks are drawn from sensitive areas.
- 17 (5) Minimum Ownership Statement.
- 18 (6) Health Department Note.
- 19 (7) Water and Sewer Category.
- 20 (8) Water and Sewer Provisions.
- 21 (9) Comprehensive Water and Sewerage Plan Compliance.
- 22 (10) 10' Utility Easement along all lot lines.
- 23 (11) Prior Restrictions.
- 24 (12) Private Road maintenance note.
- 25 (13) Name and number of lots served by each private road.
- 26 (14) Premise address note.
- 27 (15) Specify Flood Hazard Zone and source.
- 28 (16) Existence or non-existence of non-tidal wetlands and source of data.
- 29 (17) Source of soil and topographic data.
- 30 (18) Existence of Critical Habitats, Cultural Features, or Historic Sites, stating
- 31 source.
- 32 (19) Stormwater Management.
- 33 (20) Mitigation measures to be used (Major Subdivisions in the RL and RPD
- 34 zones only).
- 35 (21) Forest Conservation Exemption (if applicable)
- 36 (22) TDR note (if applicable).

- 1 (a) Information shall be provided in sufficient detail in engineering
2 study including on-site and off-site system adequacy as well as
3 the method of water supply and capacity required.
- 4 i. All residential subdivisions of 25 lots or more must
5 connect to a public water system. All non-residential
6 subdivisions and development in the Development
7 Districts must connect to a public water system if it is
8 within 1,750 feet of an existing line of sufficient
9 capacity. All development in Town Centers and Village
10 Centers within 1,750 feet of an existing public water
11 system with sufficient capacity must connect to the
12 public water system.
- 13 (6) Information shall be provided in sufficient detail in an engineering study
14 to determine method of sewage disposal proposed, including for
15 community sewerage systems, on-site and off-site system adequacy as
16 well as method of sewage treatment and capacity required. For areas that
17 have been tested for percolation rates, show location of percolation tests
18 and sewerage reserve areas.
- 19 (7) Erosion and Sediment Control Plan as required and in accordance with
20 the Stormwater Management, Grading, Erosion and Sediment Control
21 Ordinance.
- 22 (8) Preliminary drainage area map, a conceptual storm drain layout and
23 method and approximate location of storm water quality and quantity
24 treatment proposed, including preliminary storm water management
25 calculations.
- 26 (9) Location and general description of proposed off-site improvements.
- 27 (10) A traffic study will be required if more than 50 peak hour trips are
28 generated by the project, and must be submitted and approved prior to
29 Planning Commission approval.
- 30 (11) Entrance location, minimum site distance available in each direction,
31 acceleration and deceleration lane dimensions, by-pass lane dimensions,
32 nearest driveways and/or street intersection locations, and monumental
33 signage entrance features if proposed.

34 5. **Comments on Preliminary Plans.** Agency comments may be both general and specific in
35 nature. Comments that are general in nature are intended to address compliance with the
36 Comprehensive Plan and public health and safety issues. Agencies should point out
37 existing problems in the vicinity of the proposed activity, such as historical drainage and
38 flooding conditions, poor soils, erosion, planned roadway improvements, traffic flow,
39 roadway classification, etc. Comments that are specific in nature should reference the
40 specific sections of the Ordinance or other regulations that are being addressed. Agencies
41 may also comment upon whether the plat meets their rules and regulations and meets the
42 requirements for adequacy of public facilities (APF) as defined in the Comprehensive
43 Zoning Ordinance. Each TEC agency shall supply comments on a form approved by the
44 Planning Director, and returned to the Planning Director. The Planning Director will
45 distribute comments from TEC agencies to the applicant following the set TEC Review
46 cycle.

- 1 6. **Planning Commission Action.** A Preliminary Plan may be submitted to the Planning
2 Commission for review and approval following receipt by the applicant of agency
3 comments. The reviewing agencies must have indicated that the plan is acceptable or can
4 be made acceptable with additional information or through specified modifications. The
5 Planning Director shall prepare a staff report for distribution to the Planning
6 Commission, the applicant, and the applicant's Surveyor or Engineer prior to the meeting,
7 and will incorporate appropriate agency review comments into the report. The Planning
8 Director shall present the plat to the Planning Commission. The applicant may also
9 present the plat and answer questions from the Planning Commission. The Planning
10 Commission shall approve the application, approve it with conditions or disapprove it.
- 11 7. **Preliminary Plan Approval.** Preliminary Plan approval shall not be granted until such
12 time that the easement for any crossing of the land owned by the Board of County
13 Commissioners known as the "Old Railroad Right-of-way" is approved by the Board of
14 County Commissioners.

15 **30.7. Preliminary Plan Amendments.**

16 Amendments to Preliminary Plans may be initiated by the owner of property subject to the
17 following provisions:

- 18 1. **Minor Amendments.** The Planning Director may approve minor amendments for:
- 19 a. Changes in the internal alignment of roads that do not affect external properties;
- 20 b. Changes in internal parcel boundaries that do not abut external property lines;
- 21 c. Changes in setbacks along internal property lines;
- 22 d. Changes in the routing of trails and pedestrian ways; or
- 23 e. Changes in the orientation of buildings on internal parcels.
- 24 2. **Major amendments.** The following are deemed major amendments and require Planning
25 Commission approval:
- 26 a. Increased number of dwelling units or square feet of nonresidential building area;
- 27 b. Increased trip generation or demand for public utilities;
- 28 c. Decreased public or private open space area; or
- 29 d. Increased volume or velocity of storm water runoff from the development.

30 **30.8. Final Plat.**

- 31 1. **Final Plat Required.** There shall be a Final Plat for each subdivision that receives
32 Preliminary Plan approval. No subdivision plat shall be recorded unless and until a Final
33 Plat has been approved as provided in this Chapter. Plat Exempt Divisions are exempt
34 from this requirement.
- 35 2. **Final Plat Approvals.** The final plat shall be approved, approved with conditions or
36 disapproved by the Planning Commission or Planning Director, as the case may be, in
37 accordance with the procedures established in Chapter 21 of this Ordinance. The decision
38 shall be in the form of a written letter to the applicant.
- 39 3. **General Criteria for Final Plat Approval.** A Final Plat may be approved upon
40 demonstration of compliance with the following criteria:

- 1 a. The proposed subdivision conforms to all relevant requirements of this
2 Ordinance and any conditions of Planning Commission Preliminary Plan
3 approval, if applicable.
- 4 b. The lot and block layout provides for safe and convenient vehicular, service and
5 emergency access, efficient utility service connections, and adequate buildable
6 area in each lot for planned uses.
- 7 c. Rights-of-way and easements of adequate size and dimension are provided for
8 the purpose of constructing the street, utility, and drainage facilities needed to
9 serve the development. This includes requests to the Board of County
10 Commissioners for permission to cross the railroad right-of-way.
- 11 d. The proposed subdivision provides sufficient land necessary to satisfy the
12 requirements of the open space standards for the zoning district where the
13 subdivision is located.
- 14 e. The proposed land subdivision is designed in such a manner as to allow for
15 continued development of adjacent, undeveloped lands.

16 **30.9. Final Plat Approval.**

17 1. ***Final Plat Preparation and Submittal Requirements.***

- 18 a. The Final Plat shall include the following documents at a minimum:
 - 19 (1) Evidence that the final plat has been prepared in accordance with the
20 approved Preliminary Plan, and includes any modifications required by
21 the Planning Commission.
 - 22 (2) Record Plat. The final plat shall be legible, drawn accurately and to scale,
23 and shall be submitted for recordation using black ink on transparent
24 mylar or linen, or other black line process on transparent mylar or linen
25 comparable to original quality that will conform to archival standards.
26 The size of the sheets shall be 18" by 24", including a margin of 1/2"
27 outside ruled border lines. The minimum letter size shall be 1/10 inch.
28 The final plat shall be prepared in accordance with the final plat
29 checklists approved by the Planning Director.
 - 30 (3) Construction Plans. If required, construction plans for public facilities
31 shall be submitted as part of the final plat. Construction plans shall
32 conform to the design requirements of the review agencies as set forth in
33 the checklists approved by each review agency.
 - 34 (4) Forest Conservation Plan. The Forest Conservation Plan and worksheet
35 shall be prepared in accordance with the Comprehensive Zoning
36 Ordinance.
 - 37 (5) Other agreements. All covenants, restrictions, TDRs, offsite easements,
38 letters of permission, wetland permits and special conditions or other
39 agreements necessary for the approval of the final plat.
 - 40 (6) Property Corners. A certification by a Registered Professional Land or
41 Property Line Surveyor that reference monuments have been or will be
42 set.
- 43 b. A final plat for a major subdivision shall be submitted directly to the appropriate
44 review agencies for comment and approval. A final plat for a minor subdivision

