

Town of Denton, MD
Monday, April 20, 2015

Chapter 128. ZONING

[HISTORY: Adopted by the Town Council of the Town of Denton 9-13-2010 by Ord. No. 611, effective 9-23-2010.^[1] Amendments noted where applicable.]

GENERAL REFERENCES

Adult-oriented businesses — See Ch. **30**.
 Building construction — See Ch. **38**.
 Critical Area — See Chs. **43** and A129.
 Erosion and sediment control — See Ch. **49**.
 Fire prevention — See Ch. **56**.
 Floodplain Zones — See Ch. **58**.
 Forest conservation — See Ch. **60**.
 Land subdivision — See Ch. **73**.
 Stormwater management — See Ch. **106**.

128a Appendix I 

128b Appendix II 

128c Appendix III 

128d Appendix IV 

128e Appendix V 

128f Appendix VI 

128g Appendix VII 

128h Appendix VIII 

128i Sign Types and Dim Regs 

128j Appendix A 

[1]: *Editor's Note: This ordinance also repealed former Ch. 128, Zoning, adopted 8-2-1999 by Ord. No. 379.*

Article I. Title; Authority; Jurisdiction; Purpose

§ 128-1. Title.

This chapter shall be known as the "Zoning Regulation." The Zoning Regulation chapter includes both the text and the Official Zoning Maps herein adopted.

§ 128-2. Legislative authority.

This chapter is established in accordance with the provisions of Article 66B, Annotated Code of Maryland.

§ 128-3. Jurisdiction.

The provisions of this chapter shall apply to the incorporated territory of Denton, Maryland.

§ 128-4. Purpose and intent.

- A. This chapter is adopted in accordance with the Denton Comprehensive Plan for the purpose of controlling congestion in the streets; securing the public safety; promoting health and the general welfare; providing adequate light and air; promoting the conservation of natural resources; preventing environmental pollution; avoiding undue concentration of population; facilitating the adequate provision of transportation, water, sewerage, schools, recreation, parks and other public requirements. Such regulations are made with reasonable consideration, among other things, to the character of the district and its suitability for particular uses, and with a view to conserving the value of buildings and encouraging the orderly development and the most appropriate use of land throughout the jurisdiction. These zoning regulations also have the purpose to preserve, improve, or protect the general character and design of the lands and improvements being zoned or rezoned through the power and authority to approve or disapprove the design of buildings, construction, landscaping, or other improvements, alterations, and changes made or to be made on subject land or lands to assure conformity with the intent and purpose of this chapter.
- B. It is also the intent of this chapter to implement the provisions of the Economic Growth, Resource Protection and Planning of 1992, Chapter 43, Critical Areas, and Chapter A129, Critical Area Program, where applicable.

§ 128-5. Conflict with other regulations.

The terms of this chapter shall be deemed to control and to have superseded the terms of any prior, conflicting ordinance.

§ 128-6. Compliance required.

No building, structure, land, or part thereof shall hereafter be used, occupied, altered, erected, demolished, constructed or reconstructed unless in conformity with this chapter.

Article II. Definitions and Word Usage

§ 128-7. Word usage.

The following rules shall apply to this chapter:

- A. The words "shall" and "will" are mandatory.
- B. Unless the context otherwise specifies, words used in the present tense shall include the future; words used in the singular number include the plural; and words in the plural number include the singular.
- C. The word "building" or "structure" includes the other and any part thereof.
- D. The word "person" includes an individual, a corporation, a partnership, a limited-liability company, an incorporated association, or any other similar entity.
- E. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
- F. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either/or," the conjunction shall be interpreted as follows:
 - (1) "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - (2) "Or" indicates that the connected items, conditions, provisions, or events may apply separately or in combination.
 - (3) "Either/or" indicates that the connected items, conditions, provisions, or events shall apply separately but not in combination.
- G. The word "includes" shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- H. Words and terms not defined herein shall be interpreted in accordance with their normal dictionary meaning.

§ 128-8. Terms defined.

As used in this chapter, the following terms shall have the meanings indicated:

ABATEMENT

The act of putting an end to a land alteration or development activity or reducing the degree or intensity of the alteration or activity.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

ACCESSORY APARTMENT

A separate complete housekeeping unit that is clearly subordinate to the principal single-family unit or a commercial structure, but can be isolated from it, and which does not exceed 30% of the first floor square footage of the principal structure.

