

SECTION 10 CROSSROADS COMMERCIAL DISTRICT

10.1 STATEMENT OF INTENT

The purpose of this district is to provide appropriate locations for a broad range of commercial activities such as retail, wholesale, and contracting activities serving the local community. These activities are primarily oriented to highway uses rather than central business locations. Crossroads Commercial districts are generally located at the intersection of major highways. Because these uses are located subject to public view, which is a concern of the whole community, they should provide an appropriate appearance, controlled traffic movement, ample landscaping, and protect adjacent properties from the traffic and visual impacts associated with the commercial use. It is the intent that a Crossroads Commercial District shall have a minimum *frontage* of 150 feet on a single *primary road*. Whenever possible, *frontage* of the district shall not exceed depth.

10.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A *building* or land may be used only for the following purposes, in all cases subject to *site plan* review by the *Planning Commission*, or where applicable the Planning Director.

1. *Agriculture*, excluding the raising of livestock and fowl, including horticulture, hydroponics, and truck farming, general farming, cultivation of field crops, and raising of orchards, groves, and nurseries.
2. *Automobile repair*
3. *Automobile service stations*
4. Car wash provided the waste water is recycled
5. Circus or carnival, midways and amusement parks, temporary, for a period of time not to exceed one week per year
6. *Country inn*
7. Financial institutions
8. Fire and rescue squad stations
9. Home and business services such as grounds care, cleaning, exterminators, landscaping, and other repair and maintenance services
10. *Hotels and motels*
11. Machinery and equipment sales
12. Modular building sales not including the storage of modular *buildings*
13. Motor vehicle sales, service, and rental

14. *Personal wireless facilities* collocated on existing towers, water towers, electrical transmission towers, fire towers, silos, *grain dryers*, or other *structures* provided the height of the existing *structure* is not above that permitted by this Ordinance.
15. Public uses, *buildings* and utilities. Public *buildings* and uses include but are not limited to schools, offices, parks, playgrounds, and *roads* funded and owned and operated by the local, state, or federal agencies, but not including major sports facilities. *Public utilities* are water, sewer, electric, gas, oil, and communication facilities owned and operated by the Kent County Department of Water and Wastewater or other public utility. *Public utilities* include substations, poles, lines, transformers, pipes, meters, treatment facilities, pumping stations and appurtenances but not including transmission towers. Power plants and the like are not permitted.
16. Restaurant without drive through facilities
17. Retail businesses, supplying on the *premises*, household goods, new automotive parts, agricultural supplies and commodities, sporting goods, and the like, including department, outlet and discount stores provided:
 - a. All retail sales and/or storage shall be conducted entirely within a *building* except where otherwise approved by the *Planning Commission*.
 - b. The *building* size does not exceed 20,000 square feet.
18. Retail nurseries and greenhouses
19. Veterinary hospitals and offices
20. Wayside stands - vegetable and agricultural produce
21. Microbrewery, as defined by the State of Maryland***
22. Class D Alcohol Retail Business, as defined by the State of Maryland***

10.3 SPECIAL EXCEPTIONS

The following principal uses and *structures* may be permitted as special exceptions in the Crossroads Commercial District, subject to *site plan* review by the *Planning Commission*, or where applicable the Planning Director. Detailed limitations and standards for these uses shall be found in Article VII of this Ordinance.

1. Attached retail businesses
2. Boat building and sales
3. *Cottage industries*, tradesmen and artisan shops
- 3.5 The manufacture, processing, and assembling of food products to include baked and confectioners' goods, frozen food processing, fruit and vegetable processing, canning and storage, or businesses of a similar nature, excluding animal and seafood processing. **
4. *Personal wireless facility tower*
5. Recreational facilities, privately or commercially owned, but not including major sports arenas for football, baseball, drag racing, motocross, or other major sports activities
6. *Single family dwellings*
- 6.5 *Solar energy systems, utility scale* *
7. Truck parking lot
8. *Wind energy systems, small*, with a height that exceeds 80 feet*

10.4 ACCESSORY USES AND STRUCTURES

The following *accessory uses* and *structures* are permitted in the Crossroads Commercial District.

1. Storage of office supplies or merchandise normally carried in stock in connection with a permitted office, business, or commercial use, subject to the applicable district *regulations*
2. *Accessory apartments*
3. *Accessory truck parking*
4. *Accessory structures* and uses customarily associated with permitted uses
5. *Appurtenant signs* in accordance with Article V, Section 2 of this Ordinance
- 5.5 School buses, limited to three, parked in the *rear* or *side yard* provided the buses are owned or operated by the property owner, have current licenses, and are operable **
6. *Solar energy systems, small*, provided: *
 - a. Tree removal shall be minimized and any removal shall be mitigated at a ratio of one tree planted for each tree removed.
 - b. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.
 - c. The total height of solar collection systems shall comply with the height requirements.
7. Temporary *MET Tower* of any height provided: *
 - a. The tower is erected for no more than 12 months.
 - b. Any free standing *structure* is located a minimum of 3 times its total height from a property line.
 - c. Towers are not readily climbable from the ground up to 12 feet.
8. *Wind energy systems, small*, limited to one tower provided: *
 - a. The height of the *structure* to the tip of the blade at its highest point does not exceed 80 feet.
 - b. Any system is located a minimum of 3 times its total height from a property line.
 - c. Towers are not readily climbable from the ground up to 12 feet.
 - d. All access doors to towers and electrical equipment shall be lockable.
 - e. Appropriate warning signage is placed on the tower and electrical equipment.
 - f. The blade tip at its lowest point had a ground clearance of at least 25 feet.
 - g. Wind turbines and towers maintain a galvanized steel, brushed aluminum finish, or a non-garish color.
 - h. Any small wind energy system that is not operational for a period of 12 consecutive months or more shall be removed at the landowner's expense.

10.5 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS

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|--------------------------------|--|
| Minimum <i>lot size</i> | NA |
| Minimum <i>frontage</i> | |
| - Public road | 100 feet |
| Minimum <i>yard</i> | |
| - <i>Front</i> | 50 feet |
| - <i>Side & Rear yard</i> | 50 feet with buffering from adjoining AZD, RCD, RC, RR, CAR, CR, V, IV, & IVCA 30 feet from CC, C, CCA, M, EC, I, ICA-LDA, & ICA which may be reduced to 0 if emergency and maintenance vehicle access are acceptably addressed and if the adjoining property is a compatible use |
| - Waterfront | 100 feet |
| Height ¹ | |
| - Commercial <i>structure</i> | 45 feet |
| - Residential <i>structure</i> | 38 feet |
| - Fence ² | |
| - Security | 8 feet |
| - Ornamental | |
| Front and <i>side yard</i> | 4 feet |
| <i>Rear yard</i> | 8 feet |

¹ Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

² Fences do not need to meet yard requirements.

10.6 CROSSROADS COMMERCIAL GENERAL STANDARDS

1. The reuse of existing *buildings* is encouraged.
2. Public water and sewer systems may be required by the *Planning Commission* in a Crossroads Commercial District.
3. The Department of Planning and Zoning shall approve *street* names. A name may not be approved if it duplicates or is too similar to the name of another road in the county or incorporated towns.
4. *Signs* in the Crossroads Commercial area shall be permitted in accordance with the *regulations* contained in Article VI, Section 2.
5. Minimum *off-street parking* and *loading spaces* shall be required of each use in a Crossroads Commercial District in accordance with the *regulations* contained in Article VI, Section 1 of this Ordinance.

10.7 CROSSROADS COMMERCIAL ENVIRONMENTAL STANDARDS

The purpose of these standards is to provide for the proper stewardship of the County's natural resources. Specifically it is the overall goal of the county to maintain the quality of the County's *ecosystem* in the face of continuing activity, growth and change.

A. CROSSROADS COMMERCIAL GENERAL ENVIRONMENTAL STANDARDS

1. *Development* shall minimize *adverse impacts* to *non-tidal* or *tidal wetlands*, estuaries, the Chesapeake Bay, *tributary streams*, and the natural and *riparian habitat* of these streams, habitat protection areas, or other significant habitat identified by the Department of Planning and Zoning.
2. *Development* shall minimize the effects of runoff on the existing volume of water or quality of any water body. Urban *best management practices* shall be used.
3. Whenever possible, land subject to periodic flooding, shall not be developed for any use that might involve danger to health, life, or property or aggravate floods.

B. CROSSROADS COMMERCIAL SPECIFIC ENVIRONMENTAL STANDARDS

1. *Agriculture*

No new agricultural land shall be created by:

- a. *Clearing* of an area of *forest* or woodland greater than 40,000 square feet in a one-year period without filing a *Forest Conservation Plan*. An agricultural *Declaration of Intent* shall be filed with the Kent County Department of Planning and Zoning.
- b. *Clearing* of existing *natural vegetation* within the *stream protection corridor*.

2. *Anadromous fish*
 - a. Concrete riprap or other artificial surface shall not be installed on the bottom of natural streams unless it can be demonstrated that water quality and fishery habitat will be improved.
 - b. Physical alteration of a stream, including but not limited to channelization, that interferes with the movement of fish shall be prohibited.

3. *Forest Conservation*

This section applies to all *major* and *minor site plans* on units of land 40,000 square feet or greater; major and minor subdivisions; and *grading* and *sediment control permits* that result in the cumulative cutting, *clearing*, or *grading* of more than 40,000 square feet. A forest *Declaration of Intent* is required for activities specifically exempted in Article VI, Section 8.2 of this Ordinance.

 - a. A parcel with less than 20% of its *net tract area* in *forest cover* shall be afforested to 20% of its *net tract area*.
 - b. *Forest* on parcels with less than 20% of its *net tract area* in *forest* may be cut or cleared provided:
 - i. The *afforestation* required to achieve the 20% *afforestation* level is determined prior to any *clearing of forest*.
 - ii. The *afforestation* area consists of two (2) times the total surface area cleared and the area needed to achieve the 20% *afforestation* level before *clearing* occurred. For example, the *afforestation* area for a project with a *net tract area* of one hundred acres with ten (10) acres of existing *forest* of which five (5) acres are to be cleared is twenty (20) acres - ten (10) acres to achieve the required *afforestation* level and ten (10) acres to replace the *forest* cleared.
 - c. A parcel with more than 50% of its *net tract area* in *forest* may be cut or cleared provided *reforestation* occurs at a rate of one-quarter (1/4) acre planted for each acre removed above 50% of the *net tract area* or at a rate of two (2) acres planted for every acre removed below 50% of the *net tract area*. *Forest* retained over 50% of the *net tract area* is credited toward the required *reforestation*. For example, a project with a *net tract area* of one hundred (100) acres and an existing *forest* of sixty (60) acres that proposes to clear twenty (20) acres, the *reforestation* area is 22.5 acres.
 - d. The following trees, shrubs, plants, and specific areas are considered a priority for *retention* and protection and shall be left in an undisturbed condition unless the applicant demonstrates, to the satisfaction of the Department of Planning and Zoning, that reasonable efforts have been made to protect them and the plan cannot be reasonably altered.
 - i. Trees, shrubs, and plants in sensitive areas including the *non-tidal 100-year floodplain*, *intermittent* and *perennial stream protection corridors*, *steep slopes*, *non-tidal wetlands*, and critical habitats;
 - ii. Contiguous *forest* that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the *site*;
 - e. The following trees, shrubs, plants, and specific areas are considered a priority for retention and protection and shall be left in an undisturbed condition unless the applicant demonstrates, to the satisfaction of the *Planning Commission*, that the applicant qualifies for a waiver in accordance with Article IX, Section 3.3 of this Ordinance.*
 - i. Trees, shrubs, and plants that are determined to be rare, threatened, or endangered under:
 - a) The Federal Endangered Species Act of 1973 in 16 U.S.C. §§1531—1544 and in 50 CFR 17;
 - b) The Maryland Nongame And Endangered Species Conservation Act, Natural Resources Article, §§10-2A-01—10-2A-09, Annotated Code Of Maryland; and
 - c) COMAR 08.03.08

* Amended 2/16/21

- ii. Trees that are associated with an historic *structure* or *site*, or trees that have been designated by the state or county as a national, state, or county *champion tree*; and
 - iii. Any *tree* having a diameter, measured at 4.5 feet above the ground, of:
 - c) Thirty inches or more; or
 - a) Seventy-five (75%) or more of the diameter, measured at 4.5 feet above the ground, of the current State *Champion tree* of that species as designated by the Department of Natural Resources.
 - f. The required *reforestation* or *afforestation* may be accomplished *on-site*, *off-site*, by contributing to a *forest* bank in the same *watershed* or by contributing to the Kent County Reforestation Fund. The preferred method of *afforestation* or *reforestation* is *on-site* or *forest* banking.
 - g. Whenever possible and appropriate, *afforestation* and *reforestation* shall include native species.
4. *Natural heritage areas* and locations considered for Areas of Critical State Concern
These areas of local significance shall be preserved whenever possible. These areas are identified in Article VI, Section 3.8 of this Ordinance.
5. *Non-tidal wetlands*
Non-tidal wetlands shall be protected according to the *regulations* of the State of Maryland, Army Corps of Engineers, United States Fish and Wildlife Service, Environmental Protection Agency, and all other applicable State and Federal *Regulations*.
6. *Stream Protection Corridor*
All new *development* or *redevelopment* shall provide a 100-foot naturally vegetated *stream protection corridor* along all *tributary streams*. New *development activities*, including *structures*, parking areas, *structures*, septic systems, and similar *impervious surfaces* shall not be permitted in the *stream protection corridor*. *Roads* that cross the *stream protection corridor* shall be minimized. The *Planning Commission* may modify the *stream protection corridor* when the following can be demonstrated:
- a. A reduced corridor achieves significant water quality and habitat improvements equal to the required corridor.
 - b. More than 50% of the corridor is impervious or more than 75% of the corridor is disturbed with stone, septic systems, decks, or other obvious human impacts.
 - c. The *site* shall include all contiguous parcels under single ownership.
7. *Stormwater Management*
No *person* shall develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater management* measures that control or manage runoff from such developments except as provided in Article VI, Section 10 of this Ordinance. *Stormwater Management* shall be accomplished for all new *development* or *redevelopment* in accordance with the provisions of Article VI, Section 10 of this Ordinance.
8. Threatened and Endangered Species and Species in Need of Conservation
Threatened and *endangered species* and *species in need of conservation* shall be checked and noted by the applicant before any approvals are granted by the Planning Director, *Planning Commission*, or Zoning Administrator. The Federal or State guidelines (whichever is stricter) for habitat protection must be followed during *development*. Plans shall also include provisions for continuance of the habitat protection after *development*. This can include *conservation easements*, cooperative agreements, special provisions in *forest management plans*, and donation or sale to a third party.

9. Water Quality

All new *development* or *redevelopment* shall reduce the pollutant loadings by at least 10%. Pollutant loadings will be calculated in the manner developed by the Metropolitan Washington Council of Governments using phosphorous as the keystone element or in a manner acceptable to the Planning Director or the Planning Director's designee. When *on-site* compliance is not possible, *offsets* may be substituted.

10.8 CROSSROADS COMMERCIAL DESIGN STANDARDS

The purpose of these standards is to give a sense of the physical aspects of the County's environment to those contemplating new *development* in the community. Pertinent to this physical appearance is the design of the *site*, *buildings* and *structures*, plantings, *signs*, *street* hardware, and miscellaneous other objects observed by the public.

These standards are not intended to restrict imagination, innovation, or variety, but rather assist in focusing on design principles which can produce creative solutions that will develop a satisfactory visual appearance within the County, preserve taxable values, and promote the public health, safety, and welfare.

A. CROSSROADS COMMERCIAL GENERAL DESIGN STANDARDS

1. The landscape shall be preserved in its natural state, in so far as possible, by minimizing *tree* and *soil* removal. Any grade changes shall be in keeping with the general appearance of neighboring development areas. *Buildings* are encouraged to be located so as to maintain maximum natural *topography* and cover. Whenever possible, *development* shall be located outside of the *floodplain*.
2. *Streets* shall be designed and located in a manner so as to maintain and preserve natural *topography*, cover, significant landmarks and trees; to minimize *cut* and *fill*; and to preserve and enhance views and vistas on and off the subject parcel.
3. Proposed *development* shall be related harmoniously to the terrain and to the use and scale of existing *buildings* in the vicinity that have functional or visual relationships to the proposed *buildings*. *Development* shall be designed to provide safe, comfortable places where people can visit, meet, shop, and rest without conflicting with other *street* uses.
4. All *open space* (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the *site* or overlooking it from nearby properties.
5. Whenever possible, adverse effects on historic, traditional, or significant uses and *structures* shall be minimized, whether these exist on the *site* or on adjacent properties.
6. Varied building massing is encouraged to enhance the community's sense of place.
7. Commercial establishments, offices, and financial institutions emphasize personal service as their primary products. These *structures* should reflect personal service by their architectural design which is at a human scale at entries and interior spaces. Building components such as windows, wood doors, and decorative trim should emphasize the human scale in coordination with each other and the building scale.

8. Each unit of *development*, and the total *development*, shall create an environment of desirability and stability. Commercial establishments are encouraged to limit the visual impression of height by the use of roof treatment, and varying the plane of exterior walls.
9. Parking lot design shall reflect the fact that once people step out their cars, they become pedestrians. Parking lots shall be designed not only to facilitate efficient vehicle circulation but to also permit smooth pedestrian circulation.
10. Provision for safe, efficient bicycle circulation and parking should be included in the overall design of the parking lot.
11. Whenever possible, display areas should be incorporated into the overall design of the *site*. Display areas shall not be in the *front yard setback*.