- 1 may be submitted directly to the appropriate review agencies after initial TEC
2 review is completed in accordance with Chapter 21.
- 3 c. Unless an extension is granted by the Planning Commission, a final plat must be
4 approved by the Planning Director no more than 2 years after approval of the
5 Preliminary Plan. The final plat must be recorded within 1 year from final
6 approval.
- 7 d. Except for minor subdivisions all final plats shall be submitted in printed (for
8 purposes of recording) and digital (for purposes of maintaining the County
9 computer mapping system) format. Plats of minor subdivisions need not be
10 submitted in digital format. Digital plats shall be submitted in .dwg, .dxf, or .dgn
11 format and shall comply with the following:
- 12 (1) The digital file should include only those layers and graphic elements
13 associated with the property lines. No other text or layer shall be
14 required.
- 15 (2) Measures shall use the US Survey Foot.
- 16 (3) Submitted drawings shall include at least 3 northing and easting (X, Y)
17 control points of the surveyed property(ies) or no more than 3 northing
18 and easting tick marks on the plan or plat surrounding the surveyed
19 property.
- 20 (4) The digital plat submission shall include a metadata text file containing
21 at a minimum:
- 22 (a) Preparer's contact information.
- 23 (b) Land Use and Growth Management control number.
- 24 (c) Dates of file creation and modification.
- 25 (d) Confirmation of the vertical and horizontal coordinate system
26 used.
- 27 (5) Digital files shall be submitted on standard transfer media, including CD-
28 ROM, DVD, or flash drive. A link to a remote server via file transfer
29 protocol (FTP) is also acceptable. Delivery by any other means must be
30 approved by County staff beforehand. The submitted media shall be
31 labeled with the title of the project (drawing file name), type of drawing
32 or submittal case file number, and the creation date of the file.
- 33 (6) The requirement for digital submission may be waived by the Planning
34 Director upon payment of a fee to cover the additional processing by
35 staff or upon satisfactory demonstration of hardship.
- 36 2. **Action on Final Plat.** Upon approval of the final plat by each review agency, that agency
37 shall submit evidence of final approval to the Planning Director, with a copy to the
38 applicant. Upon receipt of all approvals, the applicant shall submit to the Planning
39 Director the required number of reproducible and paper copies of the plat. The Planning
40 Director shall circulate the plat as may be required to the Metropolitan Commission, the
41 Health Department and the Department of Public Works & Transportation (DPWT) for
42 signatures, sign the plat and have the plat recorded.
- 43 3. **Approval, Not Acceptance.** Approval of the final plat shall not be deemed to be
44 acceptance of any street, alley, public space, utility or other physical improvements

1 shown on the Final Plat. Such improvements may be formally accepted by the County as
2 evidenced by an appropriate deed of dedication in recordable form and delivered to the
3 County and executed by the County for acceptance.

- 4 4. **Completion of Improvements.** Except as provided in this Ordinance, a condition of final
5 plat approval shall include the execution of a Public Works Agreement to ensure
6 completion of all street, sanitary, and other public improvements as stipulated on the final
7 plat.

8 **30.10. Final Plat Amendments.**

9 Amendments to final plats may be initiated by the owner and will be evaluated pursuant to the
10 procedures for final plat approval established in this Chapter.

11 **30.11. Condominium Plat**

- 12 1. **Purpose.** The purpose of a Condominium Plat is to describe the horizontal and vertical
13 boundaries of a condominium regime as required by Article 11-101 of the Real Property
14 title of COMAR.
- 15 2. **Submission Procedures.** Submission procedures for a Condominium Plat are the same as
16 those for a preliminary plan except because a Condominium Plat is not subject to TEC
17 review, submission can be made anytime during the month.
- 18 3. **Prerequisites.** In addition to any submission requirements specified on the application
19 form, an application for a Condominium Plat approval must be accompanied by the
20 following:
- 21 a. A certificate of title.
 - 22 b. An approved site plan.
 - 23 c. Declarations and Bylaws.
- 24 4. **Completeness Review.** Completeness review procedures are the same as those for
25 Preliminary Plan submissions.
- 26 5. **Plat Requirements.** Condominium Plats shall be at a scale of 1" to 100'. The preferred
27 paper size is 18" x 24", with the maximum sheet size of 24" x 36". The plan shall include
28 an approval/signature blocks for the Department of Land Use and Growth Management.
29 The plan and accompanying documents shall be in accordance with the Condominium
30 Plat checklist. The Plat may consist of one or more sheets and shall contain the following:
- 31 a. The name of the condominium.
 - 32 b. A boundary survey of the property described in the declaration showing the
33 location of all buildings on the property and the physical markings at the corners
34 of the property.
 - 35 c. Diagrammatic floor plans of each building on the property which show the
36 measured dimensions, floor area, and location of each unit in it. Common
37 elements shall be shown diagrammatically to the extent feasible; and
 - 38 d. The elevation or average elevation in case of minor variances, above sea level, or
39 from a fixed known point, of the upper and lower boundaries of each unit
40 delineated on the Condominium Plat.
 - 41 e. Designation of Units – Each unit shall be designated on the plat by a letter or
42 number, or a combination of them, or other appropriate designation.

- 1 f. **Surveyor's Certificate.** A condominium plat is sufficient if there is a certificate of
2 a professional land surveyor or property line surveyor authorized to practice in
3 the state that;
- 4 (1) The plat together with the applicable wording of the declaration, is a
5 correct representation of the condominium described; and
- 6 (2) The identification and location of each unit and the common elements, as
7 constructed, can be determined from them.
- 8 **30.12. Boundary Line Adjustment Plat (BLAP)**
- 9 1. **Purpose.** The purpose of a Boundary Line Adjustment Plat is to adjust property
10 boundaries of lots of record.
- 11 2. **Submission Procedures.** Submission procedures for a BLAP are similar to those for a
12 subdivision plan. A BLAP is not subject to TEC reviews, submission can be made
13 anytime during the month.
- 14 3. **Prerequisites.** In addition to any submission requirements specified on the application
15 form, an application for BLAP approval must be accompanied by the following:
- 16 a. A complete deed history providing evidence of parcel of record status of all
17 involved properties. A non-parcel of record being completely absorbed into
18 parcels of record is allowed.
- 19 b. A copy of recorded plats, if any, for properties involved.
- 20 4. **Plat Requirements.** Boundary Line Adjustment Plats shall be at a recommended scale of
21 1" to 100'. The preferred paper size is 18" x 24", with the maximum sheet size of 24" x
22 36". The plan shall include approval/signature blocks for the Department of Land Use
23 and Growth Management, Health Department, Metropolitan Commission (if public water
24 and sewer). The Plat may consist of one or more sheets and shall contain the following at
25 a minimum:
- 26 a. Title Block and vicinity map requirements shall be the same as those for a
27 Preliminary Plan as described above.
- 28 b. The following General Notes are required:
- 29 (1) Tax map, grid, and parcel numbers.
- 30 (2) Total acreage.
- 31 (3) Zoning and overlay zoning.
- 32 (4) A statement that "Recording this Boundary Line Adjustment Plat will
33 expand existing deeded parcels of record by ____ square feet and will
34 not result in additional building sites or increase in density or intensity
35 beyond the current land use shown hereon."
- 36 (5) Critical Area Notes (if applicable)
- 37 c. **Plan Information.**
- 38 (1) North arrow and scale.
- 39 (2) Boundary lines with bearings and distances, corner markers and
40 reference monuments. For the sake of clarity, the "Z" convention shall be
41 used in order to illustrate the area being adjusted.

- 1 (3) Add "500" prefix to adjusted lot numbers, and "Adjusted Parcel"
2 designation to parcels of record being adjusted.
- 3 (4) Location, zoning and names of adjacent subdivisions and of owners of
4 adjacent property.
- 5 (5) Location, dimension and purpose of existing easements, including
6 sewerage easement.
- 7 (6) Topographic information.
- 8 (7) If all or part of the site is in the critical area, the additional requirements
9 for Critical Area Plans shall be provided.
- 10 (8) Entrance location, minimum site distance available in each direction,
11 acceleration and deceleration lane dimensions, by-pass land dimensions.
- 12 (9) Address Oval.

13 30.13. Confirmatory Plat

- 14 1. **Purpose.** A Confirmatory Plat makes minor corrections to a previously recorded plat that
15 does not involve adjustment of any boundary lines or create new lots.
- 16 2. **Submission Procedures.** Submission procedures for a Confirmatory Plat are the same as
17 those for a preliminary plan except that because a Confirmatory Plan is not subject to
18 TEC review, submission can be made anytime during the month.
- 19 3. **Prerequisites.** In addition to any submission requirements specified on the application
20 form, an application for a Condominium Plat approval must be accompanied by the
21 following:
 - 22 a. A certificate of title to show current ownership.
 - 23 b. A copy of the recorded plat being corrected.
- 24 4. **Completeness Review.** Completeness Review procedures are the same as those for a
25 Preliminary Plan.
- 26 5. **Plat Requirements.** Confirmatory Plats shall be at the same scale as the original record
27 plat. The plan shall include an approval/signature blocks for the Department of Land Use
28 and Growth Management, and all agencies that signed the original plat. The plan and
29 accompanying documents shall be in accordance with the Confirmatory Plat checklist.
30 The Plat may consist of one or more sheets and shall contain the following:
 - 31 a. The plat shall be identical to the original plat, except for those elements being
32 corrected.
 - 33 b. All original General Notes must be shown, along with an additional note
34 describing the purpose of the Confirmatory Plat and description of elements
35 being corrected.

36 30.14. Private Roads.

- 37 1. **Purpose.** The purpose of shared driveway and private road standards is to provide
38 options to retain rural character, reduce costs, and to allow more control, security, and
39 sense of identity when public roads are not needed for circulation. These standards are
40 intended to provide for the safety of the property owners by requiring adequate access for
41 fire, emergency, medical and law enforcement vehicles. It provides for the continued

1 uninterrupted use of the access for all of the owners by establishing a durable roadway
2 and easement, and assigns responsibility for continued maintenance of the access.

3 2. There shall be no private roads nor any private easement used for the purpose of primary
4 access to any lot unless constructed and maintained in accordance with the following:

5 a. Private roads may be provided for in accordance with the standards set forth in
6 Section 6 below. The plat and any deed conveying any lot or lots served by
7 private road or private easement must contain an acknowledgment by the owner
8 that the County shall have no liability for such roads and such acknowledgment
9 must also be included on the record plat and in the deed transferring the lot in
10 order to notify a purchaser of a lot in a subdivision on a private road. A Road
11 Maintenance Agreement meeting the requirements of the Department of Land
12 Use and Growth Management shall be recorded with the Final Subdivision Plat
13 for any private road in a subdivision.