ACCESSORY STRUCTURE, MANUFACTURED HOME

Any structural addition to the manufactured home, which includes awnings, cabanas, carports, porches, and similar appurtenant structures.

ACCESSORY USE OR STRUCTURE

A structure or use that:

- A. Is clearly incidental to and customarily found in connection with a principal building or use;
- B. Is subordinate to and serves a principal building or a principal use;
- C. Is subordinate in area, extent, or purpose to the principal building or principal use served;
- D. Contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and
- E. Is located on the same lot as the principal building or use served.

ACRE

A commonly referred to measure of area which equals 43,560 square feet.

ACREAGE

An amount of land, regardless of area, described by metes and bounds which is not a numbered lot on any recorded subdivision.

ACTIVE ADULT COMMUNITY

An active adult community is comprised of people 55 years of age or older, which provide maintenance-free living, close proximity to desirable attractions, and a range of on-site activities and amenities. Active adult communities may include single-family homes, condominiums, townhomes, or multifamily dwellings. Such communities may offer designated dining areas and clubhouses.

ACTIVITY

Any business, industry, trade, occupation, vocation, profession, or other use conducted or carried on either within a building or covered area, or outdoors on any tract or parcel of land. For zoning purposes, an activity shall be considered separately from any building or structure in which such activity may be conducted.

ADDITION

Newly constructed area that increases the size of a structure.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

ADULT BOOK OR VIDEO STORE

Shall have the meaning set forth in § 30-1 of the Denton Town Code.

ADULT DAY-CARE CENTER

An establishment that offers social, recreational and health-related services to individuals in a protective setting who cannot be left alone during the day because of health care and social need, confusion or disability.

ADULT ENTERTAINMENT OR MATERIAL

Shall have the meaning set forth in § 30-1 of the Denton Town Code.

ADULT-ORIENTED BUSINESS

- A. Any business, operation, or activity, a significant amount of which consists of:
 - (1) The conduct, promotion, delivery, provision, or performance of adult entertainment or material, including, but not limited to, that occurring in, at, or in connection with a cabaret, lounge, nightclub, modeling studio, bar restaurant, club or lodge, or other establishment; or
 - (2) The sale, provision, rental, or promotion of adult entertainment or material, in any format, form,

or medium, including, but not limited to, books, magazines, videos, DVDs, CDs, sexual devices, movies, photographs, and/or coin-operated or pay-per-view viewing devices, including, but not limited to, the operation of an adult book or video store or viewing booth.

- B. For the purposes of this definition, the term "significant" shall have the meaning set forth in § 30-1 of the Denton Town Code.

AFFORESTATION

The establishment of a tree crop on an area from which it has always or very long been absent, or the planting of open areas that are not presently in forest cover.

AGRICULTURAL EASEMENT

A nonpossessory interest in land which restricts the conversion of use of the land, preventing nonagricultural uses.

AGRICULTURE

All methods of production and management of livestock, crops, vegetation, orchards, groves, nurseries, and soil. This includes, but is not limited to, the related activities of tillage, fertilization, pest control, harvesting, and marketing. It also includes, but is not limited to, the activities of keeping or raising for sale of large or small animals, reptiles, fish, or birds, and feeding, housing, and maintaining of animals such as cattle, dairy cows, sheep, goats, hogs, horses, and poultry and handling their by-products.
[Amended 12-12-2013 by Ord. No. 650, effective 12-19-2013]

ALLEY

A public or private right-of-way primarily designated to serve as secondary access to the side or rear of those properties whose principal frontage is on some other public way.

ALTERATION

Any change in the total floor area, use adaptability or external appearance of an existing structure.

AMEND or AMENDMENTS

Any repeal, modification or addition to a regulation; any new regulation; any change in the number, shape, boundary or area of a zone; or any repeal or abolition of any map, part thereof or addition thereto.

ANADROMOUS FISH

Fish that travel upstream (from their primary habitat in the ocean) to freshwater in order to spawn.

ANADROMOUS FISH PROPAGATION WATERS

Those streams that are tributary to the Chesapeake Bay and Atlantic Coastal bays in which the spawning of anadromous species of fish (e.g., rockfish, striped bass, yellow perch, white perch, shad, and river herring) occurs or has occurred. The streams are identified by the Department of Natural Resources.
[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

ANTENNA

Equipment designed to transmit or receive electronic signals.

APARTMENT

A part of a building, containing cooking facilities, consisting of a room or group of rooms intended, designed, and used as a residence by an individual or a single family.