B. CROSSROADS COMMERCIAL SPECIFIC DESIGN STANDARDS

1. *Site Access*

Site access shall be subject to the following *regulations* to help ensure vehicle and pedestrian safety and alleviate congestion:

- a. Where property abuts a *primary, secondary, or collector road*, access shall be by way of the *secondary or collector road*. Exceptions to this rule shall be instances where the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.
- b. Where one or more contiguous parcels abutting a *primary road* are under single ownership and any one of the parcels abuts a *secondary road or collector road*, access to all of the parcels under single ownership shall be by way of the *secondary or collector road*. Exceptions to this rule shall be instances when the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.
- c. Only one direct access approach onto a *primary road* from an individual parcel of record as of August 1, 1989 shall be permitted unless the *Planning Commission*, or where applicable the Planning Director, finds one of the following:
 - i. The *Planning Commission* may, with approval of the State Highway Administration or Kent County Public Works Department, approve additional access if the additional access is deemed to be significantly beneficial to the safety and operation of the highway or if allowing only one access approach would be a safety hazard or increase traffic congestion.
 - ii. The *Planning Commission* may approve access when the parcel is bisected by *steep slopes*, bodies of water, or other topographic features in such a manner as to render some portion of the property inaccessible without additional road access.
- d. Where a proposed road is designated on an approved County or State map, *site plans* for *development* adjacent to the designated *roadway* shall include provisions for future access to the *roadway*.
- e. Existing, planned, or platted *streets* on adjacent properties shall be continued when the *Planning Commission*, or where applicable the Planning Director, determines that the continuation is necessary for safe and reasonable circulation between the properties.
- f. When deemed necessary by the *Planning Commission*, or where applicable the Planning Director, developments shall provide access to adjacent tracts not presently developed.
- g. Pedestrian and bicycle linkages to adjacent developments shall be provided whenever possible.
- h. Access shall be consolidated whenever possible.

- i. Whenever possible, *roads* shall be constructed above the elevation of the *100-year floodplain*.
 - j. The applicant shall demonstrate that access to the project is adequate and the roads which will be impacted have the capacity to handle the traffic generated by the proposed project and will not endanger the safety of the general public.*
2. Parking Areas
- a. Parking lots shall be located as much as possible to the rear of *buildings*. Locating parking lots in the *front yard* is specifically prohibited.
 - b. *Sites* shall be designed to prevent awkward or dangerous vehicular flow.
 - c. Driveways in parking lots must be a minimum of 20 feet wide for two-way traffic and 15 feet wide for one-way traffic.
 - d. A minimum of one handicap parking space for every 25 spaces in a safe, convenient, and centralized location.
 - e. Whenever possible, parking lot design shall provide for connection to adjacent parcels where uses are compatible.
 - f. Marked walkways separated from vehicular traffic shall be provided to the entrance of establishments. Parking areas with 80 spaces or more shall include walkways running parallel to the parking rows every four rows and walkways running perpendicular to the parking rows every 20 spaces. Display areas approved by the *Planning Commission*, or where applicable the Planning Director shall not be included in the tabulation of parking spaces. The *Planning Commission* may waive this requirement.
 - g. Landscaping shall be provided according to the provisions in this Ordinance.
3. Delivery Trucks and Trash Collection Vehicles
- a. *Loading and unloading spaces* for delivery trucks shall not block major pedestrian ways or create blind spots when trucks are loading and unloading.
 - b. Trash boxes shall be accessible to collection trucks when all vehicle parking spaces are filled.
4. *Floodplain*
- a. In order to prevent excessive *flood* damage and to allow for the protection of the natural and beneficial *floodplain* functions, all *development, new construction, and substantial improvements* to existing *structures* in all *floodplain* zones shall comply with the requirements of Article VI, Section 7 of this Ordinance, including but not limited to the following:
 - i. Elevation of all new or substantially improved *structures*;
 - ii. Compliance with venting and other construction standards; and
 - iii. Submission and recordation, where applicable, of *Elevation Certificates, Declaration of Land Restrictions*, deed restrictions, and venting affidavits.**
 - b. Placement of *buildings* and materials. In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection setback, or on land that is least susceptible to flooding. All *structures* permitted in the *floodplain* shall be oriented so as to offer the least resistance to the flow of floodwaters.
 - c. General *development* shall not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the applicant shall demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized.

5. Landscaping - General
 - a. A minimum area of 15% of each new or redeveloped *site* shall be landscaped. Landscaping within the parking areas and screening may be counted toward this requirement.
 - b. The *front yard* shall be landscaped and maintained in a neat and attractive condition.
 - c. Landscaping shall be maintained in a good condition with at least the same quality and quantity as initially approved.
 - d. The *landscape plan* shall be prepared by a registered professional forester, landscape architect, or other professional with equivalent experience and qualifications.
 - e. The *Planning Commission*, or where applicable the Planning Director, may reduce or waive the landscape requirement when it is demonstrated that the spirit and intent of the requirement are accomplished through other means or the nature of the change does not require additional landscaping.

6. Parking Area Landscaping
 - a. At least 10% of all parking areas where more than ten parking spaces are provided shall be landscaped. Perimeter screening does not count toward parking area landscaping. This may be waived by the *Planning Commission* or where applicable the Planning Director.
 - b. In parking areas of 80 spaces or more to avoid large expanses of paved parking areas, the following provisions, which may be waived by the *Planning Commission*, or where applicable the Planning Director, shall apply:
 - i. A row shall not contain more than twelve 12 spaces without a landscaped *island* of at least the size of one parking space.
 - ii. The ends of parking rows shall contain an *island* a minimum of six feet wide adequately landscaped with shade trees, ground cover, and shrubs.
 - iii. Double rows of parking shall be separated by a minimum six-foot planting strip adequately landscaped with shade trees and shrubs.

7. Perimeter Landscaping and Screening
 - a. Screening is required to protect adjoining properties and *roadways* from noise, glare, and uses which are visually incompatible with neighboring land uses. Screening is required:
 - i. On *sites* which involve loading or unloading (including the storage of vehicles and boats), trash, or disposal areas and where accessory *buildings* and *structures* are adjacent to residential properties.
 - ii. Where exterior storage areas are visible from *roadways*, sidewalks, or nearby residential properties
 - iii. When noise not typically occurring in residential areas is expected to project onto nearby properties.
 - iv. To *screen* parking areas, but not approved display areas, from motorists, pedestrians, and adjoining residential properties.
 - v. Where the commercial *site* abuts a residential district
 - b. Landscaped screens shall be designed to complement other landscaping occurring naturally on the *site*, planted previously, or approved as a part of a *site plan* review. Whenever possible, existing vegetation and landform shall be used to create screens.
 - c. The *screen* shall be capable of providing year round screening.
 - d. When noise is likely to be a factor, the *screen* shall be of sufficient construction to be an effective noise buffer.

- e. Screening shall consist of trees and plants, and may include masonry, or wooden fencing used with or without *berms*. Screening shall consist of a functional and well-designed combination of the following:
 - i. Vegetative ground cover
 - ii. Coniferous and deciduous shrubs
 - a) Specimens which will reach and maintain a minimum height of 5 feet of full vegetative growth
 - b) Plants which measure a minimum of 3 feet in height at the time of planting and are expected to attain a 5-foot height within 3 years.
 - iii. Coniferous and deciduous trees
Species and sizes of which will be chosen to best accomplish an adequate *screen* (i.e., evergreens used for visual screening, deciduous trees for seasonal screening).
- f. Natural *slopes* and existing vegetation may be substituted for some or all of the requirements above, provided that these features serve to *screen* the area from adjoining properties and *roadways*. The *Planning Commission*, or where applicable the Planning Director shall determine the acceptability of using existing *slopes* and vegetation for this purpose. The *Planning Commission*, or where applicable the Planning Director may waive screening where it is physically impossible to accomplish.
- g. Screening and fencing shall be maintained in a good condition with at least the same quality and quantity as initially approved.

9. Lighting

- a. Lighting shall be designed at the human scale and shall not exceed eighteen feet in height. This does not apply to lighting mounted on *buildings*. The *Planning Commission*, or where applicable the Planning Director, may waive the height limitation.
- b. Lighting on the *site* shall be designed to avoid glare onto adjacent properties and adjacent *roadways* and shall not interfere with traffic or create a safety hazard.
- c. Lighting on the *site* shall be sufficient to provide for the safety and security of the business, its employees, and its customers.
- d. Lighting shall be color corrected.

9. *Subdivision*

- a. All reasonable efforts should be made to protect adjacent residential areas from potential nuisances from commercial *subdivision* by providing adequate residential depth in parcels adjacent to residential zoning.
- b. Proposed *street* layout, blocks, and parcels shall be suitable in area and dimension for the type of *development* anticipated.
- c. The total area shall be sufficient to provide adequate space for *off-street parking*, loading, landscaping, and other facilities.
- d. The *lot* arrangement, design, and orientation shall be such that all lots will provide satisfactory building *sites*, properly related to *topography* and the character of surrounding *development*.
- e. Every *lot* shall abut upon and have access to a public road or approved *private road*.
- f. Lots adjoining *major thoroughfares* and railroad lines should be designed with extra depth and provision for an appropriate means of buffer or deeper building setbacks.
- g. Where land in a *subdivision* adjoins a railroad line, the *street* layout shall make allowance for future grade separated railroad crossings at appropriate locations by providing extra *street right of way* widths for such crossings and by restricting intersecting *streets* at locations where they would cause interference with necessary approaches to such crossings.

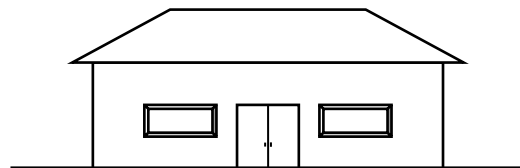
- h. Proposed *streets* in the *subdivision* shall provide for the continuation of existing, planned, or platted *streets* on adjacent tracts, unless such continuation shall be prevented by *topography* or other physical feature or unless such extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent *tract*.
- i. Where the *Planning Commission* deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed *streets* in the *subdivision* shall be extended to the boundary lines with such tracts.
- j. Where the *subdivision* adjoins or embraces any part of a *major thoroughfare* as designated on the Kent County Major Thoroughfare Map. The layout of such *subdivision* shall provide for the platting and dedication of such part of the *major thoroughfare* in the location and at the width indicated on the *major thoroughfare* plan, except that the *subdivider* shall not be required to dedicate that part of such *major thoroughfare* that is in excess of eighty (80) feet in width.
- k. Where deemed desirable to the layout of the *subdivision* and adjoining area, the *Planning Commission* may require the platting and dedication of one or more *collector streets* or parts thereof, to serve the *subdivision*.
- l. Subdivisions shall be in full compliance with the provisions of this Ordinance.
- m. *Private roads* are permitted in minor subdivisions and are subject to the following conditions:
 - i. Each road shall serve no more than seven parcels. In the event that an eighth parcel is created, the eighth parcel and all further divisions of land shall front on a public road.*
 - ii. The *subdivision* shall provide a 50-foot *right of way* for each *private road*.
 - iii. The construction of all lanes and *private roads* shall adhere to the requirements established by the Kent County Department of Public Works and sediment control and *stormwater management regulations*.
 - iv. The deed and contract of sale of all lots in the *subdivision* shall state: “The road is private and not the responsibility of Kent County.”
 - v. The plat shall identify all *private roads* and shall state: “The road is private and not the responsibility of Kent County.”

10. Building Mass, Size, and Scale

- a. New *buildings* should not create large, bulky, masses but should be scaled down to into groupings of smaller attached *structures* and modules that reflect proportions similar to historic *buildings*. Methods used to create intervals that reflect and respect historic *structures* include but are not limited to the following:
 - i. Facade modulation - stepping back or extending forward a portion of the facade.
 - ii. Repeating window patterns at established intervals
 - iii. Providing a balcony or bay window at established intervals
 - iv. Changing the roofline by alternating dormers, stepped roofs, gables, or other roof elements.
 - v. Use of landscaping and architectural detailing at the ground level.



Structure 1, Utilizes building massing



Structure 2, Does not utilize building massing

The above structures are the same height and width and are drawn to the same scale.

- b. Building designs shall be encouraged to utilize traditional materials (brick or wood) and contemporary interpretations of earlier styles.
- c. The design of new *buildings*, building additions, and *alterations*, and facade renovations should reflect the positive aspects of the existing design features of the County. *Buildings* should complement and improve the overall environment of the area.
- d. The proposed building orientation shall respect the orientation and scale of surrounding *buildings* and where deemed necessary by the *Planning Commission* serve as an orderly transition to a different scale.
- e. All rooftop equipment shall be screened from public view by screening material of the same nature as the building's basic building materials.
- f. Commercial *buildings* are encouraged to be arranged in varied clustered masses related closely to the road
- g. Arches, porches, arcades, overhangs, full roofs, and varying facade setbacks are encouraged on *buildings* in this district.

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SECTION 11 COMMERCIAL DISTRICT

11.1 STATEMENT OF INTENT

The purpose of this district is to accommodate commercial and service activities that are not normally located in central business concentrations. These uses are primarily oriented to highway locations and include services and destination retail. Consequently, the district is located along major arterial highways. It is further intended that this District shall be for the purpose of limiting sprawling *development* by providing *sites* with adequate *frontage* and depth to permit controlled access to public *streets*. Because these uses are subject to public view, which is of concern to the whole community, they should provide an appropriate appearance, controlled traffic movement, ample landscaping, and protect adjacent properties from the traffic and visual impacts associated with the commercial activity. It is the intent that a Commercial District shall have a minimum *frontage* of 150 feet on a single *primary road*. Whenever possible, *frontage* of the district shall not exceed depth.

11.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A *building* or land shall be used only for the following purposes, in all cases subject to *site plan* review by the *Planning Commission* or where applicable the Planning Director.

1. *Agriculture*, excluding the raising of livestock and fowl, including horticulture, hydroponics, and truck farming, general farming, cultivation of field crops, and raising of orchards, groves, and nurseries.
2. Building material sales
3. Circus or carnival, midways and amusement parks, temporary, for a period of time not to exceed one week per year
4. Financial Institutions
5. *Hotels and motels*
6. Mini storage facilities
7. Machinery and equipment sales, service, and rental
8. Motor vehicle sales, service, and rental
9. *Personal wireless facilities* collocated on existing towers, water towers, electrical transmission towers, fire towers, silos, *grain dryers*, or other *structures* provided the height of the existing *structure* is not above that permitted by this Ordinance.
10. Public uses, *buildings* and utilities. Public *buildings* and uses include, but are not limited to, schools, offices, parks, playgrounds, and *roads*, but not including major sports facilities, funded, owned and operated by local, state, or federal agencies. *Public utilities* are water, sewer, electric, gas, oil and communication facilities owned and operated by the Kent County Department of Water and Wastewater or other public utility. *Public utilities* include substations, poles, lines, transformers, pipes, meters, treatment facilities, pumping stations and appurtenances but not transmission towers. Power plants and the like are not permitted.
11. *Restaurants* without drive through facilities

12. Retail businesses, supplying on the *premises*, household goods, new automotive parts, agricultural supplies and commodities, sporting goods, and the like, including department, outlet and discount stores provided:
 - a. All retail sales and/or storage shall be conducted entirely within a *building* except where otherwise approved by the *Planning Commission*.
 - b. The retail business does not exceed 60,000 square feet of gross *floor area*. The restriction on gross *floor area* does not apply to the Commercial District in the Route 301 corridor.

13. In the US Route 301 Corridor, the manufacture, processing, fabrication, and assembly of products. These uses include, but are not limited to, scientific and precision instruments, photographic equipment, communications equipment, computation equipment, drugs, medicines, pharmaceuticals, household appliances, toys, sporting and athletic goods, glass products made of purchased glass, electric lighting and wiring equipment, service industry machines, lithographic and printing processes, industrial controls, radio and TV receiving sets, watches and clocks, bags and containers, sanitary paper products, optical goods, electrical machinery, prefabricated and modular housing and components, dairy product feed and grain, baked and confectioners' goods, farm machinery, frozen food processing, packing plants, animal and seafood processing, fruit and vegetable processing, canning and storage, recyclable materials processing as defined in the Code of Kent County Public Laws (Article 148-2) or companies of a similar nature provided:*
 - a. That in reviewing the site plan and determining the suitability of the proposed business, the Planning Commission or, where applicable, the Planning Director must find all of the following:
 - i. Existing or planned public facilities are adequate to handle the usage generated by the business. The use does not require improvements to public facilities detrimental to the character of the area.
 - ii. The proposed use does not create an unacceptable impact on the surrounding area by way of noise, odor, noxious materials, or other nuisances. The *Planning Commission* may require a Certified Engineer's Report describing the proposed operation, all machines, processes, products and by-products, stating the nature and expected levels of emissions or discharge to land, air, water or liquid, solid, or gaseous effluent and electrical impulses, vibrations and noise under normal operations and the specifications or treatment methods and mechanisms to be used to control such emissions or discharge.
 - iii. The health, safety, and welfare of employees and residents of the neighborhood will be protected.
 - b. In so far as possible, all uses shall be conducted within a completely enclosed structure or be completely screened. Outdoor storage of materials and unfinished products is prohibited unless otherwise approved by the *Planning Commission* or, where applicable, the Planning Director and subject to such conditions as may be determined by the *Planning Commission* or, where applicable, the Planning Director.