12/18/12 14 3. **Exemptions.** Private right-of-ways recorded before May 13, 2002 may serve up to seven
15 (7) lots without complying with this section.

16 4. **Family Conveyance Provisions:** The Planning Commission may approve an additional
17 lot(s) on a private road for purposes of a family conveyance, providing the following
18 requirements are met:

19 a. The sale or transfer of such lot(s) shall be limited to the property owner(s) of
20 record on or before May 25, 2004.

21 b. The lot to be conveyed shall only be conveyed to a family member, being father,
22 mother, son, daughter, grandfather, grandmother, grandson, or granddaughter of
23 the grantor.

24 c. A family member shall not receive more than one lot.

25 d. The property owner shall demonstrate that the private road is adequate to
26 accommodate the additional traffic generated by the lot(s). Private roads created
27 within a property being subdivided shall meet the private road standards of this
28 Ordinance.

29 e. After approval of a family conveyance, and prior to the recordation of the plat,
30 the grantor of the family conveyance shall enter into an agreement with the
31 County that:

32 (1) contains the grantor's obligations under this section;

33 (2) is recorded in the land records of St. Mary's County;

34 (3) is noted on the subdivision plat; and

35 (4) prohibits the grantee from transferring the conveyed lot to a third party
36 for at least five years from the date of final approval of the family
37 conveyance, except in a case of severe hardship, as determined by the
38 Director of Land Use and Growth Management.

39 f. Access on and use of the private road must be assured by the property owner.

40 g. A grantee of a lot created by these provisions may not be a grantee in another
41 conveyance in the same subdivision or any other subdivision using these
42 provisions.

1 h. The provisions of this section shall not prohibit the conveyance of interest in a lot
2 to a third party as security for a mortgage or deed of trust.

3 5. **General Provisions.**

4 a. For private roads, the design vehicle shall be an emergency
5 response/service/delivery-type vehicle (30-foot single unit truck). For local
6 streets, the design vehicle shall be a school bus. For higher classification and
7 commercial streets, the design vehicle shall be a tractor trailer/ladder truck-type
8 vehicle (WB-50).

9 b. Private roads shall be included in an overall development plan and shall be
10 approved by the Planning Commission and/or Director of Land Use and Growth
11 Management

12 c. Subdivisions consisting of seven (7) residential lots or less, or farmstead
13 subdivisions, may be served by a private road. All subdivisions, except
14 farmsteads and lots approved through the family conveyance provisions of this
15 Ordinance, proposed with eight (8) lots, or more, shall be served by public roads
16 in accordance with the provisions contained herein.

17 d. A Private Road Maintenance Agreement for private roads, access easements to
18 farmstead lots, and shared driveways shall be recorded with the record plat.

19 e. Minimum safe stopping sight distance shall be assured with information provided
20 by the design engineer.

21 f. In the event that the maximum allowable number of lots having access is
22 exceeded, or is otherwise approved by a variance, all further divisions of land
23 must front on a public road and are subject to the regulations and standards for
24 public roads.

25 g. Private roads shall normally intersect with a public road; must have no other
26 public or private streets dependent upon it for access; and must serve no traffic
27 except that associated with the lots having direct driveway access to it.

28 h. There shall be no more than one driveway connection from any site or lot to any
29 street, except where separate entrances and exit driveways may be necessary to
30 safeguard against hazards and to avoid congestion. Additional driveways should
31 also be considered for large tracts and uses of extensive scope, if traffic flow on
32 adjacent roads will be facilitated by the additional connections.

33 i. Where topographic and other conditions are reasonably usable, provision should
34 be made for circulation driveway connections to adjoining lots of similar existing
35 or potential use when such driveway connections will facilitate fire protection
36 services or when such driveway will enable the public to travel between two
37 existing or potential uses, open to the public generally, without need to travel
38 upon a public road.

39 j. Driveways into site should have proper grades and alignments, as well as
40 transition grades and sight distances, for safe, convenient and efficient access and
41 should meet the public road right-of-way and travel ways of the public road in a
42 manner that conforms with the provisions of this Ordinance.

43 6. **Design Standards.** In addition to the private road standards shown above and in Table
44 30.14.6, the following shall apply:

- 1 a. *Easements.* Shared driveways and private roads shall reserve easements
2 immediately adjacent and parallel to the private right-of-way of at least ten feet
3 (10') in width on both sides of the right-of-way. The easement shall be utilized
4 by public utilities, including but not limited to the installation of electric, gas,
5 telephone, water, sewer and cable television service, together with the right to
6 trim interfering trees and brush, together with a perpetual right of ingress and
7 egress for installation, maintenance and replacement of such lines.
- 8 b. *Road Names.* Approved private road name suffixes shall be Place, Path, Terrace,
9 Circle, Lane, Loop, Alley and Way. Sign type and placement shall be in
10 accordance with the Manual of Design and Construction Standards.
- 11 c. *Vertical Clearance.* A minimum unobstructed vertical clearance of fourteen feet
12 (14') shall be provided.
- 13 d. *Turnouts.* There shall be areas where two vehicles can easily pass each other at
14 least every 500-600 feet. Turnouts shall be provided every 1,000 feet to
15 accommodate the turnaround movements of emergency and other service-type
16 vehicles.
- 12/18/12 17 e. *Materials.* A maximum of seven (7) residential lots shall be served by a private
18 road, except for farmstead lots, for which there is no maximum. Residential
19 single lot and shared driveways serving up to seven (7) lots should be constructed
20 using a minimum of a four inch thick layer of compacted aggregate base. A
21 double surface treatment is recommended in light traffic situations to ensure a
22 dust-less surface.
- 23 f. *Corner Clearance.* In general, for commercial and industrial developments, no
24 internal access connection may be proposed within 40' of the intersection with
25 the entrance and the adjacent collector road. Unless the applicant demonstrates
26 practical difficulty, all proposed commercial and industrial developments greater
27 than 100,000 square feet shall provide a minimum corner clearance of 250 feet
28 from an arterial public roadway.
- 12/18/12 29 g. *Dimensions.* Private roads shall be constructed with two-foot wide unimproved
30 shoulders. With-in a minimum 22' ROW the minimum horizontal radius for
31 private roads serving up to seven (7) lots shall be 90 feet (90').
- 32 h. *Location.* Driveways for new corner lots shall be located at least 80 feet from an
33 intersection of two (2) public roads.
- 34 i. *Paving.* For commercial and industrial developments, an all weather surface
35 shall be designed and certified by the submitting engineer to ensure the pavement
36 section is adequate to accommodate the site generated traffic, sub-grade
37 conditions, vehicle loading, and design vehicle turning movements.
- 38 j. *Entrances and Access.*
- 39 (1) Entrances onto a public road shall be constructed in accordance with the
40 Department of Public Works and Transportation Manual of Design and
41 Construction Standards, as amended from time to time, and the
42 provisions contained herein.
- 43 (2) Residential driveway access shall be limited to cul-de-sacs, local roads
44 and minor collector roads. Multi-family and cluster subdivisions shall
45 have direct access to a public road.

- 1 (3) Direct residential access to major collectors and arterials shall be
2 permitted only when no feasible alternative exists. In such cases, a
3 minimum separation between driveways and/or entrances of 150 feet,
4 measured from centerline shall be maintained.
- 5 (4) Visibility of a driveway crossing a road right-of-way line shall not be
6 impaired between a height of 2.5 feet and 7 feet for a depth of 5 feet
7 from the street property line, as viewed from the edge of the right-of-way
8 on either side of the driveway at a distance of 50 feet or at the nearest
9 property line intersecting the street property line, whichever is less.
- 10 (5) Commercial and industrial entrances shall be constructed in accordance
11 with State Highway Administration practices, standards established in
12 this Ordinance and any applicable guidelines, Table 30.11.6, or plates
13 approved by the Director of Public Works and Transportation.
- 14 (6) Construction entrances must be installed prior to any activity on the site.
- 15 (7) All entrances shall be designed with sufficient capacity to minimize
16 queuing of entering vehicles on any road or street.
- 17 (8) Driveway entrances shall not be constructed in or partially in any
18 intersection fillet and should be located so as to provide safe and efficient
19 traffic operations. Where less than 30 feet of separation is provided
20 between the centerlines of adjacent residential driveways, a shared
21 entrance shall be provided.
- 22 (9) The minimum entrance width for joint-use driveways shall be 18 feet for
23 the first twenty-five feet (25'). The remainder of the shared driveway
24 shall be a minimum of sixteen feet (16') in width. The remainder of any
25 driveway serving one dwelling unit may be decreased to ten feet (10') in
26 width.
- 27 (10) A separate driveway entrance pipe schedule shall be required and shown
28 on the design plans for all individual and shared driveways whose
29 corresponding ditch flow exceeds five cubic feet per second (5cfs).
- 30 (11) Shared driveway entrances shall be bonded before plat recordation and
31 installed by the applicant prior to Use and Occupancy Permit for any lots
32 served by the entrance.
- 33 k. *Disclosure.* Disclosure shall be given to purchasers of lots served by private
34 right-of-ways in accordance with the Subdivision Regulations indicating that lots
35 served by private right-of-ways shall not be maintained by the County, nor shall
36 said private right-of-ways be considered for acceptance into the County
37 Highways Maintenance System until such is improved to the appropriate County
38 Road Standards at the individual lot owner(s) expense. The record plat shall be
39 required to contain similar language prior to approval.

12/18/12 1

Table 30.14.6. Private Road Standards.