APARTMENT HOTEL

A building arranged for or containing apartments and individual guest rooms, with or without housekeeping

facilities, and which furnishes services ordinarily provided by hotels, such as maid, bellboy, desk, and laundry service, and may include a dining room with internal entrance and primarily for use of tenants of the building, but shall not include public banquet halls, ballrooms, or meeting rooms.

APARTMENT HOUSE

Same as "dwelling, multifamily."

AQUACULTURE

The farming or culturing of finfish, shellfish, other aquatic plants or animals, or both, in lakes, streams, inlets, estuaries, and other natural or artificial water bodies or impoundments. Activities include the hatching, cultivating, planting, feeding, raising, and harvesting of aquatic plants and animals and the maintenance and construction of necessary equipment, buildings, and growing areas. Cultivation methods include, but are not limited to, seed or larvae development and grow-out facilities, fish pens, shellfish rafts, racks and longlines, seaweed floats and the culture of clams and oysters on tidelands and subtidal areas. For the purpose of this definition, related activities such as wholesale and retail sales, processing and product storage facilities are not considered aquacultural practices.

ARBORIST

An expert in the cultivation and care of trees hired by the Town of Denton.

AREA, GROSS or GROSS SITE AREA

All the area within a development plan or plat, including area intended for residential use, local access streets or alleys, off-street parking spaces, open spaces, recreation areas, or floodplains.

AREA, NET or NET SITE AREA

Remaining area, after deducting from gross area any area associated with a one-hundred-year nontidal floodplain, steep slopes, certain forest stands, FIDs habitat, tidal and nontidal wetlands, stream buffers, threatened or endangered species habitat, hydric soils where septic systems are necessary, Critical Area buffer or any other environmental constraint, important historic or archaeological site or structure, preexisting or required easement of any kind, or any public access as identified in the Comprehensive Plan transportation chapter.

ASSISTED LIVING

A residential or facility-based provider that provides housing and supportive services, supervision, personalized assistance, health-related services, or a combination of these services to meet the needs of residents who are unable to perform, or who need assistance in performing, the activities of daily living or instrumental activities of daily living in a way that promotes optimum dignity and independence for the residents [COMAR 10.07.14.02B(1)].

AUCTION HOUSE

An establishment where goods are received for public sale to the highest bidder.

BARREN LAND

Unmanaged land having little or no vegetation.

BASE FLOOD

The flood having a one-percent chance of being equaled or exceeded in any given year. Also known as the "one-hundred-year flood."

BASEMENT

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

BED-AND-BREAKFAST FACILITY

A private owner-occupied home in which bedrooms are rented to tourists or travelers and in which breakfast is provided and included in the room rate.

BEST MANAGEMENT PRACTICES (BMPs)

Conservation practices or systems of practices and management measures that control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxic substances, and sediment. Agricultural BMPs include, but are not limited to, strip cropping, terracing, contour stripping, grass waterways, animal waste structures, ponds, minimal tillage, grass and naturally vegetated filter strips, and proper nutrient application measures.

BIG BOX STORE (also: "supercenter," "superstore" or "megastore")

Large, freestanding, rectangular, generally single-floor, flat-roof structure built on a concrete slab with floor space several times greater than traditional retailers (generally more than 50,000 square feet and sometimes approaching 200,000 square feet) and providing a large amount of merchandise. Examples include Walmart, Target, Best Buy, or Barnes & Noble.

BLIGHTED AREA

Any area that endangers the public health, safety or welfare, or an area that is detrimental to the public health, safety, or welfare, because commercial, industrial, or residential structures or improvements are dilapidated, deteriorated, or because such structures or improvements violate the minimum health and safety standards as determined by the Director of Planning and Codes, Building Official, or designee.

BLIGHTED PROPERTY

Any individual commercial, industrial, or residential structure, improvement, or lot that is an endangerment to the public health, safety, or welfare because the structure, improvement, or lot is dilapidated, deteriorated, or violates the minimum health and safety standards.

BOARD

The Board of Appeals of the Town of Denton which is authorized to grant special exceptions and variances, and to hear appeals from administrative decisions as provided in this chapter.

BOARDINGHOUSE

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

BOARDING SCHOOL

A school at which meals and overnight lodging are provided on site.

BONA FIDE INTRAFAMILY TRANSFER

A transfer to a member of the owner's immediate family of a portion of the owner's property for the purpose of establishing a residence for that family member.