14. Distribution centers and warehousing. In reviewing the site plan, the *Planning Commission* or, where applicable, the Planning Director shall make findings on the following:*
 - a. The impact of the proposed business or industry on existing or planned public facilities.
 - b. The impact of the operation of the facility on the surrounding area.
 - c. The health, safety, and welfare of employees and residents of the neighborhood.
 - d. In so far as possible, all uses shall be conducted entirely within a completely enclosed structure or be completely screened. Outdoor storage of materials and unfinished products is prohibited unless otherwise approved by the *Planning Commission* and subject to such conditions as may be determined by the *Planning Commission*.

15. *Microbrewery* as defined by the State of Maryland**

16. Data processing centers, subject to the alternate design provisions of Section 11.8.C***

11.3 SPECIAL EXCEPTIONS

The following principal uses and *structures* may be permitted as special exceptions in the Commercial District, subject to *site plan* review by the *Planning Commission*, or where applicable the Planning Director. Detailed limitations and standards for these uses shall be found in Article VII of this Ordinance.

1. Boat building and sales
2. *Cottage industries*, tradesmen and artisan shops
3. *Personal wireless facility tower*
4. Radio and television tower, commercial
5. Recreational facilities, privately or commercially owned, but not including major sports arenas for football, baseball, drag racing, motocross, or other major sports activities
6. Retail businesses, supplying on the *premises*, household goods, new automotive parts, agricultural supplies and commodities, sporting goods, and the like, including department, outlet and discount stores with a gross *floor area* that exceeds 60,000 square feet.
- 6.5 School bus parking lot **
7. *Single family dwellings*
8. *Shopping centers*
- 8.5 *Solar energy systems, utility scale**
9. Truck parking lot
10. *Truck terminals*
11. *Truck stops*
12. *Wind energy systems, small*, with a height that exceeds 80 feet*

11.4 ACCESSORY USES AND STRUCTURES

The following *accessory uses* and *structures* are permitted in the Commercial District

1. Storage of office supplies or merchandise normally carried in stock in connection with a permitted office, business, or commercial use, subject to the applicable district *regulations*.
2. *Accessory apartments*
3. Accessory truck parking
4. *Accessory uses* and *structures* normally associated with a permitted use
5. Appurtenant *signs* in accordance with Article VI, Section 2 of this Ordinance
- 5.5 School buses, limited to three, parked in the *rear* or *side yard* provided the buses are owned or operated by the property owner, have current licenses, and are operable **
6. *Solar energy systems, small*, provided: *
 - a. Tree removal shall be minimized and any removal shall be mitigated at a ratio of one tree planted for each tree removed.
 - b. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.
 - c. The total height of solar collection systems shall comply with the height requirements.

* Amended 9/6/11; ** Amended 4/3/18; *** Amended 6/16/20

7. Temporary *MET Tower* of any height provided:*
 - a. The tower is erected for no more than 12 months.
 - b. Any free standing *structure* is located a minimum of 3 times its total height from a property line.
 - c. Towers are not readily climbable from the ground up to 12 feet.

8. *Wind energy systems, small*, limited to one tower provided:*
 - a. The height of the *structure* to the tip of the blade at its highest point does not exceed 80 feet.
 - b. Any system is located a minimum of 3 times its total height from a property line.
 - c. Towers are not readily climbable from the ground up to 12 feet.
 - d. All access doors to towers and electrical equipment shall be lockable.
 - e. Appropriate warning signage is placed on the tower and electrical equipment.
 - f. The blade tip at its lowest point had a ground clearance of at least 25 feet.
 - g. Wind turbines and towers maintain a galvanized steel, brushed aluminum finish, or a non-garish color.
 - h. Any small wind energy system that is not operational for a period of 12 consecutive months or more shall be removed at the landowner's expense.

11.5 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS

| | |
|--|--|
| Minimum <i>lot size</i> | NA |
| Minimum <i>frontage</i> | |
| - Public road | 100 feet |
| Minimum <i>yard</i> | |
| - <i>Front</i> | 50 feet |
| - <i>Side & Rear yard</i> | 50 feet with buffering from adjoining AZD, RCD, RC, RR, CAR, CR, V, IV, & IVCA 30 feet from CC, C, CCA, M, EC, I, ICA-LDA, & ICA which may be reduced to 0 if emergency and maintenance vehicle access are acceptably addressed and if the adjoining property is a compatible use |
| - Waterfront | 100 feet |
| Height ¹ | |
| - Industrial Structure** | 45 feet |
| - Industrial Structure in 301 Corridor** | 60 feet |
| - Commercial <i>structure</i> | 45 feet |
| - Residential <i>structure</i> | 38 feet |
| - Fence ² | |
| - Security | 8 feet |
| - Ornamental | |
| Front and <i>side yard</i> | 4 feet |
| <i>Rear yard</i> | 8 feet |

¹ Except in an area defined as the Kent County *Airport* Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

² Fences do not need to meet yard requirements.

11.6 COMMERCIAL GENERAL STANDARDS

1. The reuse of existing *buildings* is encouraged.
2. Public water and sewer systems may be required by the *Planning Commission* in a Commercial District.
3. The Department of Planning and Zoning shall approve *street* names. A name may not be approved if it duplicates or is too similar to the name of another road in the county or incorporated towns.
4. *Signs* in the commercial area shall be permitted in accordance with the *regulations* contained in Article VI, Section 2 of this Ordinance.
5. Minimum *off-street parking* and *loading spaces* shall be required for each use in a Commercial District in accordance with the *regulations* contained in Article VI, Section 1 of this Ordinance.

11.7 COMMERCIAL ENVIRONMENTAL STANDARDS

The purpose of this district is to provide for the proper stewardship of the County's natural resources. Specifically, it is the overall goal of the County to maintain the quality of the County's *ecosystem* in the face of continuing activity, growth, and change.

A. COMMERCIAL GENERAL ENVIRONMENTAL STANDARDS

1. *Development* shall minimize *adverse impacts* to *non-tidal* or *tidal wetlands*, estuaries, the Chesapeake Bay, *tributary streams*, and the natural and *riparian habitat* of these streams, habitat protection areas, or other significant habitat identified by the Department of Planning and Zoning.
2. *Development* shall minimize the effects of runoff on the existing volume of water or quality of any water body. Urban *best management practices* shall be used.
3. Whenever possible, land subject to periodic flooding, shall not be developed for any use that might involve danger to health, life, or property or aggravate floods.

B. COMMERCIAL SPECIFIC ENVIRONMENTAL STANDARDS

1. *Agriculture*

No new agricultural land shall be created by:

- a. *Clearing* of an area of *forest* or woodland greater than 40,000 square feet in a one-year period without filing a *Forest Conservation Plan*. An agricultural *Declaration of Intent* shall be filed with the Kent County Department of Planning and Zoning.
- b. *Clearing* of *natural vegetation* within the *stream protection corridor*.

2. *Anadromous fish*

- a. Concrete riprap or other artificial surface shall not be installed on the bottom of natural streams unless it can be demonstrated that water quality and fishery habitat will be improved.
- b. Physical alteration of a stream, including but not limited to channelization, that interferes with the movement of fish shall be prohibited

3. *Forest Conservation*

This section applies to all *major* and *minor site plans* on units of land 40,000 square feet or greater; major and minor subdivisions; and *grading* and *sediment control permits* that result in the cumulative cutting, *clearing*, or *grading* of more than 40,000 square feet. A forest *Declaration of Intent* is required for activities specifically exempted in Article VI, Section 8.2 of this Ordinance.

- a. A parcel with less than 15% of its *net tract area* in *forest cover* shall be afforested to 15% of its *net tract area*.
- b. *Forest* on parcels with less than 15% of its *net tract area* in *forest* may be cut or cleared provided:
 - i. The *afforestation* required to achieve the 15% *afforestation* level is determined prior to any *clearing of forest*.
 - ii. The *afforestation* area consists of two (2) times the total surface area cleared and the area needed to achieve the 15% *afforestation* level before *clearing* occurred. For example, the *afforestation* area for a project with a *net tract area* of one hundred acres with ten (10) acres of existing *forest* of which five (5) acres are to be cleared is fifteen (15) acres - five (5) acres to achieve the required *afforestation* level and ten (10) acres to replace the *forest* cleared.
- c. A parcel with more than 15% of its *net tract area* in *forest* may be cut or cleared provided *reforestation* occurs at a rate of one-quarter (1/4) acre planted for each acre removed above 15% of the *net tract area* or at a rate of two (2) acres planted for every acre removed below 15% of the *net tract area*. *Forest* retained over 15% of the *net tract area* is credited toward the required *reforestation*. For example, a project with a *net tract area* of one hundred (100) acres and an existing *forest* of thirty (30) acres of which twenty (20) acres will be cleared, requires a *reforestation* area of 13.75 acres.
- d. The following trees, shrubs, plants, and specific areas are considered a priority for *retention* and protection and shall be left in an undisturbed condition unless the applicant demonstrates, to the satisfaction of the Department of Planning and Zoning, that reasonable efforts have been made to protect them and the plan cannot be reasonably altered.
 - i. Trees, shrubs, and plants in sensitive areas including the *non-tidal 100-year floodplain*, *intermittent* and *perennial stream protection corridors*, *steep slopes*, *non-tidal wetlands*, and critical habitats;
 - ii. Contiguous *forest* that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the *site*;
- e. The following trees, shrubs, plants, and specific areas are considered a priority for retention and protection and shall be left in an undisturbed condition unless the applicant demonstrates, to the satisfaction of the *Planning Commission*, that the applicant qualifies for a waiver in accordance with Article IX, Section 3.3 of this Ordinance.*
 - i. Trees, shrubs, and plants that are determined to be rare, threatened, or endangered under:
 - a) The Federal Endangered Species Act of 1973 in 16 U.S.C. §§1531—1544 and in 50 CFR 17;
 - b) The Maryland Nongame And Endangered Species Conservation Act, Natural Resources Article, §§10-2A-01—10-2A-09, Annotated Code Of Maryland; and
 - c) COMAR 08.03.08
 - ii. Trees that are associated with an historic *structure* or *site*, or trees that have been designated by the state or county as a national, state, or county *champion tree*; and
 - iii. Any *tree* having a diameter, measured at 4.5 feet above the ground, of:
 - a) Thirty inches or more; or
 - b) Seventy-five (75%) or more of the diameter, measured at 4.5 feet above the ground, of the current State *Champion tree* of that species as designated by the Department of Natural Resources.

* Amended 2/16/21

- f. The required *reforestation* or *afforestation* may be accomplished *on-site*, *off-site*, by contributing to a *forest* bank in the same *watershed* or by contributing to the Kent County Reforestation Fund. The preferred method of *afforestation* or *reforestation* is *forest* banking or off-site *afforestation*.
 - g. Whenever possible and appropriate, *afforestation* and *reforestation* shall include native species.
4. *Natural heritage areas* and locations considered for Areas of Critical State Concern
These areas of local significance shall be preserved whenever possible. These areas are identified in Article VI, Section 3.8 of this Ordinance.
 5. *Non-tidal wetlands*
Non-tidal wetlands shall be protected according to the *regulations* of the State of Maryland, Army Corps of Engineers, United States Fish and Wildlife Service, Environmental Protection Agency, and all other applicable State and Federal *Regulations*.
 6. *Stream Protection Corridor*
All new *development* or *redevelopment* shall provide a naturally vegetated *stream protection corridor* along all *tributary streams*. New *development activities*, including *structures*, parking areas, septic systems, and similar *impervious surfaces* shall not be permitted in the *stream protection corridor*. *Roads* that cross the *stream protection corridor* shall be minimized. The *Planning Commission* may modify the *stream protection corridor* when the following can be demonstrated:
 - a. A reduced corridor achieves significant water quality and habitat improvements equal to the required corridor.
 - b. More than 50% of the corridor is impervious or more than 75% of the corridor is disturbed with stone, septic systems, decks, or other obvious human impacts.
 - c. The *site* shall include all contiguous parcels under single ownership.
 7. *Stormwater Management*
No *person* shall develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater management* measures that control or manage runoff from such developments except as provided in Article VI, Section 10 of this Ordinance. *Stormwater* management shall be accomplished for all new *development* or *redevelopment* in accordance with the provisions of Article VI, Section 10 of this Ordinance.
 8. Threatened and Endangered Species and Species in Need of Conservation
Threatened and *endangered species* and *species in need of conservation* shall be checked and noted before any approvals are granted by the Planning Director, *Planning Commission*, or Zoning Administrator. The Federal or State guidelines (whichever is stricter) for habitat protection must be followed during *development*. Plans shall also include provisions for continuance of the habitat protection after *development*. This can include *conservation easements*, cooperative agreements, special provisions in *forest management plans*, and donation or sale to a third party.
 9. Water Quality
All new *development* or *redevelopment* shall reduce the pollutant loadings by at least 10%. Pollutant loadings will be calculated in the manner developed by the Metropolitan Washington Council of Governments using phosphorous as the keystone element or in a manner acceptable to the Planning Director or the Planning Director's designee. When *on-site* compliance is not possible, *offsets* may be substituted. All *sites* shall comply with the *stormwater management* qualitative controls found in Article VI, Section 10 of this Ordinance.

11.8 COMMERCIAL DESIGN STANDARDS

The purpose of these standards is to give a sense of the physical aspects of the County's environment to those contemplating new *development* in the community. Pertinent to this physical appearance is the design of the *site*, *buildings* and *structures*, plantings, *signs*, *street* hardware, and miscellaneous other objects observed by the public.

These standards are not intended to restrict imagination, innovation, or variety, but rather assist in focusing on design principles which can produce creative solutions that will develop a satisfactory visual appearance within the County, preserve taxable values, and promote the public health, safety, and welfare.

A. COMMERCIAL GENERAL DESIGN STANDARDS

1. The landscape shall be preserved in its natural state, in so far as possible, by minimizing *tree* and *soil* removal. Any grade changes shall be in keeping with the general appearance of neighboring development areas. *Buildings* are encouraged to be located so as to maintain maximum natural *topography* and cover. Whenever possible, *development* shall be located outside of the *floodplain*.
2. *Streets* shall be designed and located in a manner so as to maintain and preserve natural *topography*, cover, significant landmarks and trees; to minimize *cut* and *fill*; and to preserve and enhance views and vistas on and off the subject parcel.
3. Proposed *development* shall be related harmoniously to the terrain and to the use and scale of existing *buildings* in the vicinity that have functional or visual relationships to the proposed *buildings*. *Development* shall be designed to provide safe, comfortable places where people can visit, meet, shop, and rest without conflicting with other *street* uses.
4. All *open space* (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the *site* or overlooking it from nearby properties.
5. Whenever possible, adverse effects on historic, traditional, or significant uses and *structures* shall be minimized, whether these exist on the *site* or on adjacent properties.
6. Varied building massing is encouraged to enhance the community's sense of place.
7. Commercial establishments, offices, and financial institutions emphasize personal service as their primary products. These *structures* should reflect personal service by their architectural design which is at a human scale at entries and interior spaces. Building components such as windows, wooden doors, and decorative trim should emphasize the human scale in coordination with each other and the building scale.
8. Each unit of *development*, and the total *development*, shall create an environment of desirability and stability. Commercial establishments are encouraged to limit the visual impression of height by the use of roof treatments and varying the plane of exterior walls.
9. Parking lot design shall reflect the fact that once people step out their cars, they become pedestrians. Parking lots shall be designed not only to facilitate efficient vehicle circulation but to also permit smooth pedestrian circulation.
10. Provision for safe and efficient bicycle circulation and parking should be included in the overall design of the parking lot.

11. Whenever possible, display areas should be incorporated into the overall design of the *site*. Display areas shall not be in the *front yard setback*.

12. Corporate or trademark architecture shall not be permitted.

B. COMMERCIAL SPECIFIC DESIGN STANDARDS

1. *Site Access*

Site access shall be subject to the following *regulations* to help ensure vehicle and pedestrian safety and alleviate congestion:

- a. Where property abuts a *primary, secondary, or collector road*, access shall be by way of the *secondary or collector road*. Exceptions to this rule shall be instances where the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.
- b. Where one or more contiguous parcels abutting a *primary road* are under single ownership and any one of the parcels abuts a *secondary road or collector road*, access to all of the parcels under single ownership shall be by way of the *secondary or collector road*. Exceptions to this rule shall be instances when the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.
- c. Only one direct access approach onto a *primary road* from an individual parcel of record as of August 1, 1989 shall be permitted unless the *Planning Commission*, or where applicable the Planning Director, finds one of the following:
 - i. The *Planning Commission* may, with approval of the State Highway Administration or Kent County Public Works Department, approve additional access if the additional access is deemed to be significantly beneficial to the safety and operation of the highway or if allowing only one access approach would be a safety hazard or increase traffic congestion.
 - ii. The *Planning Commission* may approve access when the parcel is bisected by *steep slopes, bodies of water, or other topographic features* in such a manner as to render some portion of the property inaccessible without additional road access.
- d. Where a proposed road is designated on an approved County or State map, *site plans* for *development* adjacent to the designated *roadway* shall include provisions for future access to the *roadway*.
- e. Existing, planned, or platted *streets* on adjacent properties shall be continued when the *Planning Commission*, or where applicable the Planning Director, determines that the continuation is necessary for safe and reasonable circulation between the properties.
- f. When deemed necessary by the *Planning Commission*, or where applicable the Planning Director, developments shall provide access to adjacent tracts not presently developed.
- g. Pedestrian and bicycle linkages to adjacent developments shall be provided whenever possible.
- h. Access shall be consolidated whenever possible.
- i. Whenever possible, *roads* shall be constructed above the elevation of the *100-year floodplain*.
- j. The applicant shall demonstrate that access to the project is adequate and the roads which will be impacted have the capacity to handle the traffic generated by the proposed project and will not endanger the safety of the general public.*

* Amended 11/14/06

2. **Parking Areas**
 - a. Parking lots shall be located as much as possible to the rear of *buildings*. Locating parking lots in the *front yard setback* is specifically prohibited.
 - b. *Sites* shall be designed to prevent awkward or dangerous vehicular flow.
 - c. Driveways in parking lots must be a minimum of 20 feet wide for two-way traffic and 15 feet wide for one-way traffic.
 - d. A minimum of one handicap parking space shall be provided for every 25 spaces in a safe, convenient, and centralized location.
 - e. Whenever possible, parking lot design shall provide for connection to adjacent parcels where uses are compatible.
 - f. Marked walkways, separated from vehicular traffic shall be provided to the entrance of establishments. Parking areas with 80 spaces or more shall include walkways running parallel to the parking rows every four rows and walkways running perpendicular to the parking rows every 20 spaces. Display areas approved by the *Planning Commission*, or where applicable the Planning Director shall not be included in the tabulation of parking spaces. The *Planning Commission* may waive this requirement.
 - g. Landscaping shall be provided according to the provisions in this Ordinance.