Road Type	Design Speed	Minimum Travel Way Width (ft.)	Min. Horizontal Radius (ft.)	Additional Standards
Private Road	20 mph	18'	90'	Minimum ROW 22' Seven (7) lot maximum
Shared Driveways	none	18'	50'	Shall serve a maximum of three (3) residential lots
Commercial (One-way)	20 mph	11'	90'	Increase width to 15' for circulation and perimeter access
Commercial (Two-way)	20 mph	22'	90'	For ADT < 1500 vehicles, otherwise 30' width is required

2 **30.15. Subdivision Design Standards.**

3 Subdivision design shall be in accordance with the requirements of the Comprehensive Plan and
4 Section 62 of the Comprehensive Zoning Ordinance. Lot and Right-of-way Requirements.

5 1. **Lot Design.**

6 a. *Lot Dimensions.* Lot size, width, shape and orientation shall be appropriate for
7 the location and the type of development or use proposed for the subdivision,
8 taking into account that standards of the districts where the subdivision is
9 located, the recommendations of the TEC and any approved or adopted local,
10 County, State or federal plan determined applicable by the Planning Commission.
11 Irregularly shaped lots that in the opinion of the Planning Commission are
12 created for the purpose of circumventing a regulation of this Ordinance are
13 prohibited. Irregularly shaped lots, discontinuous tracts identified as one lot, or
14 other configurations which provide in the opinion of the Planning Commission
15 necessary land solely to meet the on-site sewage disposal or access requirements
16 of this Ordinance, are also prohibited. These provisions do not apply to existing
17 lots of record.

18 b. *Lot Frontage on Private Roads or Driveways.* Every residential lot shall abut on
19 a street or road which has been dedicated to public use or which has acquired the
20 status of a public road, except as permitted to be located on a private road, as set
21 forth at Section 30.11.14, above.

22 c. Driveway and Intersection Separation/access shall be as provided in Section
23 30.11.14, above.

24 (1) **Hardship exemption.** In cases where a hardship is demonstrated, the
25 Planning Commission may modify the separation required, provided that
26 any modification does not create an operational or safety hazard based on

- 1 recommendations by the Director of the Department of Public Works &
2 Transportation.
- 3 d. *Side Lines.* Side lines of interior lots shall be roughly perpendicular to the street
4 line, or radial to a curved street line, unless determined by the Planning
5 Commission that a variation from this rule will result in a more functional layout.
- 6 e. *Double Frontage Lots.* Double frontage lots, meaning a block having only 1 tier
7 of lots between 2 streets or roads, should access the lower classification roadway
8 and shall not be approved except where unusual topography, orientation or the
9 size of the subdivision permit no other feasible way to subdivide.
- 10 2. ***Right-of-way Design.***
- 11 a. *General Provisions.* The general road design standards established in the St.
12 Mary's County Comprehensive Zoning Ordinance shall apply to rural and urban
13 roads and represent the minimum acceptable design standards.
- 14 b. *Mapped Roads or Streets.* Subdivision plats shall include roads and streets
15 identified on the Comprehensive Plan, or its subsequently adopted amendments.
16 Where applicable, such plats shall include applicable recommendations of the
17 State Highway Administration related to state roads and access thereto.
- 18 c. *Continuation of Roads.* The subdivision plat shall provide for continuation of any
19 existing roads or streets, whether constructed or recorded, in accordance with the
20 requirements of this Ordinance, unless otherwise determined by the Planning
21 Commission. No road, separated from a county maintained road or a road
22 maintained by any other public agency shall be improved or accepted by the
23 Board of County Commissioners unless suitable connecting road to the existing
24 road is improved to meet public road standards.
- 25 d. *Interparcel Access.* Unless prohibited by environmental constraint streets shall
26 be extended to the property line to give opportunity for access to adjacent
27 parcels. Streets and rights of way shall be aligned and connection constructed to a
28 street or right of way that has been extended to the property line on an adjacent
29 parcel.
- 30 e. *Secondary Residential Streets.* Secondary residential streets shall be planned to
31 discourage their use by non-local traffic.
- 32 f. *Dedication of Right-of-Way.* Where public roadway improvements are officially
33 planned, the Department of Public Works and Transportation may require that
34 additional right-of-way shall be dedicated to the Board of County
35 Commissioners.
- 36 g. The designation of street name suffixes shall be standardized in accordance with
37 the Road Naming Manual.
- 38 3. ***Future Subdivision.*** A tract proposed for subdivision into large parcels with the
39 possibility or intention of future subdivision (rather than immediate development) shall
40 be divided so as to allow for future opening of streets and such further logical subdivision
41 as can be foreseen.
- 42 4. ***Vacating Rights-of-way.*** The Department of Public Works and Transportation shall not
43 recommend vacating of any street dedicated to and accepted by the public if it will
44 adversely affect the proper functioning of the existing street system or a future street plan

1 prepared by, or approved by, the Planning Commission or Board of County
2 Commissioners.

3 **30.16. Public Improvement and Infrastructure Requirements.**

4 1. Dedication and Construction of Roads, Sidewalks and Related Improvements.

5 a. Public Roads with appurtenant sidewalks, drainage, street trees, and other
6 integral facilities in each new subdivision, must be constructed by the applicant
7 in accordance with the standards and specifications in the St. Mary's County
8 Road Ordinance.

9 b. The minimum length of a public road shall be two hundred and fifty (250) feet.

10 2. **Monuments.** The applicant shall place a minimum of two (2) permanent reference
11 monuments in the subdivision. Monuments shall be located at 2 property corners, shall
12 be shown on the record plat, shall be spaced as far apart as possible but be within sight of
13 a single point.

14 a. Monuments shall be located on street right-of-way lines, at street intersections,
15 angle points of curve or block corners. They shall be spaced as far apart as
16 possible but that both are within sight of a single point, the sight lines being
17 contained wholly within the street limits.

18 b. Such permanent reference monuments shall be stone or concrete at least 18
19 inches in length and 4 inches square or have a 4-inch diameter with suitable
20 center point and shall be set flush with the ground.

21 3. **Storm Drainage and Overlot Grading.** Applicant shall provide stormwater management,
22 drainage and grading improvements according to the requirements of The St. Mary's
23 County Stormwater Management, Grading, Erosion and Sediment Control Ordinance.

24 a. The storm water drainage system shall be separate and independent of any
25 sanitary sewer system.

26 b. *Dedication of Drainage Easements.*

27 (1) Where a development is traversed by a natural drainage course or stream,
28 there shall be provided a drainage easement, a minimum of 50 feet in
29 width, conforming substantially with the line of such watercourse for the
30 purpose of maintaining, improving, or protecting such drainage facilities.
31 This easement area shall be designed to the 100-year flood plain level.

32 (2) Required storm drainage easements and surface drainage easements
33 should be identified and recorded as a part of the record plat.
34 Maintenance responsibilities for surface drainage easements shall be
35 identified as the landowner or respective home owners association where
36 applicable.

37 (3) The applicant shall dedicate, either in fee or by drainage easement of
38 land on both sides of existing watercourses, to a distance to be
39 determined by the Planning Commission on recommendation of the
40 Director of Department of Public Works and Transportation.

41 (4) Where topography or other conditions are such as to make impractical
42 the inclusion of drainage facilities within road rights-of-way, perpetual
43 unobstructed easements at least 20 feet in width for such drainage
44 facilities shall be provided across property outside the road right-of-way

1 and with satisfactory traversable access to the road. Easements shall be
2 clearly indicated on the plat with metes and bounds. Drainage easements
3 shall be carried from the road to a natural watercourse or to other
4 drainage facilities and be adequate to accommodate the top width of the
5 design flow, access and maintenance requirements.

- 6 (5) When a proposed drainage system will carry water across private land
7 outside the subdivision, appropriate drainage rights must be secured and
8 indicated on the plat with the respective recordation information.

9 c. *Maintenance within Drainage Easements*

- 10 (1) The applicant shall establish a maintenance easement in favor of the
11 County that extends a minimum of 10 feet beyond the limits of drainage
12 improvements. All areas of the drainage easement outside this
13 maintenance easement shall remain the responsibility of the landowner.
14 (2) Adjustments in roadway grades, culvert or storm drain design may be
15 required in order to limit the easement areas requiring maintenance by
16 the County and to reduce headwater impacts on adjacent/abutting
17 properties.

- 18 4. ***Right-of-way, Drainage, and Slope Easements.*** If subdivision approval is applied for
19 with lots abutting road rights-of-way, which are less than standard width for the proposed
20 type of roadway, the developer will be required to dedicate the additional right-of-way,
21 drainage, and slope easements necessary to obtain the necessary width. Permanent
22 easements will be required for perpetual maintenance by the County. Temporary
23 easements may be obtained for the required clearing and grading needed to construct the
24 permitted improvements.

25 5. ***Water and Sewer Systems.***

- 26 a. Community water supply and sewage disposal. Installation of community water
27 supply and sewage disposal shall be designed, constructed and dedicated in
28 accordance with the St. Mary's County Comprehensive Water Sewage Plan.
29 Community water and sewerage systems shall be designed and constructed in
30 accordance with the St. Mary's County Metropolitan Commission Sewerage Use
31 Ordinance, St. Mary's County Metropolitan Commission Standards
32 Specifications for Water and Sewerage Construction, and any other requirement
33 set forth in this Ordinance.
- 34 b. Private wells and septic systems. Private wells and septic systems may be
35 approved subject to the requirements of the Health Department and Maryland
36 Department of the Environment in areas where community water and sewerage
37 systems are not permitted, required or available according to the St. Mary's
38 County Comprehensive Water and Sewerage Plan.
- 39 c. All sewage reserve areas (SRA) for new residential lots shall be located within
40 the boundaries of the lot the SRA is designed to serve, or for new commercial
41 lots within ½ mile of the new commercial lot. This shall not apply to existing
42 lots of record.
- 43 d. New sewage reserve areas to serve proposed lots shall not be located within
44 Sensitive Areas as defined in Chapter 71 of the St. Mary's County
45 Comprehensive Zoning Ordinance.