BREEZEWAY

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

BREW PUB

A restaurant and/or bar that possesses a State of Maryland Class 6 pub-brewery license or a Class 7 microbrewery license.

[Added 3-7-2013 by Ord. No. 651, effective 3-17-2013]

BUFFER

Area that, based on conditions at the time of development, is immediately landward from mean high water of tidal waterways, the edge of each bank of a tributary stream, or the landward edge of a tidal wetland; and the area exists in, or is established in, natural vegetation to protect a stream, tidal wetland, tidal waters or terrestrial environments from human disturbance. The buffer includes an area of at least 100 feet, even if that area was previously disturbed by human activity or is currently developed, and also includes any expansion for contiguous sensitive areas, such as a steep slope, hydric soil, highly erodible soil, nontidal wetland, or a nontidal wetland of special state concern as defined in the COMAR 26.23.01.01.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

BUFFER (CRITICAL AREA)

An existing naturally vegetated area or an area established in vegetation and managed to protect aquatic, wetland, shoreline, and terrestrial environments from man-made disturbances. In the Critical Area Overlay District, the minimum buffer is a continuous area located immediately landward of tidal waters (measured from the mean high-water line), tributary streams in the Critical Area, and the landward edge of tidal wetlands and has a minimum width of 100 feet.

BUFFER EXEMPTION AREA (BEA)

Those areas mapped by the Town and approved by the Critical Area Commission located within the buffer that are largely or totally developed such that the pattern of residential, industrial, commercial, or recreational development present as of December 1, 1985, prevents the buffer from fulfilling its intended purposes. Buffer exemption areas may be exempted from certain requirements of the buffer, as may be determined by the Town.

BUFFER MANAGEMENT AREA (BMA)

An area officially mapped by the Town and approved by the Critical Area Commission as a BMA, where it has been sufficiently demonstrated that the existing pattern of residential, industrial, commercial, institutional, or recreational development prevents the buffer from fulfilling its water quality and habitat functions, and where development in accordance with specific BMA provisions can be permitted in the buffer without a variance.

[Amended 12-12-2013 by Ord. No. 650, effective 12-19-2013]

BUFFER MANAGEMENT PLAN

A plan, designed and intended to describe methods and means used to protect and enhance the buffer to provide multiple benefits, that is necessary when a development activity will affect a portion of the buffer, alter buffer vegetation, or require the establishment of a portion of the buffer in vegetation. Includes a major buffer management plan, a minor buffer management plan, and a simplified buffer management plan.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

BUFFERYARD

An area within a Buffer Management Area that is at least 25 feet wide, located between a development activity and tidal waters, tidal wetlands, or a tributary stream, that is planted with vegetation consisting of native canopy trees, understory trees, shrubs, and perennial herbaceous plants in order to provide water quality and habitat benefits. This area is to be managed and maintained in a manner that optimizes these benefits.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

BUILDABLE WIDTH

The width of that part of a lot not included within the side setbacks herein required.

BUILDING

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

BUILDING, DETACHED

A building surrounded by unimproved space on the same lot.

BUILDING ENVELOPE

The area formed by the front, side, and rear building restriction or setback lines of a lot within which the principal buildings must be located.

BUILDING, HEIGHT OF

The vertical distance from the highest point of a structure, excepting chimney, antenna, or satellite dish on a building, to the average ground level of the grade where the walls or other structural elements intersect the ground.

BUILDING OFFICIAL

The governmental official of the Town of Denton charged with administering the Town's Building Code and issuing building permits, or his or her designee.

BUILDING LINE

A line, beyond which the foundation wall and/or any porch, vestibule, or other portion of a building shall not project, unless otherwise provided for in this chapter.

BUILDING, MAIN

Any building which is not an accessory building.

BUILDING PERMIT

A formal approval of building plans issued by the Building Official as meeting the applicable zoning and code requirements and authorizing construction or reconfiguration of a specific structure on a site in accordance with the approved drawings and specifications.

BUILDING, PRINCIPAL

The primary building on a lot or a building that houses a principal use.

CALIPER

The diameter of a tree measured at two inches above the root collar.
[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

CANOPY

A roof-like structure of a permanent nature which may be freestanding or projected from a wall of a building or its supports.