3. **Pedestrian Flows**
 - a. Sidewalks at least eight feet wide shall be provided along all sides of the *lot* that abuts a public *street*.
 - b. Parking areas with 80 spaces or more shall provide a continuous internal pedestrian walkway from the perimeter sidewalk to the principal customer entrance. The walkway shall be at least eight feet in width and shall feature landscaping and other pedestrian amenities.
 - c. The internal pedestrian walkways shall be distinguished from paving surfaces through the use of special pavers, bricks, scored concrete, or other materials that will clearly identify the pedestrian walkway.
 - d. Parking areas with 80 spaces or more shall provide a weather protection feature such as an awning extending a minimum of 30 feet from all customer entrances.
 - e. Sidewalks shall be provided along the full length of any *building* abutting public parking areas.
 - f. The *Planning Commission* may waive these requirements.

4. **Delivery Trucks and Trash Collection Vehicles**
 - a. *Loading and unloading spaces* for delivery trucks shall not block major pedestrian ways or create blind spots when trucks are loading and unloading.
 - b. Trash boxes shall be accessible to collection trucks when all vehicle parking spaces are filled.

5. **Floodplain**
 - a. In order to prevent excessive *flood* damage and to allow for the protection of the natural and beneficial *floodplain* functions, all *development, new construction, and substantial improvements* to existing *structures* in all *floodplain* zones shall comply with the requirements of Article VI, Section 7 of this Ordinance, including but not limited to the following:
 - i. Elevation of all new or substantially improved *structures*;
 - ii. Compliance with venting and other construction standards; and
 - iii. Submission and recordation, where applicable, of *Elevation Certificates, Declaration of Land Restrictions, deed restrictions, and venting affidavits*.*

* Amended 6/3/14

- b. Placement of *buildings* and materials. In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection setback, or on land that is least susceptible to flooding. All *structures* permitted in the *floodplain* shall be oriented so as to offer the least resistance to the flow of floodwaters.
 - c. General *development* shall not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the applicant shall demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized.
6. Landscaping - General
- a. A minimum area of 15% of each new or redeveloped *site* shall be landscaped. Landscaping within the parking areas and screening may be counted toward this requirement.
 - b. The *front yard* shall be landscaped and maintained in a neat and attractive condition.
 - c. Landscaping shall be maintained in the in a good condition with at least the same quality and quantity as initially approved.
 - d. The *landscape plan* shall be prepared by a registered professional forester, landscape architect, or other professional with equivalent experience and qualifications.
 - e. The *Planning Commission*, or where applicable the Planning Director, may reduce or waive the landscape requirement when it is demonstrated that the spirit and intent of the requirement are accomplished through other means or the nature of the change does not require additional landscaping.
7. Parking Area Landscaping
- a. At least 10% of all parking areas where more than ten parking spaces are provided shall be landscaped. Perimeter screening does not count toward parking area landscaping. This may be waived by the *Planning Commission* or where applicable the Planning Director.
 - b. To avoid large expanses of paved parking areas in parking areas of 80 spaces or more, the following provisions, which may be waived by the *Planning Commission*, or where applicable the Planning Director, shall apply:
 - i. A row shall not contain more than twelve 12 spaces without a landscaped *island* of at least the size of one parking space.
 - ii. The ends of parking rows shall contain an *island* a minimum of six feet wide adequately landscaped with shade trees, ground cover, and shrubs.
 - iii. Double rows of parking shall be separated by a minimum six-foot planting strip adequately landscaped with shade trees and shrubs.
8. Perimeter Landscaping and Screening
- a. Screening is required to protect adjoining properties and *roadways* from noise, glare, and uses which are visually incompatible with neighboring land uses. Screening is required:
 - i. On *sites* which involve loading or unloading (including the storage of vehicles and boats), trash, or disposal areas and where accessory *buildings* and *structures* are adjacent to residential properties.
 - ii. Where exterior storage areas are visible from *roadways*, sidewalks, or nearby residential properties.
 - iii. When noise not typically occurring in residential areas is expected to project onto nearby properties.
 - iv. To *screen* parking areas, but not approved display areas, from motorists, pedestrians, and adjoining residential properties.
 - v. Where the commercial *site* abuts a residential district.
 - b. Landscaped screens shall be designed to complement other landscaping occurring naturally on the *site*, planted previously, or approved as a part of a *site plan* review. Whenever possible, existing vegetation and landform shall be used to create screens.

- c. The *screen* shall be capable of providing year round screening.
- d. When noise is likely to be a factor, the *screen* shall be of sufficient construction to be an effective noise buffer.
- e. Screening shall consist of trees and plants, and may include masonry, or wooden fencing used with or without *berms*. Screening shall consist of a functional and well-designed combination of the following:
 - i. Vegetative ground cover
 - ii. Coniferous and deciduous shrubs
 - a) Specimens which will reach and maintain a minimum height of 5 feet of full vegetative growth.
 - b) Plants which measure a minimum of 3 feet in height at the time of planting and are expected to attain a height of 5 feet within 3 years.
 - iii. Coniferous and deciduous trees
 - Species and sizes of which will be chosen to best accomplish an adequate *screen* (i.e. evergreens used for visual screening, deciduous trees for seasonal screening).
- f. Natural *slopes* and existing vegetation may be substituted for some or all of the requirements above, provided that these features serve to *screen* the area from adjoining properties and *roadways*. The *Planning Commission*, or where applicable the Planning Director, shall determine the acceptability of using existing *slopes* and vegetation for this purpose. The *Planning Commission*, or where applicable the Planning Director, may waive screening where it is physically impossible to accomplish.
- g. Screening and fencing shall be maintained in at least the same quality and quantity as initially approved.

9. Lighting

- a. Lighting shall be designed at the human scale and shall not exceed eighteen feet in height. This does not apply to lighting mounted on *buildings*. The *Planning Commission*, or where applicable the Planning Director, may waive the height limitation.
- b. Lighting on the *site* shall be designed to avoid glare onto adjacent properties and adjacent *roadways* and shall not interfere with traffic or create a safety hazard.
- c. Lighting on the *site* shall be sufficient to provide for the safety and security of the business, its employees, and its customers.
- d. Lighting shall be color corrected.

10. *Subdivision*

- a. All reasonable efforts should be made to protect adjacent residential areas from potential nuisances from the commercial *subdivision* by providing adequate depth in parcels adjacent to residential zoning.
- b. Proposed *street* layout, blocks, and parcels shall be suitable in area and dimension for the type of *development* anticipated.
- c. The total area shall be sufficient to provide adequate space for *off-street parking*, loading, landscaping, and other facilities.
- d. The *lot* arrangement, design, and orientation shall be such that all lots will provide satisfactory building *sites*, properly related to *topography* and the character of surrounding *development*.
- e. Every *lot* shall abut upon and have access to a public road or approved *private road*.
- f. Lots adjoining *major thoroughfares* and railroad lines should be designed with extra depth and provision for an appropriate means of buffer or deeper building setbacks.
- g. Where land in a *subdivision* adjoins a railroad line, the *street* layout shall make allowance for future grade separated railroad crossings at appropriate locations by providing extra *street right of way* widths for such crossings and by restricting intersecting *streets* at

locations where they would cause interference with necessary approaches to such crossings.

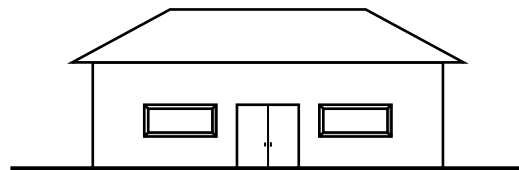
- h. Proposed *streets* in the *subdivision* shall provide for the continuation of existing, planned, or platted *streets* on adjacent tracts, unless such continuation shall be prevented by *topography* or other physical features or unless such extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent tracts.
- i. Where the *Planning Commission* deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed *streets* in the *subdivision* shall be extended to the boundary lines with such tracts.
- j. Where the *subdivision* adjoins or embraces any part of a *major thoroughfare* as designated on the Kent County Major Thoroughfare Map. The layout of such *subdivision* shall provide for the platting and dedication of such part of the *major thoroughfare* in the location and at the width indicated on the *major thoroughfare* plan, except that the *subdivider* shall not be required to dedicate that part of such *major thoroughfare* that is in excess of eighty (80) feet in width.
- k. Where deemed desirable to the layout of the *subdivision* and adjoining area, the *Planning Commission* may require the platting and dedication of one or more *collector streets* or parts thereof, to serve the *subdivision*.
- l. Subdivisions shall be in full compliance with the provisions of this Ordinance.
- m. *Private roads* are permitted in minor subdivisions and are subject to the following conditions:
 - i. Each road shall serve no more than seven parcels. In the event that an eighth parcel is created, the eighth parcel and all further divisions of land shall front on a public road.*
 - ii. The *subdivision* shall provide a 50-foot *right of way* for each *private road*.
 - iii. The construction of all lanes and *private roads* shall adhere to the requirements established by the Kent County Department of Public Works and sediment control and *stormwater management regulations*.
 - iv. The deed and contract of sale of all lots in the *subdivision* shall state: "The road is private and not the responsibility of Kent County."
 - v. The plat shall identify all *private roads* and shall state: "The road is private and not the responsibility of Kent County."

11. Building Mass, Size, and Scale

- a. New *buildings* should not create large, bulky, masses but should be scaled down to into groupings of smaller attached *structures* and modules that reflect proportions similar to historic *buildings*. Methods used to create intervals that reflect and respect historic *structures* include but are not limited to the following:
 - i. Facade modulation - stepping back or extending forward at least 20% of the facade.
 - ii. Repeating window patterns at established intervals.
 - iii. Providing a balcony or bay window at established intervals.
 - iv. Changing the roofline by alternating dormers, stepped roofs, gables, or other roof elements.
 - v. Use of landscaping and architectural detailing at the ground level.



Structure 1, Utilizes building massing



Structure 2, Does not utilize building massing

The above structures are the same height and width and are drawn to the same scale.

* Amended 10/16/12

- b. Building designs shall be encouraged to utilize traditional materials (brick or wood) and contemporary interpretations of earlier styles.
- c. The design of new *buildings*, building additions and *alterations*, and facade renovations should reflect the positive aspects of the existing design features of the County. *Buildings* should complement and improve the overall environment of the area.
- d. The proposed building orientation shall respect the orientation and scale of surrounding *buildings* and where deemed necessary by the *Planning Commission* serve as an orderly transition to a different scale.
- e. All rooftop equipment shall be screened from public view by screening material of the same nature as the building's basic building materials.
- f. Loading docks, trash collection, and similar facilities and functions shall be incorporated into the overall design of the *building* and landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public *streets*.
- g. *Buildings* in *shopping centers* are encouraged to be arranged in varied clustered masses related closely to the road.
- h. Arches, porches, arcades, overhangs, full roofs, and varying facade setbacks are encouraged in *shopping centers*.
- i. The scale within a *shopping center* shall be consistent throughout the center. Where anchor or major tenants require larger building areas, the larger scale of these units shall be broken down into a scale comparable to the predominant unit in the *development*. The placement of anchor stores shall consider the overall balance of the center.

C. ALTERNATE DESIGN FOR DATA PROCESSING CENTERS*

Upon the affirmative recommendation of the Planning Director, applicants may present for approval to the Planning Commission an alternate design solution that varies from the standards set forth in Section 11.8, except for standards set forth in §11.8.B.5. *Floodplain*. Applicants must include a written narrative that explains how the proposed alternate design solution differs from the requirements and the reasons for the changes proposed.

SECTION 12 COMMERCIAL CRITICAL AREA

12.1 STATEMENT OF INTENT

The purpose of this district is to accommodate commercial and service activities that are not normally located in central business concentrations. These uses are primarily oriented to highway locations and include services and destination retail. Consequently, the district is located along major arterial highways. It is further intended that this District shall be for the purpose of limiting sprawling *development* by providing *sites* with adequate *frontage* and depth to permit controlled access to public *streets*. Because these uses are subject to public view, which is of concern to the whole community, they should provide an appropriate appearance, controlled traffic movement, ample landscaping, and protect adjacent properties from the traffic and visual impacts associated with the commercial activity. It is the intent that a Commercial *Critical Area* District shall have a minimum *frontage* of 150 feet on a single *primary road*. Whenever possible, *frontage* of the district shall not exceed depth.

12.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A *building* or land shall be used only for the following purposes, in all cases subject to *site plan* review by the *Planning Commission*, or where applicable the Planning Director.

1. *Agriculture*, excluding the raising of livestock and fowl, including horticulture, hydroponics, and truck farming, general farming, cultivation of field crops, and raising of orchards, groves, and nurseries.
2. Building material sales
3. Circus or carnival, midways and amusement parks, temporary, for a period of time not to exceed one week per year
4. *Hotels* and *motels*
5. Financial institutions
6. Mini storage facilities
7. Machinery and equipment sales, service, and rental
8. Motor vehicle sales, service, and rental
9. *Personal wireless facilities* collocated on existing towers, water towers, electrical transmission towers, fire towers, silos, *grain dryers*, or other *structures* provided the height of the existing *structure* is not above that permitted by this Ordinance.
10. Public uses, *buildings* and utilities. Public *buildings* and uses include, but are not limited to, schools, offices, parks, playgrounds but not major sports facilities, and *roads* funded, owned and operated by local, state, or federal agencies. *Public utilities* are water, sewer, electric, gas, oil, and communication facilities owned and operated by the Kent County Department of Water and Wastewater or other public utility. *Public utilities* include substations, poles, lines, transformers, pipes, meters, treatment facilities, pumping stations and appurtenances but not transmission towers. Power plants and the like are not permitted.

11. *Restaurants* without drive through facilities
12. Retail businesses, including *shopping centers*,* supplying on the *premises*, household goods, new automotive parts, agricultural supplies and commodities, sporting goods, and the like, including department, outlet and discount stores provided:
 - a. All retail sales and/or storage shall be conducted entirely within a *building* except where otherwise approved by the *Planning Commission*.
 - b. The *building* size does not exceed 60,000 square feet in size. The restriction on *building* size does not apply to the Commercial *Critical Area* District in the Route 301 corridor.

12.3 SPECIAL EXCEPTIONS

The following principal uses and *structures* may be permitted as special exceptions in the Commercial *Critical Area* District, subject to *site plan* review by the *Planning Commission*, or where applicable the Planning Director. Detailed limitations and standards for these uses shall be found in Article VII of this Ordinance.

1. Boat building and sales
2. *Cottage industries*, tradesmen and artisan shops
3. *Personal wireless facility tower*
4. Recreational facilities, privately or commercially owned, but not including major sports arenas for football, baseball, drag racing, motocross, or other major sports activities
5. *Single family dwellings*
- 5.5 *Solar energy systems, utility scale**
6. *Truck stops*
7. *Wind energy systems, small*, with a height that exceeds 80 feet*

12.4 ACCESSORY USES AND STRUCTURES

The following *accessory uses* and *structures* are permitted in the Commercial *Critical Area* District

1. Storage of office supplies or merchandise normally carried in stock in connection with a permitted office, business, or commercial use, subject to the applicable district *regulations*
2. *Accessory apartments*
3. *Accessory truck parking*
4. *Accessory uses* and *structures* normally associated with permitted uses.
5. *Appurtenant signs* in accordance with Article VI, Section 2 of this Ordinance.
6. *Solar energy systems, small*, provided:*
 - a. Tree removal shall be minimized and any removal shall be mitigated in accordance with the *Critical Area Program* requirements.
 - b. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.
 - c. The total height of solar collection systems shall comply with the height requirements.

7. Temporary *MET Tower* of any height provided: *
 - a. The tower is erected for no more than 12 months.
 - b. Any free standing *structure* is located a minimum of 3 times its total height from a property line.
 - c. Towers are not readily climbable from the ground up to 12 feet.