- 1 e. No new subdivision may be approved unless the lots will be served by a water
2 and wastewater disposal system as required by the St. Mary's County
3 Comprehensive Zoning Ordinance, as amended.
- 4 6. **Utilities.**
- 5 a. The applicant is responsible for installing telephone and electric lines. Prior to
6 recording, the applicant must show evidence from the appropriate utilities that
7 sufficient lines exist, or that satisfactory arrangements have been made to have
8 necessary lines installed.
- 9 b. Public utility easements of a minimum total of 10 feet in width shall be provided
10 along all lot property lines as may be required. Proper coordination shall be made
11 between the applicant and the utility company/authority for the establishment of
12 utility easements along adjoining properties/lots. A utility access to each lot must
13 be shown on the plat of all subdivisions.
- 14 7. **Street Lights and Traffic Control Signal Warrants.** The applicant shall provide street
15 lights in accordance with the requirements and standards prescribed in the Road
16 Ordinance.
- 17 8. **Adequate Public Facilities.** All adequate public facilities requirements shall be met as
18 provided in the Comprehensive Zoning Ordinance.
- 19 9. **Installation of Improvements.** All public improvements and infrastructure shall be
20 completed or assured as provided in the Comprehensive Zoning Ordinance, the Road
21 Ordinance and the Stormwater Management, Erosion and Sediment Control Ordinances.
- 22 10. **Streetscape Improvements.** Streetscape improvements shall be in accordance with the
23 Comprehensive Zoning Ordinance.
- 24 11. **Transit Bus Shelters.**
- 25 a. All Major Subdivisions shall make provisions for school and transit bus shelters.
26 Where a curb and gutter are present, there shall be a minimum of four feet
27 clearance from the face of the curb to any portion of the bus shelter. Where no
28 curb is present the front of the bus shelter shall be at least ten feet from the edge
29 of the main traveled roadway. Transit bus shelters may not be located within five
30 feet of any fire hydrant or handicapped parking space and shall be at least 300
31 feet from another bus shelter.

CHAPTER 31 OPEN SPACE RESERVATION, DEDICATION AND FEES IN LIEU

Sections:

- 31.1 Purpose.
- 31.2 Reservation and Dedication Requirements.
- 31.3 Minimum Recreational Site Dedication for Public Use.
- 31.4 Areas Unsuitable for Public Use.
- 31.5 Dedication Following Approval.
- 31.6 Reservation of Lands for Private Use.
- 31.7 Alternative Procedure.
- 31.8 Appeals.

31.1. Purpose.

The purpose of this Chapter is to establish standards and procedures for establishing developed recreational open space within new subdivisions which may either be held in private ownership (individual and residential developments, or Homeowner's Association, etc.) or dedicated to public ownership as determined by the Planning Commission upon recommendation of the Department of Recreation and Parks.

31.2. Reservation and Dedication Requirements.

- 1. **Developed Recreational Open Space.** The minimum area of land within each subdivision, multi-family development, or planned development to be platted as reserved and maintained as developed recreational open space, or dedicated for parks, playgrounds or other recreational uses shall be calculated as provided in Schedule 31.2.1.

Schedule 31. 2.1: REQUIRED USABLE AND DEVELOPED RECREATIONAL OPEN SPACE DEDICATIONS

Number of units in the development (based on residential use types)	Useable Open Space	Developed Recreational Open Space within Useable Open Space
Residential use types having 1-24 units	Exempt, except as required per §31.2.2.a below	Planning Commission discretion in accordance with standards of this Chapter
Residential use types having 25 or more units	2,000 square feet per unit*	10% of Useable Open Space; developed per standards of this Chapter.

* An open space credit as determined by the Planning Commission may be granted if a project is connected by a continuous sidewalk to an improved public park that is located within ¼ mile.

- 2. **Developed Recreational Open Space Standards.** The purpose of these requirements is to ensure that open space and basic recreational facilities are available on suitable land at appropriate locations within residential communities. These requirements are being kept to a minimum in order to enable the applicant to design specialized recreational facilities.
 - a. Reservation and development of land dedicated for trails, greenways, and parks. For all development proposals, in the event that a development tract includes areas which have been identified in an officially adopted plan as part or all of a potential trail, greenway or park, these areas shall be included as a separate out-parcel designated for use as usable open space. Trail design and construction

1 within the outparcel and connection of that trail to sidewalks within the
2 development envelope and on lands and rights of way adjacent to the subdivision
3 tract may be required by the Planning Commission as a condition of subdivision
4 or site plan approval. Ownership and management of the usable open space
5 outparcel shall be negotiated between the applicant and the County or a County
6 designee on a case-by-case basis.

7 b. Developed recreation areas may be any combination of the following as
8 determined by the Planning Commission and the minimum standards shall apply:

9 (1) Miniparks, Tot Lots and Children's Play areas: Provided as informal
10 outdoor seating areas close to home and at scattered locations throughout
11 the community; to provide safe, enclosed outdoor spaces for preschoolers
12 to play under adult supervision.

13 (a) Minimum Standards:

14 i. Seating areas/preschool play areas – Minimum 15 square
15 feet per unit.

16 ii. 15 square feet per unit but in no case less than 400
17 square feet.

18 (b) A wide variety of sizes and designs of miniparks may be
19 approved provided they meet the purposes outlined above. The
20 essential elements are: (a) permanent seating for three to six
21 persons, (b) landscaping to provide shade and amenities and to
22 define and enclose the boundaries of the space and (c) well-
23 selected locations.

24 (c) Miniparks may be as small as 10 feet by 12 feet and should
25 generally be no larger than 1600 square feet. The majority of the
26 minimum required square footage is to be provided directly
27 adjacent to unit clusters. Building offsets may be used to create
28 small miniparks (i.e., courtyards, squares). At least one minipark
29 should be located adjacent to waterfront, tennis courts,
30 community centers or other centralized recreation areas in order
31 to enable adults to "keep an eye on the children" while watching
32 or participating in sports activities and/or to provide adults with
33 opportunities for passive recreation in a social setting.

34 (2) Recreation Playing Fields: Green spaces provided for informal play close
35 to home for children. Fields may also serve as net games area, "village
36 greens", community house lawns and general open space. Playing fields
37 may best be considered as community "back yards".

38 (a) 25 or more units: 150 square feet per unit but in no case less than
39 10,000 square feet.

40 (b) Must be level, open ground, good drainage; with no sensitive
41 areas centrally located and visible from some of the residential
42 units that the playing field is intended to serve, and must be
43 accessible to children without crossing arterials or collector
44 roads; must not be adjacent to public roads unless physical
45 barriers adequate for the safety of children are provided.

- 1 (c) Exceptions: Variations in sizes and dimensions of playing fields
2 may be approved provided they meet the purpose and criteria for
3 recreation.
- 4 (3) Paved Areas: Provide facilities and space for activities such as basketball
5 practice, handball practice, shuffleboard, roller skating, outdoor dances,
6 formal net games, for all ages.
- 7 (a) Construction and materials specifications to be approved by the
8 Division of Recreation and Parks.
- 9 ▪ Must be visible from residential units and/or public areas.
10 ▪ Must have good drainage.
11 ▪ North/South orientation is strongly encouraged.
- 12 c. The remainder of the active recreation area may be developed as village greens,
13 outdoor theatre, concert areas, gazebos, greenways, hiking/biking trails, fitness
14 trails, parks or other appropriate uses. Bonus density and/or intensity for Amenity
15 Space provided within developed recreational space may be sought per the
16 Comprehensive Zoning Ordinance, Schedule 32.2.
- 17 d. Approval of all developed recreational open space will be based on
18 appropriateness to the population being served, location, and design.
- 19 3. The Planning Commission may require the dedication or reservation of land areas in
20 excess of the minimum required by Schedule 31.2.1. In determining whether to require
21 the dedication or reservation of more area than is minimally required, the Planning
22 Commission shall consider the following:
- 23 a. The recommendations of adopted plans prepared by local, County, State and
24 federal agencies applicable to the potential public land;
- 25 b. The physical, social and economic circumstances existing where the County
26 subdivision is located;
- 27 c. The size and character of the proposed subdivision;
- 28 d. The benefits to the public and residents of the proposed subdivision to be derived
29 from requiring dedication of land, and
- 30 4. The Planning Commission may approve transfer of ownership of reserved or dedicated
31 lands to the County, a homeowners association or land conservation group. In all cases
32 where the dedicated land is to remain under the private ownership of the applicant or its
33 successors, the applicant shall submit appropriate and specific arrangements for the
34 perpetual management and maintenance of such land for Planning Commission approval.

35 **31.3. Minimum Recreational Site Dedication for Public Use.**

36 In general, land reserved or dedicated for publicly owned recreational uses shall be part of an area
37 identified in an officially adopted plan as part or all of a potential trail, greenway or park, or have
38 a minimum area of 10 acres. Less than 10 acres may be accepted if the area adjoins an existing or
39 proposed park and the Recreation and Parks Department recommends inclusion of the land in the
40 County's park system. If the publicly owned recreational open space area is less than 10 acres,
41 the Planning Commission, upon endorsement by the Recreation and Parks Advisory Board may
42 require that areas be located at a suitable place on the edge of the subdivision to allow for the
43 possibility of adding land at such time as the adjacent land is subdivided.

1 **31.4. Areas Unsuitable for Public Use.**

2 The Planning Commission shall have the final authority in determining whether land proposed for
3 dedication to public use is suitable for such uses. The Planning Commission may either refuse to
4 approve the dedication, or it may require the rearrangement of lots in the proposed subdivision or
5 residential development to provide for an acceptable alternative site (or sites) for public use. In its
6 determination of whether a site is suitable for public use, the Planning Commission shall consider
7 the following factors:

- 8 1. Any criteria for the intended public use adopted by the Department of Recreation and
9 Parks;
- 10 2. The natural features of the proposed site; and
- 11 3. The location and shape of the proposed site in relation to existing, planned or proposed
12 public amenities in the area of the land proposed for dedication.