CANOPY TREE

A tree that, when mature, commonly reaches a height of at least 35 feet.
[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

CERTIFY

Whenever this chapter requires that some agency certify the existence of some fact or circumstance to the Town, the Town may require that such certification be made in any manner that provides reasonable assurance of the accuracy of the certification. By way of illustration, and without limiting the foregoing, the Town may accept certification by telephone from some agency when the circumstances warrant it, or the Town may require that the certification be in the form of a letter or other document.

CHILD-CARE INSTITUTION

An institutional facility housing more than nine orphaned, abandoned, dependent, abused, or neglected children.

CHILD DAY-CARE CENTER

An agency, institution, or establishment that, for part or all of the day, or on a twenty-four-hour basis, on a regular schedule, and at least twice a week, offers or provides child care to children who do not have the same parentage, except as otherwise provided for in law or regulation, and is regulated by the State Department of Human Resources pursuant to the Family Law Article of the Annotated Code of Maryland.

CHILD DAY CARE, FAMILY

Any arrangement that provides day care to eight or fewer children, including any relatives of the care provider, on a regular basis and is regulated by the requirements of the Office of Child Care Licensing and Regulation in the Department of Human Resources of the State of Maryland.

CIRCULATION AREA

That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

CLEAR-CUTTING

The removal of the entire stand of trees in one cutting with tree reproduction obtained by natural seeding from adjacent stands or from trees that were cut from advanced regeneration or stump sprouts, or from planting of seeds or seedlings by man.

CLINIC

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

CLUB, PRIVATE

Buildings and facilities owned or operated by a corporation, limited-liability company, association, person, or persons for social, educational, or recreational purposes, but not primarily for profit which accrues to any individual and not primarily to render a service which is customarily carried on by a business.

CLUSTER DEVELOPMENT

A residential development in which dwelling units are concentrated in a selected area or selected areas of the development tract so as to provide more natural habitat or other open space uses on the remainder.

COFFEE ROASTING

A facility in which unprocessed, green coffee may be sorted, roasted and processed, or packaged for use and consumption.

[Added 3-7-2013 by Ord. No. 651, effective 3-17-2013]

COLONIAL NESTING WATER BIRDS

Herons, egrets, terns, and glossy ibis. For the purposes of nesting, these birds congregate (that is "colonize") in relatively few areas, at which time the regional populations of these species are highly susceptible to local disturbances.

[Amended 12-12-2013 by Ord. No. 650, effective 12-19-2013]

COMAR

The Code of Maryland Regulations, as from time to time amended, including any successor provisions.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

COMBINATION USE

A use consisting of a combination on one lot of two or more principal uses separately listed in the Official Table of Use Regulations, Article X, § 128-60. (Under some circumstances, a second principal use may be regarded as accessory to the first, and thus a combination use is not established. In addition, when two or more separately owned or separately operated enterprises occupy the same lot, and all such enterprises fall within the same principal use classification, this shall not constitute a combination use.)

COMMERCIAL

A type of activity where goods or services are sold or traded with the expectation of profit or gain.

COMMERCIAL SHOPPING CENTER or SHOPPING CENTER

A group of retail and other commercial establishments that are planned, developed, owned, and managed as a single property. The two main configurations are malls and open-air strip centers.

[Added 10-4-2012 by Ord. No. 649, effective 10-14-2012]

COMMISSION

The Planning Commission of the Town of Denton.

COMMON AREA

Any open space, private road or other land, structure or improvement which is designed or reserved for the common use or benefit of the owners of two or more lots. "Common area" does not include any public road or other land, structure or improvement owned by the Town or the State of Maryland or any other governmental agency.

COMMON OPEN SPACE or OPEN SPACE

A parcel or parcels of land, an area of water, or a combination of land and water, including floodplain and wetland areas, within a development site, designed and intended for the use and enjoyment of residents of the development and, where designated, the community at large. The area of parking facilities serving the activities in the common open space may be included in the required area computations. Common open space shall not include:

- A. The land area of lots allocated for single-family detached dwellings, single-family semidetached dwellings, and duplex dwellings, including front yards, side yards, and rear yards, whether or not the dwellings are sold or rented.
- B. The land area of lots allocated for apartment and townhouse dwelling construction, including front yards, side yards, rear yards, interior yards, and off-street parking facilities, whether or not the dwellings are sold or rented.
- C. The land area of lots allocated for total commercial use, including front yards, side yards, rear yards, and parking facilities, whether or not the commercial facilities are sold or rented.
- D. The land area of lots allocated for public and semipublic uses, community clubs and community facilities, including open space for playgrounds and athletic fields which are a part of the principal use (e.g., a school or church site); and front yards, side yards, rear yards, and other open space around the buildings; and parking facilities, whether or not the public or semipublic use sites are sold or rented.
- E. Street rights-of-way, parkways, driveways, off-street parking, and service areas, except the landscaped central median of boulevards.
- F. Rights-of-way easement areas, such as electric transmission lines, whether above or below ground, or propane or natural gas lines.