8. *Wind energy systems, small*, limited to one tower provided: *
 - a. The height of the *structure* to the tip of the blade at its highest point does not exceed 80 feet.
 - b. Any system is located a minimum of 3 times its total height from a property line.
 - c. Towers are not readily climbable from the ground up to 12 feet.
 - d. All access doors to towers and electrical equipment shall be lockable.
 - e. Appropriate warning signage is placed on the tower and electrical equipment.
 - f. The blade tip at its lowest point had a ground clearance of at least 25 feet.
 - g. Wind turbines and towers maintain a galvanized steel, brushed aluminum finish, or a non-garish color.
 - h. Any small wind energy system that is not operational for a period of 12 consecutive months or more shall be removed at the landowner's expense.

12.5 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS

| | |
|--------------------------------|--|
| Minimum <i>lot size</i> | NA |
| Minimum <i>frontage</i> | |
| - Public road | 100 feet |
| Minimum <i>yard</i> | |
| - <i>Front</i> | 50 feet |
| - <i>Side & Rear yard</i> | 50 feet with buffering from adjoining AZD, RCD, RC, RR, CAR, CR, V, IV, & IVCA 30 feet from CC, C, CCA, M, EC, I, ICA-LDA, & ICA which may be reduced to 0 if emergency and maintenance vehicle access are acceptably addressed and if the adjoining property is a compatible use |
| - Waterfront | Minimum 100-foot <i>buffer or modified buffer 1</i> |
| Height ² | |
| - Commercial <i>structure</i> | 45 feet |
| - Residential <i>structure</i> | 38 feet |
| - Fence ³ | |
| - Security | 8 feet |
| - Ornamental | |
| <i>Front and Side</i> | 4 feet |
| <i>Rear</i> | 8 feet |

¹ Modifications for structures existing prior to April 12, 1988 may be permitted as per Article V, Section 12.7.B.4.

² Except in an area defined as the Kent County *Airport Safety Area*, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

³ Fences do not need to meet yard requirements.

12.6 COMMERCIAL CRITICAL AREA GENERAL STANDARDS

1. The reuse of existing *buildings* is encouraged.
2. Public water and sewer systems may be required by the *Planning Commission* in a Commercial *Critical Area* District.
3. The Department of Planning and Zoning shall approve *street* names. A name may not be approved if it duplicates or is too similar to the name of another road in the county or incorporated towns.
4. *Signs* in the commercial area shall be permitted in accordance with the *regulations* contained in Article VI, Section 2 of this Ordinance.
5. Minimum *off-street parking* and *loading spaces* shall be required of each use in a Commercial *Critical Area* District in accordance with the *regulations* contained in Article VI, Section 1 of this Ordinance.

12.7 COMMERCIAL CRITICAL AREA ENVIRONMENTAL STANDARDS

The purpose of these standards is to provide for the proper stewardship of the County's natural resources. Specifically it is the overall goal of the county to maintain the quality of the County's *ecosystem* in the face of continuing activity, growth and change.

A. COMMERCIAL CRITICAL AREA GENERAL ENVIRONMENTAL STANDARDS

1. *Development* shall minimize *adverse impacts* to *non-tidal* or *tidal wetlands*, estuaries, the Chesapeake Bay, *tributary streams*, and the natural and *riparian habitat* of these streams, habitat protection areas, or other significant habitat identified by the Department of Planning and Zoning.
2. *Development* shall minimize the removal of *natural vegetation*. Protection of remaining vegetation and replacement of removed vegetation shall be required.
3. *Development* shall minimize the effects of runoff on the existing volume of water and quality of any water body. Urban *best management practices* shall be used.
4. Whenever possible, land subject to periodic flooding, shall not be developed for any use that might involve danger to health, life, or property or aggravate floods.
5. If practicable, permeable areas shall be established in vegetation.

B. COMMERCIAL CRITICAL AREA SPECIFIC ENVIRONMENTAL STANDARDS

1. *Agriculture*

No new agricultural land shall be created by:

- a. Draining, filling, or diking any *palustrine wetlands* which have a *seasonally flooded or wetter water regime* unless the impact is mitigated.
- b. *Clearing of forest* or woodland on *soils* with a *slope* greater than 15% or on *soils* with a *K Value* greater than 0.35 and a *slope* greater than 5%.
- c. *Clearing of existing natural vegetation* within the *buffer*.
- d. *Clearing of forest* if the *clearing* will affect water quality or habitat protection areas as designated in Article VI, Section 3.8 of this Ordinance.

2. *Anadromous fish*

- a. Concrete riprap or other artificial surface shall not be installed on the bottom of natural streams unless it can be demonstrated that water quality and fishery habitat will be improved.
- b. Physical alteration of a stream, including but not limited to channelization, that interferes with the movement of fish shall be prohibited
- c. The construction or placement of dams or other *structures* that would interfere with or prevent the movement of spawning fish or larval forms in streams shall be prohibited. Where practical, the removal of existing barriers is encouraged.
- d. Construction, repair or maintenance activities associated with bridges or other stream crossings or with utilities and roads which require disturbance to the *buffer*, or which occur in stream shall be prohibited between March 1 and May 15.

3. *Buffer*

a. *Development in the Buffer*

- i. New *development activities*, including *structures, roads, parking areas, and other impervious surfaces*, mining, and related activities, or septic systems shall not be permitted within the minimum 100-foot *buffer*. This restriction does not apply to water-dependent facilities that meet the criteria set forth below.
- ii. New or expanded *development activities* may be permitted in the minimum 100-foot *buffer*, provided:
 - a) The use is water dependent;
 - b) The project meets a recognized private right or public need;
 - c) Adverse effects on water quality and fish, plant, and *wildlife habitat* are minimized; and
 - d) In so far as possible, non-water dependent *structures* or operations associated with water-dependent projects or activities are located outside the minimum 100-foot *buffer*.
- iii. Where agricultural uses of lands within the buffer cease and the lands are proposed to be converted to other uses, the buffer shall be established. In establishing the buffer, management measures shall be undertaken to provide forest vegetation that achieves the buffer functions as defined in Article XI of this Ordinance.
- iv. Water-dependent research facilities or activities operated by State, Federal, local agencies or education facilities may be permitted in the *buffer* if non-water dependent *structures* or facilities associated with these projects are located outside the *buffer*.
- v. Commercial water-dependent fisheries facilities including, but not limited to, *structures* for crab shedding, fish off-loading docks, shellfish culture operations,

and shore based facilities for *aquaculture* operations, and *fisheries activities* may be permitted in the *buffer*.

- b. Vegetation Protection within the *Buffer*
 - i. *Natural vegetation* within the *buffer* shall be preserved and protected unless one of the following apply:
 - a) An approved *forest* harvesting plan is followed.
 - b) Individual trees may be cut for personal use provided this cutting does not impair the water quality or existing habitat value or other functions of the *buffer*. Trees shall be replaced on an equal basis for each *tree* cut.
 - c) Trees which are leaning over the water may be cut, but their stumps and roots shall not be disturbed.
 - d) The disturbance provides access for water-dependent facilities or shore *erosion* protection *structures*.
 - e) Landowners may treat trees and shrubs to maintain or improve their health.
 - ii. Vegetation in the *buffer* removed for the reasons listed above shall be reestablished over the entire disturbed area during the next planting season. These plantings shall be approved by the Department of Planning and Zoning. In addition, Article VI, Section 9 of this Ordinance shall be followed exactly.
 - iii. *Natural vegetation* removed for an approved purpose shall be in accordance with an approved *buffer* management plan.
- c. Stream Protection
 - Development activities* that must cross or affect streams shall be designed to:
 - i. Reduce increases in flood frequency and severity that are attributable to development.
 - ii. Retain tree canopy so as to maintain stream water temperature within normal variation.
 - iii. Provide a natural substrate for stream beds.
 - iv. Minimize adverse water quality and quantity impacts of *stormwater*.

4. *Modified Buffer*

- a. *Development* in the *Modified Buffer*.
 - i. No new *development* shall encroach within 25 feet of mean high tide or 25 feet of the edge of a *tidal wetland*. Expansion to the side or rear but not closer to the water may be permitted as long as the expansion is designed and located to maximize the distance from the shoreline or to enhance or protect the environmentally sensitive features on the *site*.
 - ii. An area of existing *impervious surface on-site* equal to or greater than the area of new *development* shall be removed and revegetated, or
 - iii. A *forest buffer* will be planted *on-site* equal to three times the amount of newly developed *impervious surface* within the minimum 100-foot *buffer* (equal areas to be planted for other disturbance outside of the minimum 100-foot *buffer*); if there is not enough available space on the *lot* to create a *buffer*, the property owner must plant the required amounts *on-site* outside the *buffer*, *off-site*, or must pay a fee-in-lieu.
- b. Vegetative Protection within the *Modified Buffer*
 - Natural vegetation* within the *modified buffer* shall be preserved and protected unless one of the following apply:
 - i. An approved *forest* harvesting plan is followed.

- ii. Individual trees may be cut for personal use provided this cutting does not impair the water quality or existing habitat value or other functions of the *buffer*. Trees shall be replaced on an equal basis for each *tree* cut.
- iii. Trees which are leaning over the water may be cut, but their stumps and roots shall not be disturbed.
- iv. The disturbance provides access for water-dependent facilities or shore *erosion* protection *structures*.
- v. Landowners may treat trees and shrubs to maintain or improve their health.

5. *Forest*

- a. A forestry management plan prepared by a registered forester and approved by the Maryland Department of Natural Resources shall be required when developing forested lands.
- b. *Forest* shall be replaced on an acre by acre basis, but no more than 20% of any *forest* or *developed woodlands* shall be removed unless by prior agreement with the *Planning Commission*, the *developer* agrees to afforest on the following basis: a *developer* may clear or develop more *forest* than otherwise may be permitted if the total *forest* removed is not increased by more than 50% of the area permitted to be disturbed provided that the afforested area consists of 1.5 times the total surface acreage of the disturbed *forest* or *developed woodlands* or both. For example, in a 100 acre woodland, up to 30 acres may be cleared if the *developer* agrees to afforest (not necessarily on his own property) 45 acres of currently unforested land.
- c. Replacement trees shall be of a species similar to that which was removed or a species appropriate to the replanting *site*.
- d. *Forest* or *developed woodlands* that remain after an approved removal shall be maintained through recorded restrictive covenants, *easements*, or similar instruments.
- e. *Forest* cleared prior to obtaining a *grading* permit or that exceeds the maximum area allowed shall be replanted at three times the acreage of the cleared *forest*.
- f. If the acreage of the *site* limits the application of *reforestation* requirements *forest* may be created on other lands in the *Critical Area* including County lands, or a fee in an amount determined by the Maryland Department of Natural Resources to be the equivalent to the value of the required *forest* may be paid to the County Commissioners of Kent County. These funds shall be placed in a dedicated fund used to ensure the restoration or establishment of an equivalent *forest* area, in the *Critical Area* or riparian areas.
- g. After *development*, the *site* shall be planted to provide a *forest* or *developed woodlands* cover of at least 15%.

6. *Forest Interior Dwelling Birds*

- a. Existing riparian *forest* of 300 x 300 feet or more and *forest* areas used by *forest interior dwelling birds* and other wildlife species shall be managed according to the guidelines developed by the Maryland Department of Natural Resources and the Chesapeake Bay Critical Area Commission.
- b. A *site* survey for *forest interior dwelling birds* shall be conducted prior to any *development* or agricultural expansion on deciduous *forest* of at least 50 acres or 300 x 300 foot riparian deciduous *forest*. A *site* survey for *forest interior dwelling birds* may be waived by the Planning Director provided the *forest* is managed for all *forest interior dwelling bird* species. Cutting and building shall be restricted to safe times (not during nesting - see Article V, Section 3.9 of this Ordinance).

7. Habitat

- a. All roads, bridges, and utilities that must cross a Habitat Protection Area shall be located, designed, constructed, and maintained so as to provide maximum erosion protection and minimize negative impacts to wildlife, aquatic life and their habitats and maintain hydrologic processing and water quality. Roads, bridges, or utilities shall not be located in any Habitat Protection Area, unless no feasible alternative exists.
- b. During and after development in forested areas, corridors of existing forest or woodland vegetation shall be maintained to provide effective connections between wildlife habitat areas.
- c. New water-dependent facilities shall be located so as to prevent disturbance to sites of significance to wildlife such as historic aquatic staging and concentration areas for waterfowl, shellfish beds, finfish nursery areas, habitat protection areas, and submerged aquatic vegetation beds.

8. Impervious Surfaces

Man caused impervious surfaces shall not exceed 15% of the site except at otherwise stated below.

- a. Man caused impervious surfaces on parcels greater than 36,301 square feet shall be limited to 15% of the property. This section does not apply to mobile home parks in residential use on or before December 1, 1985.
- b. Man caused impervious surfaces on parcels that are 21,781 to 36,300 square feet and existed on or before December 1, 1985 shall be limited to 5,445 square feet provided:
 - i. New impervious surfaces on the property have been minimized.
 - ii. Water quality impacts associated with runoff from new impervious surfaces have been minimized through site design or use of best management practices.
 - iii. The property owner performs on-site mitigation as may be required by the Planning Director or designated representative to offset potential adverse water quality impacts from the new impervious surfaces or the property owner pays a fee in lieu of performing the mitigation.
- c. Man caused impervious surfaces on parcels that are 8,001 to 21,780 square feet and existed on or before December 1, 1985 shall be limited to 31.25% of the property provided:
 - i. New impervious surfaces on the property have been minimized.
 - ii. Water quality impacts associated with runoff from new impervious surfaces have been minimized through site design or use of best management practices.
 - iii. The property owner performs on-site mitigation as may be required by the Planning Director or designated representative to offset potential adverse water quality impacts from the new impervious surfaces or the property owner pays a fee in lieu of performing the mitigation.
- d. Man caused impervious surfaces on parcels that are less than 8,000 square feet and existed on or before December 1, 1985 shall be limited to 25% of the property plus 500 square feet provided:
 - i. New impervious surfaces on the property have been minimized.
 - ii. Water quality impacts associated with runoff from new impervious surfaces have been minimized through site design or use of best management practices.
 - iii. The property owner performs on-site mitigation as may be required by the Planning Director or designated representative to offset potential adverse water quality impacts from the new impervious surfaces or the property owner pays a fee in lieu of performing the mitigation.

- e. Man caused *impervious surfaces* shall not exceed 25% of an individual *lot* of one acre or less which is part of a *subdivision* approved after December 1, 1985. However, the total of the *impervious surfaces* over the entire *subdivision* shall not exceed 15%.
 - f. Properties granted growth allocation in accordance with the Kent County Growth Allocation Policy may be exempt from the 15% lot coverage requirement.*
9. *Natural heritage areas* and locations considered for areas of Critical State Concern
These areas of local significance shall be preserved whenever possible in accordance with the recommendations of the Department of Natural Resources. These areas are identified in Article VI, Section 3.8 of this Ordinance.
10. *Non-tidal wetlands*
Non-tidal wetlands shall be protected according to the *regulations* of the State of Maryland, Army Corps of Engineers, United States Fish and Wildlife Service, Environmental Protection Agency and all other applicable State and Federal *regulations*.
11. *Slopes*
Development on *slopes* greater than 15%, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the land.
12. *Stormwater Management*
No *person* shall develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater management* measures that control or manage runoff from such developments except as provided in Article VI, Section 10 of this Ordinance. *Stormwater Management* shall be accomplished for all new *development* or *redevelopment* in accordance with the provisions of Article VI, Section 10 of this Ordinance.
13. Threatened and Endangered Species and Species in Need of Conservation
- a. Any *development* shall include a statement on the type and location of any threatened or *endangered species* or *species in need of conservation* on the property, and any recommendation for maintaining and protecting that habitat from the Department of Natural Resources.
 - b. Threatened or *endangered species* and *species in need of conservation* shall be checked and noted by the *developer* before any approvals can be granted by the Planning Director, *Planning Commission*, or Zoning Administrator.
 - c. The Federal or State guidelines (whichever is stricter) for habitat protection shall be followed during *development*. Plans shall include provisions for the continuance of the habitat protection after *development*. This can include *conservation easements*, cooperative agreements, special provisions in *forest management* and *soil* conservation plans, and donation to a third party.
14. Timber Harvest
- a. *Forest management plans* shall be required for all timber harvests occurring within any one-year interval and which affect one or more acres in *forest* and *developed woodlands* in the *Critical Area*. The plans shall be prepared by a registered professional forester and be reviewed and approved by the Maryland Forest, Park and Wildlife Service through the District Forestry Boards and the project forester. Plans shall be filed with the Department of Planning and Zoning. Plans shall include measures to protect surface and ground water quality and identify whether the activities will disturb or affect Habitat Protection Areas as set forth in the this Ordinance or identified on the Habitat Protection Areas Map.