13 In its evaluation of the natural features of a site proposed for public use by the applicant, the
14 Planning Commission may require the applicant, at the applicant's expense, to perform soil
15 borings or provide other detailed topographical/subsurface information not otherwise required by
16 this section. Such information provided to the Planning Commission must be certified by the
17 applicant's engineer. Unless the applicant agrees to pay for the necessary site preparation costs,
18 the Planning Commission may refuse a site if the Planning Commission determines that the
19 natural features of the site will require significant site preparation work (such as extensive
20 excavation of rock, extensive grading or grading of steep slopes, remedial environmental
21 measures, or similar work) to prepare the site for the intended public use.

22 **31.5. Dedication Following Approval.**

23 Whenever the dedication of land to public use is approved by, the Planning Commission the
24 applicant shall formally dedicate the land to the County by written instrument in recordable form
25 satisfactory to the County Attorney.

26 **31.6. Reservation of Lands for Private Use.**

27 If the applicant does not propose the dedication of recreational open space lands for public use or
28 such an offer dedication is rejected by the Planning Commission, the lands shall be reserved for
29 the use and enjoyment of lot owners or residents of the proposed subdivision or residential
30 development. The applicant shall submit proof satisfactory to the Planning Commission that the
31 recreational open space lands will be permanently reserved for the beneficial use and enjoyment
32 of lot owners or residents. The recreational open space lands so reserved shall be conveyed to a
33 homeowners association and the applicant shall make satisfactory provision for the financial
34 responsibility of the association. All covenants, deeds, and restrictions regarding the lands so
35 reserved shall be in recordable form and shall be approved as to form and sufficiency by the
36 County Attorney.

37 **31.7. Alternative Procedure.**

38 Money in lieu of land may be required by the Planning Commission upon the recommendation of
39 the Recreation and Parks Board. Such contributions shall be made in an amount and at a time as
40 specified by resolution of the Board of County Commissioners.

41 **31.8. Appeals.**

42 The applicant shall appeal any reservation or dedication required by the Planning Commission to
43 the Board of Appeals, within thirty (30) days of the Planning Commission's decision.

1 **ARTICLE 4. ENFORCEMENT**

2 **CHAPTER 40 ENFORCEMENT**

3 Sections:

- 4
- 5 40.1 Actions in Violation of this Ordinance.
- 6 40.2 Procedure for Prosecution of Violations.
- 7 40.3 Actions to Remedy Violations.
- 8 40.4 Penalties.
- 9 40.5 Conflict of Laws.

10 It shall be the duty of the Planning Director to enforce this Ordinance and to take action as set
11 forth in the Ordinance necessary to abate violations and achieve compliance. The Planning
12 Director may bring to the attention of the Planning Commission, Board of County
13 Commissioners, or County Attorney any violations or lack of compliance herewith.

14 **40.1. Actions in Violation of this Ordinance.**

- 15 1. It shall be unlawful for any person, whether as owner, principal, agent, employee or
16 otherwise, to violate any provisions of this Ordinance, to permit any such violation, or to
17 fail to comply with the requirements of this Ordinance, including, but not limited to, the
18 following:
- 19 a. To erect any building, structure, or sign, or to construct, reconstruct, alter, repair,
20 convert or maintain any building, structure or sign or other improvement contrary
21 to any of the provisions of this Ordinance or to use operate or maintain any
22 building, structure, sign or land contrary to any provision of this Ordinance.
- 23 b. To transfer or sell any parcel in a proposed subdivision before a plat of such
24 subdivision has been approved by the Planning Commission in accordance with
25 the provisions of this Ordinance and filed for recordation with the Office of the
26 Clerk of the Circuit Court of St. Mary's County.
- 27 c. To subdivide any lot or any parcel of land, by the use of metes and bounds
28 description for the purpose of sale, transfer, or lease without complying with the
29 requirements of this Ordinance.
- 30 d. To fail, after percolation tests have been taken, to ensure that the test hole is
31 covered or backfilled, immediately and completely.
- 32 2. It shall be unlawful for any lessee to use the leased premises for any activity not
33 permitted for under this Ordinance.

34 **40.2. Procedure for Prosecution of Violations.**

- 35 1. Upon becoming aware of any violation of this Ordinance, the Planning Director may
36 serve notice of such violation on the person committing or permitting the same, and if
37 such violation has not ceased within the time specified by the Planning Director, the
38 Planning Director shall institute such action as may be necessary to terminate the
39 violation.
- 40 2. The Planning Director or his designees may serve a citation noting a municipal civil
41 infraction to a person believed to be committing or permitting a violation of this
42 Ordinance or the owner(s) of record of the property where the violation occurs. A copy
43 of the citation shall be retained by the Planning Director and shall bear a certification
44 attesting to the truth of the matters set forth therein. The citation shall contain:

- 1 a. The name and address of the person charged;
- 2 b. The nature of the violation;
- 3 c. The place and time of the violation;
- 4 d. The amount of the fine assessed;
- 5 e. The manner, location, and time in which the fine may be paid; and
- 6 f. The person's right to elect to stand trial in the District Court of St. Mary's County
- 7 for the violation.

8 3. A person who receives a citation may elect to stand trial for the offense in the District
9 Court of St. Mary's County, by filing a notice of intent to stand trial. The notice shall be
10 given at least five days before the date of payment as set forth in the citation. On receipt
11 of the notice of intention to stand trial, the Planning Director shall forward to the District
12 Court a copy of the citation and the notice. On receipt of the citation, the District Court
13 shall schedule the case for trial and notify the defendant of the trial date. All fines,
14 penalties, or forfeitures collected by the District Court for violations shall be remitted to
15 St. Mary's County.

16 4. If a person who receives a citation for a violation fails to pay the fine by the date of
17 payment set forth on the citation and fails to file a notice of intention to stand trial, a
18 formal notice of the violation shall be sent to the person's last known address. If the
19 citation is not satisfied within 15 days from the date of the notice, the person is liable for
20 an additional fine not to exceed twice the original fine. If, after 35 days, the citation is
21 not satisfied, the zoning official may request adjudication of the case through the District
22 Court. The District Court shall schedule the case for trial and summon the cited person to
23 appear.

24 5. Adjudication of a violation under this section is not a criminal conviction, nor does it
25 impose any of the civil disabilities ordinarily imposed by a criminal conviction.

26 6. In a proceeding before the District Court, the violation shall be prosecuted in the same
27 manner and to the same extent as set forth for municipal infractions in Article 23A,
28 Section 3(b)(8) through (15) of the Maryland Annotated Code.

29 7. If a person is found by the District Court to have committed a municipal infraction
30 violation, that person shall be liable for the costs of the proceedings in the District Court
31 in addition to the fine(s) levied.

32 **40.3. Actions to Remedy Violations.**

33 In addition to the imposition of any monetary penalties provided in this Ordinance, the County
34 may initiate an injunction, mandamus, or any other appropriate action to prevent the erection,
35 construction, reconstruction, alteration, repair, conversion, maintenance, sale or use in violation
36 of any provision of this Ordinance, to restrain, correct, or abate the violation; to prevent the
37 occupancy of the building, structure or land which is the subject of the violation, or to prevent
38 any illegal act, conduct, business, or use in or about the premises. Except in the event of an
39 emergency, private dwellings shall require appointment prior to entry.

40 **40.4. Penalties.**

41 1. Pursuant to Article 66B, 7.01 of the Maryland Annotated Code, the Board of County
42 Commissioners may provide for civil penalties for any violation of this Ordinance by
43 establishing a schedule of fines. Each day in which any such violation occurs, or in
44 which such person fails to perform the duties required of him or to comply with the
45 provisions of those sections, shall constitute a separate offense. Any person who violates

1 a provision of this Ordinance shall become liable to the County for any expense, loss, or
2 damage occasioned by the County by reason of such violation.

3 **40.5. Conflict of Laws.**

4 If the provisions of any other law, ordinance, or regulation of the County or the State shall be in
5 conflict with the provisions of this Ordinance, the more stringent or restrictive provision shall
6 control.

1 **ARTICLE 5. DEFINITIONS**

2 **CHAPTER 50 DEFINITIONS**

3 **Accessory Structure, Building or Use.** A building or use that is all of the following: a) constructed or
4 located on the same zoning lot as the principal main building is or use served, except as may be specifically
5 provided elsewhere in this Ordinance; b) clearly incidental to, subordinate in purpose to, and serving the
6 principal use; and c) either in the same ownership as the principal structure, building or use or is clearly
7 operated and maintained solely for the comfort, convenience, necessity, or benefit of the occupants,
8 employees, customers, or visitors of the principal use.

9 **Basement.** That portion of a building having more than one-half (1/2) of its height below lot grade
10 elevation.

11 **Bona-Fide Agricultural Use or Activity.** In the Critical Area agriculture means all methods of production
12 and management of livestock, crops, vegetation, and soil. This includes, but is not limited to, the related
13 activities of tillage, fertilization, pest control, harvesting, and marketing. It also includes, but is not limited
14 to, the activities of feeding, housing, and maintaining of animals such as cattle, dairy cows, sheep, goats,
15 hogs, horses, and poultry and handling their by-products. Outside the Critical Area agriculture means
16 farming activities including plowing, tillage, cropping, installation of best management practices, seeding,
17 cultivating, and harvesting for production of food and fiber products (except commercial logging and
18 timber harvesting operations), the grazing and raising of livestock, aquaculture, sod production, orchards,
19 nursery, and other products cultivated as part of a recognized commercial enterprise.