G. Stormwater management facilities.

COMMUNITY PIERS

Boat-docking facilities associated with subdivisions and other similar residential areas, condominiums, and apartments. Private piers are excluded from this definition.

COMPREHENSIVE or MASTER PLAN

A compilation of policy statements, goals, standards, maps and pertinent data relative to the past, present and future trends of the local jurisdiction, including, but not limited to, its population, housing, economics, social patterns, land uses, water resources and their use, transportation facilities and public facilities, prepared by or for the planning board, agency or office adopted by the Planning Commission and Town Council.

[Amended 12-12-2013 by Ord. No. 650, effective 12-19-2013]

CONDOMINIUM

A form of ownership consisting of an undivided interest in common with other owners in a portion of a parcel of real property, together with separate interest in space in a building, such as a townhouse, apartment, or office, established pursuant to Maryland law. A condominium may include, in addition, a separate interest in other portions of such real property.

CONSERVATION EASEMENT

A nonpossessory interest in land that restricts the manner in which the land may be developed in an effort to conserve natural resources for future use.

CONSOLIDATION

A combination of any legal parcels of land or recorded, legally buildable lots into fewer parcels or lots.

CONVALESCENT, NURSING OR REST HOME

Any institution, however named, whether conducted for charity or for profit, which is advertised, announced, or maintained for the express or implied purpose of caring for two or more nonrelated persons admitted thereto for the purpose of nursing care given because of prolonged illness or defect or during the recovery from injury or disease, and includes any and all of the procedures commonly employed in waiting on the sick, such as administration of medicine, preparation of special diets, giving of bedside care, application of dressing and bandages, and the carrying out of treatments prescribed by a duly licensed practitioner of medicine.

COVENANT

A written undertaking by an owner which is required by this chapter or imposed by the Planning Commission in accordance with authorization contained in this chapter.

COVENANTOR

A person who owns legal or equitable title to any land which is affected in any manner by a covenant and includes a person who holds any mortgage, deed of trust or other lien or encumbrance on any such land.

CONVENIENCE SERVICE AREA

An area of services offered to persons living within a particular development, e.g., a coin-operated laundry, to be confined inside of a building within a particular development, limited to an area not to exceed 1% of the total gross floor space within said building, and for the sole use of the particular development.

CONVENIENCE STORE

A one-story retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a

relatively few items (in contrast to a “supermarket”). It is designed to attract and depends upon a large volume of stop-and-go traffic. Illustrative examples of convenience stores are those operated by the Fast Fare, 7-11 and Pantry chains.

COURT

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

COVERAGE

The percentage of the lot covered by buildings and structures.

COVER CROP

The establishment of a vegetative cover to protect soils from erosion and to restrict pollutants and sediments from entering the waterways. Cover crops can be dense, planted crops of grasses or legumes, or crop residues such as corn, wheat, or soybean stubble which maximize infiltration and prevent runoff from reaching erosive velocities.

CRITICAL AREA

All lands and waters defined in § 8-1807 of the Natural Resources Article, Annotated Code of Maryland. [Amended 12-12-2013 by Ord. No. 650, effective 12-19-2013]

A. They include:

- (1) All waters of and lands under the Chesapeake Bay and Atlantic Coastal Bays and their tributaries to the head of tide as indicated on state wetland maps;
- (2) All state and private wetlands designated under Title 16 of the Environment Article, Annotated Code of Maryland;
- (3) All land and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands and the heads of tides designated under Title 16 of the Environment Article, Annotated Code of Maryland; and
- (4) Modification to these areas through inclusions or exclusions proposed by local jurisdictions and approved by the Commission as specified in § 8-1807 of the Natural Resources Article, Annotated Code of Maryland.

B. Official maps delineating Critical Areas within the Town of Denton are available for inspection at the Denton Town office.

CRITICAL AREA COMMISSION (CAC)

Critical Area Commission for the Chesapeake and Atlantic Coastal Bays, the body created as per § 8-1803 of the Annotated Code of Maryland^[1] and appointed by the governor whose responsibility includes adoption of regulations and criteria for implementation of the State of Maryland’s Critical Area policies.