- b. Plans shall include protective measures for Habitat Protection Areas and shall provide for the continuity of habitat. The plans shall address mitigation through *forest management* techniques which include scheduling size, timing, and intensity of harvest cuts, *afforestation*, and *reforestation*.
- c. The cutting and *clearing* of trees within the minimum 100-foot *buffer* are permitted provided that:
 - i. Existing riparian forests of 300 x 300 feet or more and *forest* areas used by *forest interior dwelling birds* and other wildlife species shall be managed according to the guidelines developed by the Maryland Department of Natural Resources.
 - ii. When timber harvesting is being considered, a *site* survey for *forest interior dwelling birds* shall be done. Cutting and building shall be restricted to safe times (not during nesting – See Article VI, Section 3.9 of this Ordinance).
 - iii. During timber harvest, corridors of existing *forest* or woodland vegetation shall be maintained to provide effective connections between *wildlife habitat* areas.
 - iv. Commercial harvesting by *selection* or by *clear-cutting* of Loblolly Pine and Tulip Poplar may be permitted to within 50 feet of the landward edge of the *mean high water line* of tidal water and *perennial tributary streams* or the edge of the *tidal wetlands* provided that the cutting does not occur in the Habitat Protection Areas and that cutting is conducted pursuant to the requirements of the sediment control and *non-tidal wetlands* requirements of this Ordinance and in conformance with a *buffer* management plan prepared by a registered forester and approved by the Department of Natural Resources. The plan shall be required for all commercial harvests within the minimum 100-foot *buffer* regardless of the size of the area to be cut and shall contain the following minimum requirements:
 - a) That disturbance to the stream banks and shorelines shall be avoided;
 - b) That the area disturbed or cut shall be replanted, or allowed to regenerate in a manner that assures the availability of cover and breeding *sites* for wildlife, and reestablishes the *wildlife corridor* function of the *buffer*; and
 - c) That the cutting does not involve the creation of logging *roads* and skid trails within the minimum 100-foot *buffer*.
 - v. Commercial harvesting of trees by any method may be permitted to the edge of *intermittent streams* if the cutting and removal is done in accord with a *Buffer Management Plan* approved by the Department of Natural Resources, Bay Watershed Forester.

15. Water Quality

All new *development* or *redevelopment* shall reduce pollutant loading from the *site* and shall comply with the *stormwater management* qualitative control measures found in Article VI, Section 10 of this Ordinance.

16. Wildlife Corridors

Developments shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with offsite habitats. Plans shall include provisions for the continuance and maintenance of the wildlife corridors. This can include *conservation easements*, cooperative agreements, special provisions in forest management and soil conservation plans, and donation to a third party.

12.8 COMMERCIAL CRITICAL AREA DESIGN STANDARDS

The purpose of these standards is to give a sense of the physical aspects of the County's environment to those contemplating new *development* in the community. Pertinent to this physical appearance is the design of the *site*, *buildings* and *structures*, plantings, *signs*, *street* hardware, and miscellaneous other objects observed by the public.

These standards are not intended to restrict imagination, innovation, or variety, but rather assist in focusing on design principles which can produce creative solutions that will develop a satisfactory visual appearance within the County, preserve taxable values, and promote the public health, safety, and welfare.

A. COMMERCIAL CRITICAL AREA GENERAL DESIGN STANDARDS

1. The landscape shall be preserved in its natural state, in so far as possible, by minimizing *tree* and *soil* removal. Any grade changes shall be in keeping with the general appearance of neighboring development areas. *Buildings* are encouraged to be located so as to maintain maximum natural *topography* and cover. Whenever possible, *development* shall be located outside of the *floodplain*.
2. *Streets* shall be designed and located in a manner so as to maintain and preserve natural *topography*, cover, significant landmarks and trees; to minimize *cut* and *fill*; and to preserve and enhance views and vistas on and off the subject parcel.
3. Proposed *development* shall be related harmoniously to the terrain and to the use and scale of existing *buildings* in the vicinity that have functional or visual relationships to the proposed *buildings*. *Development* shall be designed to provide safe, comfortable places where people can visit, meet, shop, and rest without conflicting with other *street* uses.
4. All *open space* (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the *site* or overlooking it from nearby properties.
5. Whenever possible, adverse effects on historic, traditional, or significant uses and *structures* shall be minimized, whether these exist on the *site* or on adjacent properties.
6. Varied building massing is encouraged to enhance the community's sense of place.
7. Commercial establishments, offices, and financial institutions emphasize personal service as their primary products. These *structures* should reflect personal service by their architectural design which is at a human scale at entries and interior spaces. Building components such as windows, wood doors, and decorative trim should emphasize the human scale in coordination with each other and the building scale.
8. Each unit of *development*, and the total *development*, shall create an environment of desirability and stability. Commercial establishments are encouraged to limit the visual impression of height by the use of roof treatments, and varying the plane of exterior walls.
9. Parking lot design shall reflect the fact that once people step out their cars, they become pedestrians. Parking lots shall be designed not only to facilitate efficient vehicle circulation but to also permit smooth pedestrian circulation.

10. Provision for safe and efficient bicycle circulation and parking should be included in the overall design of the parking lot.

11. Whenever possible, display areas should be incorporated into the overall design of the *site*. Display areas shall not be in the *front yard setback*.

B. COMMERCIAL CRITICAL AREA SPECIFIC DESIGN STANDARDS

1. *Site Access*

Site access shall be subject to the following *regulations* to help ensure vehicle and pedestrian safety and alleviate congestion:

- a. Where property abuts a *primary, secondary, or collector road*, access shall be by way of the *secondary or collector road*. Exceptions to this rule shall be instances where the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.
- b. Where one or more contiguous parcels abutting a *primary road* are under single ownership and any one of the parcels abuts a *secondary road or collector road*, access to all of the parcels of the parcels under single ownership shall be by way of the *secondary or collector road*. Exceptions to this rule shall be instances when the *Planning Commission*, or where applicable the Planning Director, determines that direct access onto the *primary road* would promote traffic safety.
- c. Only one direct access approach onto a *primary road* from an individual parcel of record as of August 1, 1989 shall be permitted unless the *Planning Commission*, or where applicable the Planning Director, finds one of the following:
 - i. The *Planning Commission* may, with approval of the State Highway Administration or Kent County Public Works Department, approve additional access if the additional access is deemed to be significantly beneficial to the safety and operation of the highway or if allowing only one access approach would be a safety hazard or increase traffic congestion.
 - ii. The *Planning Commission* may approve access when the parcel is bisected by *steep slopes, bodies of water, or other topographic features* in such a manner as to render some portion of the property inaccessible without additional road access.
- d. Where a proposed road is designated on an approved County or State map, *site plans* for *development* adjacent to the designated *roadway* shall include provisions for future access to the *roadway*.
- e. Existing, planned, or platted *streets* on adjacent properties shall be continued when the *Planning Commission*, or where applicable the Planning Director, determines that the continuation is necessary for safe and reasonable circulation between the properties.
- f. When deemed necessary by the *Planning Commission*, or where applicable the Planning Director, developments shall provide access to adjacent tracts not presently developed.
- g. Pedestrian and bicycle linkages to adjacent developments shall be provided whenever possible.
- h. Access shall be consolidated whenever possible.
- i. Whenever possible, *roads* shall be constructed above the elevation of the *100-year floodplain*.
- j. The applicant shall demonstrate that access to the project is adequate and the roads which will be impacted have the capacity to handle the traffic generated by the proposed project and will not endanger the safety of the general public.*

2. **Parking Areas**
 - a. Parking lots shall be located as much as possible to the rear of *buildings*. Locating parking lots in the *front yard setback* is specifically prohibited.
 - b. *Sites* shall be designed to prevent awkward or dangerous vehicular flow.
 - c. Driveways in parking lots must be a minimum of 20 feet wide for two-way traffic and 15 feet wide for one-way traffic.
 - d. A minimum of one handicap parking space shall be provided for every 25 spaces in a safe, convenient, and centralized location.
 - e. Whenever possible, parking lot design shall provide for connection to adjacent parcels where uses are compatible.
 - f. Marked walkways, separated from vehicular traffic shall be provided to the entrance of establishments. Parking areas with 80 spaces or more shall provide walkways running parallel to the parking rows every four rows and walkways running perpendicular to the parking rows every 20 spaces. Display areas approved by the *Planning Commission*, or where applicable the Planning Director shall not be included in the tabulation of parking spaces. The *Planning Commission* may waive this requirement.
 - g. Landscaping shall be provided according to the provisions in this Ordinance.

3. **Delivery Trucks and Trash Collection Vehicles**
 - a. *Loading and unloading spaces* for delivery trucks shall not block major pedestrian ways or create blind spots when trucks are loading and unloading.
 - b. Trash boxes shall be accessible to collection trucks when all vehicle parking spaces are filled.

4. **Floodplain**
 - a. In order to prevent excessive *flood* damage and to allow for the protection of the natural and beneficial *floodplain* functions, all *development, new construction, and substantial improvements* to existing *structures* in all *floodplain* zones shall comply with the requirements of Article VI, Section 7 of this Ordinance, including but not limited to the following:
 - i. Elevation of all new or substantially improved *structures*;
 - ii. Compliance with venting and other construction standards; and
 - iii. Submission and recordation, where applicable, of *Elevation Certificates, Declaration of Land Restrictions*, deed restrictions, and venting affidavits.*
 - b. Placement of *buildings* and materials. In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection setback, or on land that is least susceptible to flooding. All *structures* permitted in the *floodplain* shall be oriented so as to offer the least resistance to the flow of floodwaters.
 - c. General *development* shall not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the applicant shall demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized.

5. **Landscaping - General**
 - a. A minimum area of 15% of each new or redeveloped *site* shall be landscaped. Landscaping within the parking areas and screening may be counted toward this requirement.
 - b. The *front yard* shall be landscaped and maintained in a neat and attractive condition.
 - c. Landscaping shall be maintained in a good condition with at least the same quality and quantity as initially approved.

- d. The *landscape plan* shall be prepared by a registered professional forester, landscape architect, or other professional with equivalent experience and qualifications.
 - e. The *Planning Commission*, or where applicable the Planning Director, may reduce or waive the landscape requirement when it is demonstrated that the spirit and intent of the requirement are accomplished through other means or the nature of the change does not require additional landscaping.
6. Parking Area Landscaping
- a. At least 10% of all parking areas where more than ten parking spaces are provided shall be landscaped. Perimeter screening does not count toward parking area landscaping. This may be waived by the *Planning Commission* or where applicable the Planning Director.
 - b. To avoid large expanses of paved parking areas in parking areas of 80 spaces or more, the following provisions, which may be waived by the *Planning Commission*, or where applicable the Planning Director, shall apply:
 - i. A row shall not contain more than twelve 12 spaces without a landscaped *island* of at least the size of one parking space.
 - ii. The ends of parking rows shall contain an *island* a minimum of six feet wide adequately landscaped with shade trees, ground cover, and shrubs.
 - iii. Double rows of parking shall be separated by a minimum six-foot planting strip adequately landscaped with shade trees and shrubs.
7. Perimeter Landscaping and Screening
- a. Screening is required to protect adjoining properties and *roadways* from noise, glare, and uses which are visually incompatible with neighboring land uses. Screening is required:
 - i. On *sites* which involve loading or unloading (including the storage of vehicles and boats), trash, or disposal areas and where accessory *buildings* and *structures* are adjacent to residential properties.
 - ii. Where exterior storage areas are visible from *roadways*, sidewalks, or nearby residential properties.
 - iii. When noise not typically occurring in residential areas is expected to project onto nearby properties.
 - iv. To *screen* parking areas, but not approved display areas, from motorists, pedestrians, and adjoining residential properties.
 - v. Where the commercial *site* abuts a residential district.
 - b. Landscaped screens shall be designed to complement other landscaping occurring naturally on the *site*, planted previously, or approved as a part of a *site plan* review. Whenever possible, existing vegetation and landform shall be used to create screens.
 - c. The *screen* shall be capable of providing year round screening.
 - d. When noise is likely to be a factor, the *screen* shall be of sufficient construction to be an effective noise buffer.
 - e. Screening shall consist of trees and plants, and may include masonry, or wooden fencing used with or without *berms*. Screening shall consist of a functional and well-designed combination of the following:
 - i. Vegetative ground cover
 - ii. Coniferous and deciduous shrubs
 - a) Specimens of which will reach and maintain a minimum height of 5 feet of full vegetative growth.
 - b) Plants which measure a minimum of 3 feet in height at the time of planting and are expected to attain a 5-foot height within 3 years.

- iii. Coniferous and deciduous trees
Species and sizes of which will be chosen to best accomplish an adequate *screen* (i.e. evergreens used for visual screening, deciduous trees for seasonal screening).
 - f. Natural *slopes* and existing vegetation may be substituted for some or all of the requirements above, provided that these features serve to *screen* the area from adjoining properties and *roadways*. The *Planning Commission*, or where applicable the Planning Director, shall determine the acceptability of using existing *slopes* and vegetation for this purpose. The *Planning Commission*, or where applicable the Planning Director, may waive screening where it is physically impossible to accomplish.
 - g. Screening and fencing shall be maintained in at least the same quality and quantity as initially approved.
- 8. Lighting
 - a. Lighting shall be designed at the human scale and shall not exceed eighteen feet in height. This does not apply to lighting mounted on *buildings*. The *Planning Commission*, or where applicable the Planning Director, may waive the height limitation.
 - b. Lighting on the *site* shall be designed to avoid glare onto adjacent properties and adjacent *roadways* and shall not interfere with traffic or create a safety hazard.
 - c. Lighting on the *site* shall be sufficient to provide for the safety and security of the business, its employees, and its customers.
 - d. Lighting shall be color corrected.
- 9. *Subdivision*
 - a. All reasonable efforts should be made to protect adjacent residential areas from potential nuisances from the commercial *subdivision* by providing adequate depth in parcels adjacent to residential zoning.
 - b. Proposed *street* layout, blocks, and parcels shall be suitable in area and dimension for the type of *development* anticipated.
 - c. The total area shall be sufficient to provide adequate space for *off-street parking*, loading, landscaping, and other facilities.
 - d. The *lot* arrangement, design, and orientation shall be such that all lots will provide satisfactory building *sites*, properly related to *topography* and the character of surrounding *development*.
 - e. Every *lot* shall abut upon and have access to a public road or approved *private road*.
 - f. Lots adjoining *major thoroughfares* and railroad lines should be designed with extra depth and provision for an appropriate means of buffer or deeper building setbacks.
 - g. Where land in a *subdivision* adjoins a railroad line, the *street* layout shall make allowance for future grade separated railroad crossings at appropriate locations by providing extra *street right of way* widths for such crossings and by restricting intersecting *streets* at locations where they would cause interference with necessary approaches to such crossings.
 - h. Proposed *streets* in the *subdivision* shall provide for the continuation of existing, planned, or platted *streets* on adjacent tracts, unless such continuation shall be prevented by *topography* or other physical feature or unless such extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent *tract*.
 - i. Where the *Planning Commission* deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed *streets* in the *subdivision* shall be extended to the boundary lines with such tracts.

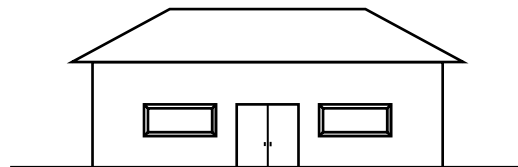
- j. Where the *subdivision* adjoins or embraces any part of a *major thoroughfare* as designated on the Kent County Major Thoroughfare Map, the layout of such *subdivision* shall provide for the platting and dedication of such part of the *major thoroughfare* in the location and at the width indicated on the *major thoroughfare* plan, except that the *subdivider* shall not be required to dedicate that part of such *major thoroughfare* that is in excess of eighty (80) feet in width.
- k. Where deemed desirable to the layout of the *subdivision* and adjoining area, the *Planning Commission* may require the platting and dedication of one or more *collector streets* or parts thereof, to serve the *subdivision*.
- l. Subdivisions shall be in full compliance with the provisions of this Ordinance.
- m. *Private roads* are permitted in minor subdivisions and are subject to the following conditions:
 - i. Each road shall serve no more than seven parcels. In the event that an eighth parcel is created, the eighth parcel and all further divisions of land shall front on a public road.*
 - ii. The *subdivision* shall provide a 50-foot *right of way* for each *private road*.
 - iii. The construction of all lanes and *private roads* shall adhere to the requirements established by the Kent County Department of Public Works and sediment control and *stormwater management regulations*.
 - iv. The deed and contract of sale of all lots in the *subdivision* shall state: “The road is private and not the responsibility of Kent County.”
 - v. The plat shall identify all *private roads* and shall state: “The road is private and not the responsibility of Kent County.”

10. Building Mass, Size, and Scale

- a. New *buildings* should not create large, bulky, masses but should be scaled down to into groupings of smaller attached *structures* and modules that reflect proportions similar to historic *buildings*. Methods used to create intervals that reflect and respect historic *structures* include but are not limited to the following:
 - i. Facade modulation - stepping back or extending forward a portion of the facade.
 - ii. Repeating window patterns at established intervals.
 - iii. Providing a balcony or bay window at established intervals.
 - iv. Changing the roofline by alternating dormers, stepped roofs, gables, or other roof elements.
 - v. Use of landscaping and architectural detailing at the ground level.



Structure 1, Utilizes building massing



Structure 2, Does not utilize building massing

The above structures are the same height and width and are drawn to the same scale.

- b. Building designs shall be encouraged to utilize traditional materials (brick or wood) and contemporary interpretations of earlier styles.
- c. The design of new *buildings*, building additions, and *alterations*, and facade renovations should reflect the positive aspects of the existing design features of the County. *Buildings* should complement and improve the overall environment of the area.