20 **Building, Detached.** A building surrounded by an open space on the same lot.

21 **Boundary Line Adjustment Plat.** A plat which has the effect of adjusting property boundaries of parcels
22 or lots of record.

23 **Certificate of Occupancy.** The certificate issued by the Director of Permits and Inspections or designee
24 which permits the use of a building or premises in accordance with the approved plans or permits and the
25 provisions of law for the use and occupancy of the building in its several parts, together with any special
26 stipulations or conditions of the zoning permit.

27 **Cluster Development.** A development concept which encourages and permits variations in residential
28 developments by allowing deviation in lot size, type of dwelling, lot coverage and open space from that
29 which is normally required in the applicable zoning district. Dwelling units are concentrated in a selected
30 area or selected areas of the development tract in order to provide natural habitat or other open space uses
31 (including agriculture) on the remainder.

32 **Community Sewerage System.** Any system, whether publicly or privately owned, serving multiple lots,
33 dwelling units, businesses, commercial or industrial establishments for the collection, transportation and
34 disposal of sewage or industrial wastes of liquid nature, including various devices for the treatment of such
35 sewage and industrial wastes, as defined by the Comprehensive Water and Sewerage Plan.

36 **Community Water Supply.** A source of water and a distribution system, including treatment and storage
37 facilities, whether publicly or privately owned, multiple lots, dwelling units, businesses or commercial or
38 industrial developments, as defined by the Comprehensive Water and Sewerage Plan.

39 **Comprehensive Plan.** The Comprehensive Plan for St. Mary's County (Quality of Life in St. Mary's
40 County - A Strategy for the 21st Century), as approved by the Board of County Commissioners, including
41 any amendments or extensions.

42 **Condominium Plat.** A plat which described the horizontal and vertical boundaries of a condominium
43 regime as required by Article 11-101 of the Real Property title of COMAR.

44 **Confirmatory Plat.** A plat that makes minor corrections to a previously recorded plat that does not
45 involve adjustment of any boundary lines or create new lots.

46 **County Commissioners.** The Board of County Commissioners for St. Mary's County Maryland.

47 **County Road.** A public road or street that is part of the Highway Maintenance System of St. Mary's
48 County.

- 1 **County.** The County of St. Mary's, Maryland.
- 2 **Critical Area.** All lands and waters defined in Section 8-1807 of the Natural Resources Article, Annotated
3 Code of Maryland and modification(s), if any, to these areas through inclusions or exclusions proposed by
4 the County Commissioners and approved by the Maryland Chesapeake Bay Critical Area Commission as
5 specified in said Section 8-1807.
- 6 **Department.** The St Mary's County Department of Land Use and Growth Management.
- 7 **Develop Land.** To change the runoff characteristics of a parcel of land in conjunction with residential,
8 industrial, commercial, or institutional construction or alteration.
- 9 **Developable Land.** Land that is unconstrained by such conditions as steep slopes, floodplains, or adverse
10 soil or water conditions that preclude development, and that does not have a significant environmental
11 resource identified such as wetland or critical riparian habitats.
- 12 **Developed Woodland.** Those area of 1 acre or more in size that predominately contain trees and natural
13 vegetation and which also include residential, commercial or industrial structures or uses. On individual
14 lots or parcels of less than 1 acre, individual trees, woody vegetation, as well as natural vegetation and
15 forests contribute to the developed woodland coverage for the larger vicinity and shall be subject to the
16 provisions of this Ordinance.
- 17 **Developer.** A person with freehold, possessory or contractual interest in land proposed for development.
- 18 **Development.** The construction or substantial alteration of open lands, or agricultural, residential,
19 commercial, industrial, institutional, or transportation facilities or structures including any man-made
20 change to improved or unimproved real estate, including, but not limited to buildings and other structures,
21 dredging, fill, grading, paving, clearing, excavation, dumping, extraction, or storage of equipment or
22 materials. Development includes the process of subdivision.
- 23 **Development Envelope.** The onsite area used, reserved or dedicated for any and all of the following:
24 development lots; zoning setbacks, zoning buffers; rights-of-way or easements established for roads,
25 utilities, stormwater management and on-site sewage disposal; areas of lot coverage associated with
26 structures, roads, streets, parking, sidewalks; outdoor areas within yards, parks, or landscaped green areas;
27 recreational areas; areas cleared or graded, and any additional acreage necessary to meet the development
28 requirements of this Ordinance. To the extent practicable, sensitive areas and their environmental buffers,
29 green infrastructure and forest conservation easements should be excluded from the development envelope.
- 30 **Driveway.** A private access road, drive or lane to an individual residence which is contained within the lot
31 or parcel and is not intended to serve any other lot or parcel of land.
- 32 **Farmstead Lot.** An area of 15 acres or more in single ownership, which is a lot of record.
- 33 **Frontage Zoning Lot.** The length of all the property of such zoning lot fronting on a street measured
34 between side lot lines.
- 35 **Immediate Family.** A person who is either the applicant's father, mother, son, daughter, grandfather,
36 grandmother, grandson, or granddaughter.
- 37 **Impervious Surfaces.** All buildings, road, parking and driveways, paving, patios, decks, sidewalks,
38 stoops, porches, steps, walkways, piers, swimming pools constructed on a lot which reduce the infiltration
39 capacity of the land or result in increased storm water runoff. Wooden decks and walkways (or portions
40 thereof) elevated above finished grade by minimum of the width of the deck and having shrub or ground
41 cover plantings beneath are considered pervious.
- 42 **Loading Space or Loading Berth.** A space within the main building or on the same lot which provides
43 for the standing, loading or unloading of trucks or other vehicles.
- 44 **Logo.** A trademark or company name symbol.
- 45 **Lot.** A portion of a subdivision or tract of land having frontage on a street or road which is intended for
46 development and which meets the requirements as a legal building site per this Ordinance.

- 1 **Lot Area, Gross.** The area of a horizontal plane bounded by the front, side, and rear lot lines, but not
2 including any area occupied by the waters of a duly recorded lake or river, or State tidal wetlands.
- 3 **Lot Depth.** The mean horizontal distance between the front lot line and rear lot line of a lot, measured
4 within the lot boundaries.
- 5 **Lot Line Rear.** Any boundary of a lot that is not a front lot line or a side lot line but generally running
6 parallel to or opposite of a front lot line.
- 7 **Lot Line, Front.** That boundary of a lot that is along an existing or dedicated public street, or, where no
8 public street exists, is along a public way.
- 9 **Lot Line, Side.** Any boundary of a lot that is not a front lot line or a rear lot line but generally running
10 perpendicular to the front or rear lot lines.
- 11 **Lot of Record.** A parcel of land which has been legally subdivided and recorded in the Land Records of
12 St. Mary's County, Maryland. A parcel is considered to be legally subdivided if it was created using the
13 following criteria: A) it was created prior to March 15, 1978; B) it was created by subdivision plat
14 approved by the Planning Commission or its administrative personnel; or C) it was an approved deeded
15 division as authorized by the subdivision regulations and approved by the Department of Planning and
16 Zoning.
- 17 **Lot Width.** The horizontal distance between the side lot lines of a lot measured at the narrowest width
18 within the first 30 feet of lot depth immediately in back of the front yard setback line.
- 19 **Lot, Corner.** A lot situated at the intersection of two (2) or more streets. On a corner lot, the front lot line
20 is defined as that lot line which contains the narrowest of all street frontages abutting a public street or
21 public/private right-of-way. However, for lots abutting any street designated as minor collector or higher in
22 classification, all lot lines abutting such higher order streets shall be deemed front lot lines.
- 23 **Lot, Interior.** A lot other than a corner or reversed corner lot.
- 24 **Lot, Reversed Corner.** A corner lot, the street side lot line of which is substantially a continuation of the
25 front lot line of the first lot to its rear.
- 26 **Lot, Through.** A lot having a pair of opposite lot lines along two (2) more or less parallel public streets,
27 and which is not a corner lot. On a "through lot", both street lines shall be deemed front lot lines.
- 28 **Lot, Zoning.** A single tract of land located within a single block under contiguous ownership that meets
29 the minimum requirements for a permitted use as set forth in the St. Mary's County Comprehensive Zoning
30 Ordinance.
- 31 **Mobile Home Park.** Any site, lot, parcel, or tract of land that is improved, used, or intended for the
32 accommodation of mobile homes that are used for living purposes.
- 33 **Net Tract Area.** Except in agriculture and resource areas, the net tract area is the total area of a site,
34 including both forested and non-forested areas, to the nearest 1/10 acre, reduced by the area found to be
35 within the boundaries of the 100-year floodplain. In agriculture and resource areas, the part of the total
36 tract for which land use will be changed or will no longer be used for primarily agricultural activities,
37 reduced by the area found to be within the boundaries of the 100-year floodplain.
- 38 **Off-Street Loading Facilities.** A site or portion of a site located off of a public road devoted to the
39 loading or unloading of motor vehicles or trailers, including loading berths, aisles, access drives, and
40 landscaped areas.
- 41 **Off-Street Parking Space.** The space located off of a public road, designed, intended, used or required to
42 park one passenger vehicle.
- 43 **Open Space Related Terms.** Undeveloped Open Space. Land within the tract and outside of the
44 development envelope. To the extent practicable, sensitive areas and their environmental buffers, mapped
45 green infrastructure, and forest conservation easements outside of lot boundaries should be encompassed by
46 required undeveloped open space. The footprint of unpaved hiking trails developed onsite within
47 undeveloped open space are not deducted from the area of required Undeveloped Open Space.

1 **Usable Open Space.** Outdoor areas within the development envelope open to the sky designed and
2 accessible for outdoor living, pedestrian access, landscaping, or recreation and used by residents or tenants
3 or the general public. Useable open space may include areas on the ground or on the tops of structures
4 (roof, balcony, deck, patio, porch, or terrace) Useable open space does not include street rights-of-way,
5 public or private surface easements, accessory buildings, open parking areas, driveways, access ways for
6 the dwellings, land area utilized for garbage and refuse disposal or other servicing maintenance, or required
7 front or corner side yards. Also, does not include any space with a dimension of less than 10 feet in any
8 direction or an area of less than 100 square feet. "Developed Recreational Open Space" including
9 recreational structures designed to be consistent with the intent of this definition are included in the
10 calculation of the area of required Useable Open Space.

11 **Developed Recreational Open Space.** Land or structures located within Useable Open Space and
12 developed and dedicated for recreational activities and social or cultural activities/events, including formal
13 or informal playing fields, paved recreational areas, miniparks, tot lots, play areas, and other areas designed
14 and developed to accommodate a variety of recreational activities including but not limited to: fishing
15 piers, waterfront parks, outdoor theatre/concert areas, gazebos, racquet courts, tennis courts, swimming
16 pools, fitness trails, garden plots, playgrounds, an handball courts. The foot print of unpaved trails
17 developed onsite within undeveloped open space may be credited toward the calculation of the area of
18 required Developed Recreational Open Space.

19 **Outlot.** A piece or tract of land that remains within a subdivision but which does not meet the minimum
20 requirements of the Ordinance for a lot and is therefore not useable as a building site.

21 **Outparcel.** A tract of land designated on a subdivision plat for future development, or not designated for
22 any specific purpose, that has not been evaluated for compliance with the requirements of this Ordinance
23 for adequate facilities or zoning requirements and is therefore not useable as a legal building site.
24 Outparcels may be the subject of a record plat or resubdivided provided the lot(s) created meet all
25 requirements of the Ordinance prior to plat approval.

26 **Parcel.** In the context of subdivision platting per this Ordinance, a parcel is either a tract of land platted for
27 a designated purpose other than as a legal building site (e.g. to meet the open space requirements of the
28 Ordinance; to provide a well site, to provide a sewerage disposal parcel,) or a tract of land that may meet
29 zoning requirements for area, width, depth, etc., but is not intended for development due to environmental
30 constraints, density restrictions or other legal encumbrances.

31 **Parcel of Land.** A contiguous legally-created lot, parcel, outlot, outparcel or residue owned and recorded
32 as the property of the same persons, or controlled by a single entity.

33 **Parcel of Record.** An individual parcel of land outside the Chesapeake Bay Critical Area (CBCA)
34 recorded separately in the land records of St. Mary's County, Maryland as of March 15, 1978, or an
35 individual parcel of land within the CBCA recorded separately in the land records of St. Mary's County,
36 Maryland as of December 1, 1985. Only County or State road rights-of-way that existed on March 15,
37 1978, shall be considered parcels dividers which divide a parcel into two (2) or more parcels of record.

38 **Planned Development or Planned Unit Development.** A parcel of land or contiguous parcels of land of a
39 size sufficient to create its own environment, controlled by a single landowner or by a group of landowners
40 in common agreement as to control, to be developed as a single entity, the environment of which is
41 compatible with adjacent parcels and the intent of the zoning district or districts in which it is located; the
42 developer or developers may be granted relief from specific land use regulations and design standards, and
43 may be awarded certain premiums in return for assurance of any overall quality of development, including
44 any special feature which will be of exceptional benefit to the community as a whole and which would not
45 otherwise be required by this Ordinance.

46 **Planning Director.** The Director of the St. Mary's County Department of Land Use and Growth
47 Management or his designee.

48 **Plat.** As used in this Ordinance, plat shall be a map of a tract of land showing boundaries of individual
49 properties and streets, easements and rights-of-way prepared in accordance with this Ordinance as an
50 instrument for recording of real estate interests with the County Clerk and Recorder.

51 **Premises.** A zoning lot, together with all buildings and structures thereon.

- 1 **Principal Use.** A main or primary use of land, as distinguished from an “accessory use”. More than one
2 principal use may exist on a tract if done so completely in accordance with this Ordinance.
- 3 **Private Road.** A private access, drive or lane to more than one residence which is contained within the lot
4 or parcel and which is not dedicated to the County.
- 5 **Project Approval.** The approval of development, other than development by a State or local government
6 agency, in the Critical Area by the appropriate local approval authority. The term includes approval of
7 subdivision plats and site plans; inclusion of areas within floating zones; issuance of variances, and
8 conditional use permits; and issuance of zoning permits. The term does not include approval of building
9 permits.
- 10 **Property Lines.** The lines bounding a zoning lot, as defined herein.
- 11 **Public Right-of-Way.** Any street, avenue, boulevard, highway, sidewalk or alley or similar place which is
12 owned or controlled by a governmental entity.
- 13 **Public Sewerage System** Any system for the collection, transportation, and disposal of sewage or
14 industrial wastes of a liquid nature, including various devices for the treatment of such sewage and
15 industrial wastes as defined by the Comprehensive Water and Sewerage Plan that serves two or more
16 individual lots, dwelling units, businesses, commercial or industrial establishments, and is owned or
17 operated by an incorporated municipality, St. Mary's County Metropolitan Commission, or an agency of
18 St. Mary's County, the State of Maryland, or the Federal Government.
- 19 **Public Water Supply System.** A source of water supply and distribution system that includes treatment
20 and storage facilities, serves two (2) or more individually owned lots, dwelling units, businesses,
21 commercial or industrial establishment, and is owned and/or operated by an incorporated municipality, St.
22 Mary's County Metropolitan Commission, or an agency of St. Mary's County, the State of Maryland, or the
23 Federal Government.
- 24 **Public Way.** Any sidewalk, street, alley, highway, or other public thoroughfare.
- 25 **Receiving Parcel.** A lot or parcel of land in a zoning district where permitted, on which development
26 rights transferred from a sending parcel are used.
- 27 **Residue.** An obsolete term used on subdivision plats prior to March 1, 1994 to identify land that has not
28 been platted as a lot of record. However, given approval for access, water supply, sewage disposal and
29 environmental zoning permits, a “residue” may be used as a legal building site. A residue may be the
30 subject of a record plat to create additional building lots or be resubdivided provided the lot(s) created meet
31 all requirements of the Ordinance prior to plat approval.
- 32 **SCD.** St. Mary's County Soil Conservation District .
- 33 **SHA.** Maryland State Highway Administration.
- 34 **Shared Facilities.** A water or sewerage system which serves more than one lot of land or more than one
35 user on a single lot of land with water or sewerage systems located on the individual lots or on parcels
36 owned in common by the users.
- 37 **Site.** Any tract, lot or parcel of land or combination of tracts, lots or parcels of land which are in one
38 ownership, or are contiguous and in diverse ownership where development is to be performed as part of a
39 unit, subdivision, or project as shown on an application.
- 40 **Stormwater Management.** For quantitative control, a system of vegetative and structural measures that
41 control the increased volume and rate of surface runoff caused by man-made changes to the land; and for
42 qualitative control, a system of vegetative, structural, and other measures that reduce or eliminate pollutants
43 that might otherwise be carried by surface runoff.
- 44 **Street.** A public or private right-of-way which affords a primary means of vehicular access to abutting
45 property, whether designated as a street, avenue, highway, road, boulevard, lane throughway, or however
46 otherwise designated, but does not include driveways to buildings.
- 12/18/12 47 **Subdivision, Farmstead.** Subdivisions in which all lots are fifteen (15) acres or larger.

- 12/18/12 1 **Subdivision, Major.** Any subdivision containing eight (8) or more lots.
- 12/18/12 2 **Subdivision, Minor.** The division of a parcel of record or lot which creates one (1) to seven (7) lots.
- 3 **Subdivision.** Subdivision means the division of a lot, tract, or parcel of land into two or more lots, plats,
4 sites, or other division of land for the purpose, whether immediate or future, of sale or of building
5 development provided that this definition of a subdivision shall not include a bona fide division or partition
6 of agricultural land not for development purposes.
- 7 **Variance.** A modification only of density, bulk, or area requirements of this Ordinance where such
8 modification will not be contrary to the public interest and where owing to conditions peculiar to the
9 property, and not the results of any action taken by the applicant, a literal enforcement of the Ordinance
10 would result in unnecessary hardship in the Chesapeake Bay Critical Area or practical difficulty in other
11 areas of the County.
- 12 **Yard.** A required open space on a zoning lot within a building or structure may occupy or obstruct the
13 space from its lowest level to the sky, except as otherwise permitted in this Ordinance. A "yard" extends
14 along a lot line, and to a depth or width specified in the yard requirements for the zoning district in which
15 such zoning lot is located. Also, the area between the lot line and the building setback line.
- 16 Corner side yard. A side yard on the street side of a corner lot.
- 17 Front Yard. A yard extending along the full length of the front lot line of the zoning lot.
- 18 Rear Yard. A yard extending along the full length of the rear lot line of the zoning lot.
- 19 Side Yard. A yard extending along a side lot line measured from the front yard to the rear yard.
- 20 Side Yard, Corner. A side yard which adjoins a public street
- 21 Side Yard, Interior. A side yard that is located immediately adjacent to another zoning lot or to an
22 alley separating such yard from another zoning lot.
- 23 Transitional Yard. That yard which must be provided on a zoning lot in a commercial zoning district
24 which adjoins a zoning lot in a residential zoning district, or that yard which must be provided on a
25 zoning lot in either a residential or commercial zoning district.
- 26 **Zoning Permit.** A written statement or certificate issued by the Planning Director authorizing buildings,
27 structures, or uses in accordance with the provisions of the Comprehensive Zoning Ordinance.