- d. The proposed building orientation shall respect the orientation and scale of surrounding *buildings* and where deemed necessary by the *Planning Commission* serve as an orderly transition to a different scale.
- e. All rooftop equipment shall be screened from public view by screening material of the same nature as the building's basic building materials.
- f. *Buildings* in *shopping centers* are encouraged to be arranged in varied clustered masses related closely to the road.
- g. Arches, porches, arcades, overhangs, full roofs, and varying facade setbacks are encouraged in *shopping centers*.
- h. The scale within a *shopping center* shall be consistent throughout the center. Where anchor or major tenants require larger building areas, the larger scale of these units shall be broken down into comparable to the predominant unit in the *development*. The placement of anchor stores shall consider the overall balance of the center.

SECTION 13. MARINE DISTRICT

13.1 STATEMENT OF INTENT

The purpose of this district is to provide for full service *marinas*, including out-of-water boat storage, repair, and other services normally associated with *marinas*. Marine industrial uses, including boat building, are permitted in appropriate locations subject to applicable sanitation and pollution laws and ordinances. *Retrofitting of stormwater management* is encouraged and standards are provided to improve the quality of runoff that enters the Chesapeake Bay and its tributaries. The Marine District is intended to:

- Improve the quality of runoff from developed areas that enters the Chesapeake Bay or its tributary streams.
- Accommodate additional mixed-use development provided that water quality is not impaired.
- Minimize the expansion of intensely developed areas into portions of the Critical Area designated as habitat protection areas and resource conservation areas.
- Conserve and enhance fish, wildlife, and plant habitats to the extent possible within intensely developed areas.
- Encourage the use of *retrofitting* measures to address existing *stormwater* management problems.

13.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A *building* or land shall be used only for the following purposes, in all cases subject to *site plan* review by the *Planning Commission* or where applicable the Planning Director.

1. Boat docks, piers and wharves, provided that they do not exceed 25% of the *waterway*, or the edge of the *channel*, whichever is less
2. Boat repair, in and out of water, located at least 100 feet from any residential district
3. Boat rental, sales, supplies, instruction, and other services customarily associated with a full service *marina*
4. Boat building, located at least 100 feet from any residential district
5. *Erosion* and *flood* control *structures*
6. *Restaurants* without drive through facilities
7. Out-of-water boat storage but not multi-level boat storage
8. *Marinas*
- 8.5 *Private destination/residence clubs*
 - a. The aggregate Marine zoned property shall consist of 4 or more acres.
 - b. The facilities for such overnight accommodations shall pay the appropriate county taxes, including taxes payable under Article III or Chapter 152 of the Code of Public Local Laws if Kent County.
 - c. The facilities for overnight accommodations shall use a reservation system.

- d. Permitted accessory uses may include clubhouse, restaurants, cafés or other dining facilities; bars, pubs or taverns; recreational facilities, such as tennis courts, swimming pools, and spas and other accessory uses that are customarily associated with a lodging facility. The permitted accessory uses shall not include trap, skeet, clay birds, paint ball, or other similar firearm activities. The applicant shall describe all proposed accessory uses in the application for site plan. Recreational facilities shall be at least twenty-five (25) feet from the nearest property line.
- e. Where they exist, listed *historic structures* shall be incorporated into the overall project.
- f. Significant view corridors, both from the site and onto the site, shall be preserved as far as possible.
- g. The height of all *structures* shall not exceed thirty-eight (38) feet.
- h. Parking lots shall be landscaped as required for commercial developments in Article V, Section 11 of this Ordinance.
- i. The approval of a facility for overnight accommodations shall not impose restrictions that will preclude the use of the marina and property for commercial marine uses permitted in the Marine Zoning District, including boat building, storage, and repair; however, the continuation of these uses shall not be required. The maintenance and continuation of boat slips will be required.
- j. The County may require connection to a public sewer system, if and when such system is available.
- k. Campgrounds, mobile homes, *recreational vehicle* and manufactured home parks shall not be considered private destination or residence clubs.

9. *Public landings*

10. *Public utility lines and accessory structures* provided:

- a. The *structures* are screened from the road and adjacent properties.
- b. In so far as possible, *structures* are located to maintain significant views.
- c. In so far as possible, *structures* are not visually intrusive to the neighborhood.

11. Existing *conference centers, resorts, retreats, hotels, and motels* in the Marine District. It is the intent of this section to provide for the continued existence and operation as well as the expansion of existing *conference centers, resorts, retreats, hotels, and motels* in the Marine District. It is not the intent to permit the creation of new *conference centers, resorts, retreats, hotels, or motels*, but rather to protect those enterprises that existed in the Marine District on August 1, 1989. An expansion shall require *site plan* review by the *Planning Commission* and shall require a net improvement in water quality at or leaving the *site*. An expansion may require growth allocation.

13.3 SPECIAL EXCEPTIONS

The following principal uses and *structures* may be permitted as special exceptions in the Marine District, subject to *site plan* review by the *Planning Commission* or where applicable the Planning Director. Detailed limitations and standards for these uses may be found in Article VII of this Ordinance.

- 1. Adaptive reuse of historic *structures*
- 2. *Airport*, landing field, heliport, or helistop, public or private
- 3. *Country inn*
- 4. Dredge spoil *site*
- 5. Dormitories for employees
- 6. Multi-level boat storage, excluding dinghy storage
- 7. *Private clubs*

8. Pubs, taverns, and bars, including open air facilities
9. Seafood processing, including wholesale and retail sales

13.4 ACCESSORY USES AND STRUCTURES

The following *accessory uses* and *structures* are permitted in the Marine District.

1. Appurtenant *signs* in accordance with Article VI, Section 2 of this Ordinance
2. Bath houses, pump out *structures*, and other *accessory structures* normally associated with permitted uses
3. Dwellings, limited to two, for persons permanently employed on the *premises*
4. Fuel storage and sale for marine purposes only
5. *Off-street parking* and loading, including the parking of commercial vehicles related to the operation of an *on-site* business
6. Recreational uses such as *swimming pools*, game courts, and other like recreational facilities located a minimum of 25 ft. from all property lines
7. Satellite dish with an antenna exceeding 3 feet in diameter provided:
 - a. No antenna shall exceed an overall diameter of 12 ft. or an overall height of 15 ft. above *existing grade*.
 - b. The antenna shall be permanently ground-mounted. An antenna shall not be installed on portable or moveable *structures*.
 - c. The antenna shall be totally screened along the non-receptive axis and low-level ornamental landscaping shall be installed along the reception window axis of the base of the antenna. Screening may consist of fencing or a variety of plant types. Screening may be waived when the antenna is located 100 ft. from all property lines or the antenna is of a nature that is not visible or intrusive to the neighborhood.
8. Satellite dish with an antenna 3 feet or less in diameter provided that the antenna is not installed on portable or movable *structures*
- 8.5 *Solar energy systems, small*, provided:
 - a. Tree removal shall be minimized and any removal shall be mitigated in accordance with the Critical Area Program requirements.
 - b. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.
 - c. The total height of solar collection systems shall comply with the height requirements.
9. Stores or shops for the conduct of retail sales including the sale of groceries, beverages, food, clothing, marine supplies, and similar shops and stores
10. Temporary *MET Tower* of any height provided:
 - a. The tower is erected for no more than 12 months.
 - b. Any free standing *structure* is located a minimum of 3 times its total height from a property line.
 - c. Towers are not readily climbable from the ground up to 12 feet.

11. *Wind energy systems, small, provided:**
- a. The height of the *structure* to the tip of the blade at its highest point does not exceed 80 feet.
 - b. Any system is located a minimum of 3 times its total height from a property line.
 - c. Towers are not readily climbable from the ground up to 12 feet.
 - d. All access doors to towers and electrical equipment shall be lockable.
 - e. Appropriate warning signage is placed on the tower and electrical equipment.
 - f. The blade tip at its lowest point had a ground clearance of at least 25 feet.
 - g. Wind turbines and towers maintain a galvanized steel, brushed aluminum finish, or a non-garish color.
 - h. Any small wind energy system that is not operational for a period of 12 consecutive months or more shall be removed at the landowner's expense.

13.5 DENSITY, HEIGHT, WIDTH, BULK AND FENCE REQUIREMENTS

| | |
|--|---|
| Gross <i>density</i> (dwelling units/acre) | 2 |
| Minimum <i>lot size</i> | ½ acre |
| Minimum <i>frontage</i> | |
| - Road | 100 feet |
| - Waterfront | 100 feet |
| Minimum <i>yard</i> | |
| - <i>Front</i> | 30 feet |
| - <i>Side</i> | |
| Adjacent to CC, CCA, M* | 8 feet |
| Adjacent to other districts | 25 feet |
| - <i>Rear</i> | |
| Adjacent to CC, CCA, M* | 10 feet |
| Adjacent to other districts | 25 feet |
| - Waterfront | Minimum 100-foot <i>buffer</i> or <i>modified buffer</i> ¹ |
| - <i>Shoreline cliff</i> | 1.5 x <i>cliff height</i> + 20 feet |
| - Minimum <i>pier</i> | |
| <i>Side yard</i> | 30 feet |
| - Accessory <i>Buildings</i> | |
| <i>Side</i> | 3 feet |
| <i>Rear</i> | 5 feet |
| Height | |
| - <i>Buildings</i> | 38 feet |
| - Covered <i>pier</i> ² | 38 feet |
| - Fence | |
| - Security | 8 feet |
| - Ornamental | |
| <i>Front & Side</i> | 4 feet |
| <i>Rear</i> | 8 feet |

¹ Modifications for structures existing prior to April 12, 1988 may be permitted as per Article V, Section 13.6.B.4.

² Height of covered *piers* shall be measured from Mean High Tide.

13.6 MARINE ENVIRONMENTAL STANDARDS

The purpose of these standards is to provide for the proper stewardship of the County's natural resources. Specifically it is the overall goal of the county to maintain the quality of the County's *ecosystem* in the face of continuing activity, growth and change.

A. MARINE GENERAL ENVIRONMENTAL STANDARDS

1. *Development* shall minimize *adverse impacts* to *non-tidal* or *tidal wetlands*, estuaries, the Chesapeake Bay, *tributary streams* and the natural course and *riparian habitat* of these streams, Habitat Protection Areas or other significant habitat as identified by the Department of Planning and Zoning.
2. *Development* shall minimize the removal of vegetation. Protection of remaining vegetation and replacement of removed vegetation shall be required. The *developer* shall demonstrate that the change in vegetation minimizes the effect on the microclimate.
3. *Development* shall minimize the effects of runoff on the existing volume and quality of any water body. Chemical and nutrient pollution shall be reduced or at least minimized. Urban *best management practices* shall be used.
4. Whenever possible, land with poor drainage or other adverse condition shall not be developed. When developed, the property owner shall agree to make any improvements necessary to render the property safe for *development*.
5. Whenever possible, land subject to periodic flooding shall not be developed for any use which might involve danger to health, life, or property or aggravate *flood* hazard.
6. If practicable, permeable areas shall be established in vegetation. *Native plants* are preferred.

B. MARINE SPECIFIC ENVIRONMENTAL STANDARDS

1. *Agriculture*
No new agricultural land shall be created by:
 - a. Draining, filling, or diking, any *palustrine wetlands* which have a *seasonally flooded* or *wetter water regime* unless the impact is mitigated.
 - b. *Clearing* of *forest* or woodland on *soils* with a *slope* greater than 15% or on *soils* with a *K Value* greater than 0.35 and *slope* greater than 5%.
 - c. *Clearing* of existing *natural vegetation* within the *buffer*.
 - d. *Clearing* of *forest* if the *clearing* will affect water quality or habitat protection areas as designated in Article VI, Section 3.8 of this Ordinance.
2. *Anadromous fish*
 - a. Concrete riprap or other artificial surface shall not be installed on the bottom of natural streams unless it can be demonstrated that water quality and fishery habitat will be improved.
 - b. Physical alteration of a stream, including but not limited to channelization, that interferes with the movement of fish shall be prohibited.
 - c. The construction or placement of dams or other *structures* that would interfere with or prevent the movement of spawning fish or larval forms in streams shall be prohibited. Where practical, the removal of existing barriers is encouraged.

- d. Construction, repair or maintenance activities associated with bridges or other stream crossings or with utilities and roads which require disturbance to the *buffer*, or which occur in stream shall be prohibited between March 1 and May 15.
3. *Buffer*
- a. *Development in the Buffer*
 - i. New *development activities*, including *structures*, *roads*, parking areas, and other *impervious surfaces*, mining, and related activities, or septic systems shall not be permitted within the minimum 100-foot *buffer*. This restriction does not apply to water-dependent facilities that meet the criteria set forth below.
 - ii. New or expanded *development activities* may be permitted in the minimum 100-foot *buffer*, provided
 - a) The use is water dependent.
 - b) The project meets a recognized private right or public need.
 - c) Adverse effects on water quality and fish, plant, or *wildlife habitats* are minimized.
 - d) In so far as possible, non-water dependent *structures* or operations associated with water-dependent projects or activities are located outside the minimum 100-foot *buffer*.
 - iii. Water-dependent research facilities or activities operated by State, Federal, local agencies or education facilities may be permitted in the *buffer* if non-water dependent *structures* or facilities associated with these projects are located outside the *buffer*.
 - iv. Commercial water-dependent fisheries facilities including, but not limited to, *structures* for crab shedding, fish off-loading docks, shellfish culture operations, and shore based facilities for *aquaculture* operations, and *fisheries activities* may be permitted in the *buffer*.
 - b. Vegetation protection within the *Buffer*
 - i. *Natural vegetation* within the *buffer* shall be preserved and protected unless one of the following apply:
 - a) An approved *forest* harvesting plan is followed.
 - b) Individual trees may be cut for personal use provided this cutting does not impair the water quality or existing habitat value or other functions of the *buffer*. Trees shall be replaced on an equal basis for each *tree* cut.
 - c) Trees which are leaning over the water may be cut, but their stumps and roots shall not be disturbed.
 - d) The disturbance provides access for water-dependent facilities or shore *erosion* protection *structures*.
 - e) Landowners may treat trees and shrubs to maintain or improve their health.
 - ii. Vegetation in the *buffer* removed for the reasons listed above shall be reestablished over the entire disturbed area during the next planting season. These plantings shall be approved by the Department of Planning and Zoning. In addition, Article VI, Section 9 of this Ordinance shall be followed exactly.
 - iii. *Natural vegetation* removed for an approved purpose shall be in accordance with an approved *buffer* management plan.
 - c. Stream Protection

Development activities that must cross or affect streams shall be designed to:

 - i. Reduce increases in flood frequency and severity that are attributable to development.

- ii. Retain tree canopy so as to maintain stream water temperature within normal variation.
- iii. Provide a natural substrate for stream beds.
- iv. Minimize adverse water quality and quantity impacts of *stormwater*.

4. *Modified Buffer*

a. *Development in the Modified Buffer*

- i. No new *development* shall encroach within 25 feet of mean high tide or 25 feet of the edge of a *tidal wetland*. Expansion to the side or rear but not to closer to the water may be permitted as long as the expansion is designed and located to maximize the distance from the shoreline or to enhance or protect the environmentally sensitive features on the *site*.
- ii. An area of existing *impervious surface on-site* equal to or greater than the area of new *development* shall be removed and revegetated, or
- iii. A *forest buffer* will be planted *on-site* equal to three times the amount of newly developed *impervious surface* within the minimum 100-foot *buffer* (equal areas to be planted for other disturbance outside of the minimum 100-foot *buffer*); if there is not enough available space on the *lot* to create a *buffer*, the property owner must plant the required amounts *on-site* outside the *buffer*, *off-site*, or must pay a fee-in-lieu.

b. *Vegetative Protection within the Modified Buffer*

Natural vegetation within the *modified buffer* shall be preserved and protected unless one of the following apply:

- i. Individual trees may be cut for personal use provided this cutting does not impair the water quality or existing habitat value or other functions of the *buffer*. Trees shall be replaced on an equal basis for each *tree* cut.
- ii. Trees which are leaning over the water may be cut, but their stumps and roots shall not be disturbed.
- iii. The disturbance provides access for water-dependent facilities or shore *erosion* protection *structures*.
- iv. Landowners may treat trees and shrubs to maintain or improve their health.

5. *Forest Interior Dwelling Birds*

- a. Existing riparian *forest* of 300 x 300 feet or more and *forest* areas used by *forest interior dwelling birds* and other wildlife species shall be managed according to the guidelines developed by the Maryland Department of Natural Resources and the Chesapeake Bay Critical Area Commission.
- b. A *site* survey for *forest interior dwelling birds* shall be conducted prior to any *development* or agricultural expansion on deciduous *forest* of at least 50 acres or 300 x 300 foot riparian deciduous *forest*. The Planning Director may waive a *site* survey for *forest interior dwelling birds* provided the *forest* is managed for all *forest interior dwelling bird* species. Cutting and building shall be restricted to safe times (not during nesting - see Article VI, Section 3.9 of this Ordinance).

6. *Habitat*

- a. All *roads*, bridges and utilities that must cross a Habitat Protection Area shall be located, designed, constructed, and maintained so as to provide maximum *erosion* protection and minimize negative impacts to wildlife, aquatic life and their habitats and maintain hydrologic processes and water quality. *Roads*, bridges, or utilities shall not be located in any Habitat Protection Area unless no feasible alternative exists.

- b. During and after *development* in forested areas, corridors of existing *forest* or woodland vegetation shall be maintained to provide effective connections between *wildlife habitat* areas.
 - c. New water-dependent facilities shall be located so as to prevent disturbance to *sites* of significance to wildlife such as historic aquatic staging and concentration areas for *waterfowl*, shellfish beds, finfish nursery areas, and submerged aquatic vegetation beds.

- 7. *Natural heritage areas* and locations considered for Areas of Critical State Concern
These areas of local significance shall be preserved whenever possible in accordance with the recommendations of the Department of Natural Resources. These areas are identified in Article VI, Section 3.8 of this Ordinance.

- 8. *Non-tidal wetlands*
Non-tidal wetlands shall be protected according to the *regulations* of the State of Maryland, Army Corps of Engineers, United States Fish and Wildlife Service, Environmental Protection Agency and all other applicable State and Federal *regulations*.

- 9. *Slopes*
Development on *slopes* greater than 15%, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the land.

- 10. *Stormwater Management*
No *person* shall develop any land for residential, commercial, industrial, or institutional uses or redevelop land without having provided for appropriate *stormwater management* measures that control or manage runoff from such developments except as provided in Article VI, Section 10 of this Ordinance. *Stormwater* management shall be accomplished for all new *development* or *redevelopment* in accordance with the provisions of Article VI, Section 10 of this Ordinance.

- 11. Threatened and Endangered Species and Species in Need of Conservation
 - a. Any *development* shall include a statement on the type and location of any threatened or *endangered species* or *species in need of conservation* on the property, and any recommendation for maintaining and protecting that habitat from the Department of Natural Resources.
 - b. Threatened or *endangered species* and *species in need of conservation* shall be checked and noted by the *developer* before any approval can be granted by the Planning Director, *Planning Commission* or Zoning Administrator.
 - c. The Federal or State guidelines (whichever is stricter) for habitat protection shall be followed during *development*. Plans shall include provisions for the continuance of the habitat protection after *development*. This can include *conservation easements*, cooperative agreements, special provisions in *forest management* and *soil* conservation plans, and donation to a third party.

- 12. Timber Harvest
 - a. *Forest management plans* shall be required for all timber harvest occurring within any one-year interval and which affect one or more acres in *forest* and *developed woodlands* in the *Critical Area*. The plans shall be prepared by a registered professional forester and be reviewed and approved by the Maryland Forest, Park and Wildlife Service through the District Forestry Boards and the project forester. Plans shall be filed with the Department of Planning and Zoning.

- b. Plans shall include measures to protect surface and ground water quality and identify whether the activities will disturb or affect Habitat Protection Areas as set forth in this Ordinance or identified on the Habitat Protection Areas Map.
- c. Plans shall include protective measures for Habitat Protection Areas and shall provide for the continuity of habitat. The plans shall address mitigation through *forest management* techniques which include scheduling size, timing, and intensity of harvest cuts, *afforestation*, and *reforestation*.
- d. The cutting and *clearing* of trees within the minimum 100-foot *buffer* is permitted provided that:
 - i. Existing riparian forests of 300 x 300 feet or more and *forest* areas used by *forest interior dwelling birds* and other wildlife species shall be managed according to the guidelines of the Department of Natural Resources.
 - ii. When timber harvesting is being considered, a *site* survey for *forest interior dwelling birds* shall be done. Cutting and building shall be restricted to safe times (not during nesting - See Article VI, Section 3.9 of this Ordinance).
 - iii. During timber harvest in corridors of existing *forest* or woodland vegetation shall be maintained to provide effective connections between *wildlife habitat* areas.
 - iv. Commercial harvesting by *selection* or by *clear-cutting* of Loblolly Pine and Tulip Poplar may be permitted to within 50 feet of the landward edge of the *mean high water line* of tidal water and *perennial tributary streams* or the edge of the *tidal wetlands* provided that the cutting does not occur in the Habitat Protection Areas, and that cutting is conducted pursuant to the requirements of the Article VI, Section 9 and *non-tidal wetlands* requirements of this Ordinance, and in conformance with a *buffer* management plan prepared by a registered forester and approved by the Department of Natural Resources. The plan shall be required for all commercial harvests within the minimum 100-foot *buffer* regardless of the size of the area to be cut and shall contain the following minimum requirements:
 - a) That disturbance to the stream banks and shorelines shall be avoided;
 - b) That the area disturbed or cut shall be replanted, or allowed to regenerate in a manner that assures the availability of cover and breeding *sites* for wildlife, and reestablishes the *wildlife corridor* function of the *buffer*; and
 - c) That the cutting does not involve the creation of logging *roads* and skid trails within the minimum 100-foot *buffer*.

Commercial harvesting of trees by any method may be permitted to the edge of *intermittent streams* if the cutting and removal is done in accordance with a *Buffer* Management Plan approved by the Department of Natural Resources Forester.

13. Water Quality

- a. New and existing *marinas* shall meet the sanitary requirements of the Maryland Department of the Environment.
- b. New *marinas* shall establish a means of minimizing the discharge of bottom wash waters into tidal waters.
- c. All new development and *redevelopment* shall reduce pollutant loadings coming off the *site* by at least 10%. Pollutant loads will be calculated in the manner developed by the Metropolitan Washington Council of Governments using phosphorous as the keystone pollutant. All *sites* shall comply with the *stormwater management* qualitative control measures found in Article VI, Section 10 of this Ordinance.

- d. New and expanding *marinas* shall provide pump-outs for boat holding tanks. Adequate *signs* shall be posted to make boaters aware of the service available.
- e. New *marinas* and expanding *marinas* shall provide facilities for recycling or proper disposal of oil, anti freeze, paint thinner, and other toxic or hazardous substances associated with the type of facility being developed.
- f. Activities shall not significantly alter existing water circulation patterns or salinity regimes.
- g. The water body upon which these activities are proposed shall have adequate flushing characteristics in the area.
- h. Disturbances to *wetlands*, submerged aquatic plant beds, or other areas of important aquatic habitats shall be minimized and mitigated.
- i. Shellfish beds shall not be disturbed or be made subject to discharge that will render them unsuitable for harvesting.
- j. Dredging shall be conducted in a manner, and using a method, which causes the least disturbance to water quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the *Critical Area*, generally.
- k. Dredged spoil shall not be placed within the *buffer* or elsewhere in that portion of the *Critical Area* which has been designated as a Habitat Protection Area except as is necessary for:
 - i. Backfill for permitted shore erosion protection measures;
 - ii. Use in approved vegetated shore *erosion* projects;
 - iii. Placement on previously approved channel maintenance spoil disposal areas; and
 - iv. Beach nourishment.
- l. Interference with the natural transport of sand shall be minimized.

14. Wildlife Corridors

Developments shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with offsite habitats. Plans shall include provisions for the continuance and maintenance of the wildlife corridors. This can include *conservation easements*, cooperative agreements, special provisions in forest management and soil conservation plans, and donation to a third party.

13.7 MARINE DISTRICT DESIGN STANDARDS

The purpose of these standards is to give a sense of the physical aspects of the County's environment to those contemplating new *development* in the community. Pertinent to this physical appearance is the design of the *site*, *buildings* and *structures*, plantings, *signs*, *street* hardware, and miscellaneous other objects that are observed by the public.

These standards are not intended to restrict imagination, innovation, or variety, but rather assist in focusing on design principles which can produce creative solutions that will develop a satisfactory visual appearance within the County, preserve taxable values, and promote the public health, safety, and welfare.

A. MARINE DISTRICT GENERAL DESIGN STANDARDS

1. The landscape shall be preserved in its natural state, insofar as practicable, by leaving the most sensitive area of the *site* intact and by minimizing *tree* and *soil* removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building *sites* shall be as to maintain maximum natural *topography* and cover. Whenever possible *development* shall be located outside the *floodplain*.
2. *Topography*, *tree* cover, *watercourses*, and natural drainage ways shall be treated as fixed detriments of road and *lot* configuration rather than malleable elements that can be changed to follow a preferred *development* scheme.
3. *Open space* and naturally vegetative areas shall be located, insofar as possible, so as to connect and expand existing greenways on adjacent *sites*.
4. All *open space* (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the *site* or overlooking it from nearby properties.
5. *Streets* shall be designed and located in such a manner so as to maintain and preserve natural *topography*, cover, significant landmarks and trees; to minimize *cut* and *fill*; and to preserve and enhance views and vistas on or off the subject parcel.
6. The color, size heights, lighting, and landscaping of appurtenant *signs* shall be evaluated for compatibility with the local architectural motif and the maintenance of views and vistas of natural landscapes, recognized historic landmarks, parks, and landscaping.
7. The removal or disruption of historic, traditional or significant uses, *structures*, or architectural elements shall be minimized insofar as practicable, whether these exist on the *site* or on adjacent properties.

B. MARINE DISTRICT SPECIFIC DESIGN STANDARDS

1. *Site Access*

Site access shall be subject to the following *regulations* to help ensure safety and alleviate traffic congestion:

- a. Where property abuts a *primary*, *secondary*, or a *collector road*, access to the property shall be by the way of the *secondary* or *collector road*. Exceptions to this rule shall be instances where the *Planning Commission* determines that direct access onto the *primary road* would promote traffic safety.
- b. Where one or more contiguous parcels abutting a *primary road* are under single ownership and any one of the parcels abuts a *secondary* or *collector road*, access to the property shall be by way of the *secondary road*.
- c. Only one direct approach onto a *primary road* to any individual parcel of record as of August 1, 1989 shall be permitted unless the *Planning Commission*, or where applicable the Planning Director, finds one of the following:
 - i. An additional entrance is significantly beneficial to the safety and operation of the highway.
 - ii. One entrance is a safety hazard or increases traffic congestion.

- iii. The property is bisected by *steep slopes*, bodies of water, or other topographic feature in such a manner as to render some portion of the property inaccessible without additional road access.
 - d. Where a road is designated on an approved county map, *site plans* for *development* adjacent to the designated *roadway* shall include provisions for future access to the *roadway*.
 - e. Existing, planned or platted *streets* on adjacent properties shall be continued when the *Planning Commission*, or where applicable the Planning Director, determines that the continuation is necessary for the safe and reasonable circulation between the properties.
 - f. When deemed necessary or desirable by the *Planning Commission*, or where applicable the Planning Director, developments shall provide access to adjacent tracts not presently developed.
 - g. Access shall be consolidated whenever possible.
 - h. Whenever possible, *roads* shall be constructed above the elevation of the *100-year floodplain*.
 - i. The applicant shall demonstrate that access to the project is adequate and the roads which will be impacted have the capacity to handle the traffic generated by the proposed project and will not endanger the safety of the general public.*
- 2. *On-site Circulation*:
 - a. *Sites* shall be designed to prevent awkward or dangerous vehicular flow.
 - b. *Sites* shall be designed to discourage pedestrians and vehicles from sharing the same pathways.
 - c. Safe, convenient, and centralized access from handicap parking spaces shall be provided.
 - d. *Loading and unloading spaces* for delivery trucks shall not block major pedestrian ways or create blind spots when trucks are loading and unloading.
 - e. Trash boxes shall be accessible to collection trucks when all vehicle parking spaces are filled.
- 3. *Floodplain*
 - a. In order to prevent excessive *flood* damage and to allow for the protection of the natural and beneficial *floodplain* functions, all *development*, *new construction*, and *substantial improvements* to existing *structures* in all *floodplain* zones shall comply with the requirements of Article VI, Section 7 of this Ordinance, including but not limited to the following:
 - i. Elevation of all new or substantially improved *structures*;
 - ii. Compliance with venting and other construction standards; and
 - iii. Submission and recordation, where applicable, of *Elevation Certificates*, *Declaration of Land Restrictions*, deed restrictions, and venting affidavits.**
 - b. Placement of *buildings* and materials. In general, *buildings* and *accessory structures* should be located entirely out of the *floodplain*, out of the *flood* protection setback, or on land that is least susceptible to flooding. All *structures* permitted in the *floodplain* shall be oriented so as to offer the least resistance to the flow of floodwaters.
 - c. General *development* shall not occur in the *floodplain* where alternative locations exist. Before a permit is issued, the applicant shall demonstrate that new *structures* cannot be located out of the *floodplain* and that encroachments onto the *floodplain* are minimized.
- 4. *General Landscape Requirements*
 - a. A minimum area of 10% of each new *development* shall be landscaped. Buffers and screening count in the calculation of the landscaped area. This may be waived by the *Planning Commission* or where applicable the Planning Director.

- b. Parking areas shall be screened from view of motorists, pedestrians, and adjoining residential properties with a vegetative *screen* or landscaped *berm*. The height of the *berm* shall be approximately 3 feet. The width of the *berm* shall be at least twice the height. The vegetative *screen* shall have the potential of reaching a height of at least 3 feet within five years. The width of the landscaped area shall be 4 feet or wider. Perimeter screening shall not restrict sight distance needed for vehicular or pedestrian safety.
- c. Natural *slopes* and existing vegetation may be substituted for some or all of the requirements above, provided that these features serve to *screen* the parking area from motorist, pedestrians, and adjoining property owners. The *Planning Commission*, or where applicable the Planning Director, may waive perimeter screening where it is physically impossible to accomplish.

5. Screening

- a. Screening is required to protect adjoining properties and *roadways* from noise, glare, and uses which are visually incompatible with neighboring land uses. Screening is required:
 - i. On *sites* which involve loading or unloading (including the storage of vehicles and boats), trash, or disposal areas and where accessory *buildings* and *structures* are adjacent to residential properties.
 - ii. Where exterior storage areas are visible from *roadways*, sidewalks, or nearby residential properties.
 - iii. When noise not typically occurring in residential areas is expected to project onto nearby properties.
- b. Landscaped screens shall be designed to complement other landscaping occurring naturally on the *site*, planted previously, or approved as a part of a *site plan* review. Whenever possible, existing vegetation and landform shall be used to create screens.
- c. The *screen* shall be capable of providing year round screening.
- d. When noise is likely to be a factor, the *screen* shall be of sufficient construction to be an effective noise buffer.
- e. Screening shall consist of trees and plants, and may include masonry, or wooden fencing used with or without *berms*. Screening shall consist of a functional and well-designed combination of the following:
 - i. Vegetative ground cover
 - ii. Coniferous and deciduous shrubs
 - a) Specimens of which will reach and maintain a minimum height of 5 feet of full vegetative growth.
 - b) Plants which measure a minimum of 3 feet in height at the time of planting and are expected to attain a 5-foot height within 3 years.
 - iii. Coniferous and deciduous trees
 - Species and sizes of which will be chosen to best accomplish an adequate *screen* (i.e. evergreens used for visual screening, deciduous trees for seasonal screening).
- f. Natural *slopes* and existing vegetation may be substituted for some or all of the requirements above, provided that these features serve to *screen* the area from adjoining properties and *roadways*. The *Planning Commission*, or where applicable the Planning Director, shall determine the acceptability of using existing *slopes* and vegetation for this purpose. The *Planning Commission*, or where applicable the Planning Director, may waive screening where it is physically impossible to accomplish.
- g. Screening and fencing shall be maintained in at least the same quality and quantity as initially approved.

6. Lighting
Lighting on the *site* shall be designed to avoid glare onto adjacent properties and the *waterway*.
7. *Subdivision*
 - a. Proposed *street* layout, blocks, and parcels shall be suitable in area and dimension for the type of *development* anticipated.
 - b. The total area shall be sufficient to provide adequate space for *off-street parking*, loading, landscaping, and other facilities.
 - c. All reasonable efforts should be made to protect adjacent residential areas from potential nuisances from the marine *subdivision* by providing adequate depth in parcels adjacent to residential zoning.
 - d. The *lot* arrangement, design, and orientation shall be such that all lots will provide satisfactory building *sites*, properly related to *topography* and the character of surrounding *development*.
 - e. Every *lot* shall abut upon and have access to a public road or approved *private road*.
 - f. Lots adjoining *major thoroughfares* and railroad lines should be designed with extra depth and provision for an appropriate means of buffer or deeper building setbacks.
 - g. Proposed *streets* in the *subdivision* shall provide for the continuation of existing, planned, or platted *streets* on adjacent tracts, unless such continuation shall be prevented by *topography* or other physical features or unless such extension is found by the *Planning Commission* to be unnecessary for the coordination of *development* between the *subdivision* and such adjacent *tract*.
 - h. Where the *Planning Commission* deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed *streets* in the *subdivision* shall be extended to the boundary lines with such tracts.
 - i. Where the *subdivision* adjoins or embraces any part of a *major thoroughfare* as designated on the Kent County Major Thoroughfare Map. The layout of such *subdivision* shall provide for the platting and dedication of such part of the *major thoroughfare* in the location and at the width indicated on the *major thoroughfare* plan, except that the *subdivider* shall not be required to dedicate that part of such *major thoroughfare* that is in excess of eighty (80) feet in width.
 - j. Where deemed desirable to the layout of the *subdivision* and adjoining area, the *Planning Commission* may require the platting and dedication of one or more *collector streets* or parts thereof, to serve the *subdivision*.
 - k. Subdivisions shall be in full compliance with the provisions of this Ordinance.
 - l. *Private roads* are permitted in minor subdivisions and are subject to the following conditions:
 - i. Each road shall serve no more than seven parcels. In the event that an eighth parcel is created, the eighth parcel and all further divisions of land shall front on a public road.*
 - ii. The *subdivision* shall provide a 50-foot *right of way* for each *private road*.
 - iii. The construction of all lanes and *private roads* shall adhere to the requirements established by the Kent County Department of Public Works and sediment control and *stormwater management regulations*.
 - iv. The deed and contract of sale of all lots in the *subdivision* shall state: "The road is private and not the responsibility of Kent County."
 - v. The plat shall identify all *private roads* and shall state: "The road is private and not the responsibility of Kent County."

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