CRITICAL AREA PROGRAM

The Critical Area Protection Program of the Chesapeake and Atlantic Bays, including Subdivision Regulations,^[2] Zoning Ordinance and Official Maps of the Town of Denton.

DEDICATION

The transfer of property from private to public ownership as may be required to provide for the public health, safety, or welfare.

DEED RESTRICTION

A private legal restriction and/or covenant on the use of land, contained within a deed of property or otherwise formally recorded in the Land Records of Caroline County, Maryland. These restrictions or covenants are designed to control the use of specific property, and enforcement of these is through private civil action. Deed restrictions are not enforced by the Town of Denton, unless it is the Town of Denton, Maryland, that records said deed restrictions.

DENSITY

The number of principal dwelling units allowed per acre of net area of a development.

DEPARTMENT OF PLANNING

Department of Planning and Codes Administration

DERELICT STRUCTURE

Any residential, commercial or industrial structure which is no longer being used for a place of habitation, business, or industry and which is in such poor condition as to cause blight upon the neighborhood in which any such structure is located.

DEVELOPED WOODLANDS

Areas one acre or more in size that predominantly contain trees and natural vegetation and that also include residential, commercial, or industrial structures and uses.

DEVELOPER

A person who undertakes development activity as defined in the Critical Area Program; or a person who undertakes development activity that requires a zoning permit, conditional use permit, sign permit, site plan, or subdivision approval.

[Amended 12-12-2013 by Ord. No. 650, effective 12-19-2013]

DEVELOPMENT ENVELOPE

Developed portion of a parcel or tract of land that encompasses all lots, structures, required buffers exclusive of the tidewater buffer if it is at least 300 feet deep, impervious surfaces, utilities, stormwater management measures, on-site sewage disposal measures, any areas subject to human use as active recreation areas, and any additional acreage needed to meet the development requirements of the Denton Critical Area Program.

DEVELOPMENT or DEVELOPMENT ACTIVITIES (includes the term "develop")

Any construction, modification, extension or expansion of buildings or structures; placement of fill or dumping; storage of materials; land excavation; land clearing; land improvement; or any combination thereof, including the subdivision of land or action that results in construction, modification, extension or expansion of buildings or structures; placement of fill or dumping; storage of materials; land excavation; land clearing; land improvement; or any combination thereof, including the subdivision of land. Excavation or clearing in buffers is not permissible, even if a grading permit is not required.

DIMENSIONAL NONCONFORMITY

A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

DIRECTOR OF PLANNING

The Director of Planning and Codes Administration, who is also the zoning administrative officer, or an authorized representative designated by the Town Council to carry out duties as specified in this chapter.

DISABLED OR INFIRM HOME

A residence within a single dwelling unit for at least six but not more than nine persons who are physically or mentally disabled, together with not more than two persons providing care or assistance to such persons, all living together as a single housekeeping unit. Persons residing in such homes, including the aged and disabled, principally need residential care rather than medical treatment.

DISABLED PEOPLE

People possessing physical or mental impairments which are expected to be of long-continued and indefinite duration, substantially impede the ability to live independently, and are of such a nature that the ability to live independently could be improved by more suitable housing conditions.

DISTRICT

Any section of the Town of Denton within which the zoning regulations are uniform.

DISTURBANCE

An alteration or change to the land. It includes any amount of clearing, grading, or construction activity. "Disturbance" does not include gardening or maintaining an existing grass lawn.
[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

DOCUMENTED BREEDING BIRD AREAS

Forested areas where the occurrence of interior dwelling birds, during the breeding season, has been demonstrated as a result of on-site surveys using standard biological survey techniques.

DRIVE-IN ESTABLISHMENT

A place of business being operated for the retail sale of food and other goods, services, or entertainment. It is designed to allow its patrons to be served or accommodated while remaining in their automobiles or allows the consumption of any food or beverage obtained from a carry-out window in automobiles or elsewhere on the premises.

DRIVEWAY

That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

DUPLEX

A two-family residential use in which the dwelling units share a common wall (including, without limitation, the wall of an attached garage or porch) and in which each dwelling unit has living space on the ground floor and a separate ground floor entrance.

DWELLING

A building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

DWELLING, ATTACHED

A dwelling or dwelling unit which is joined to another dwelling or dwelling unit at one or more sides by a party wall or walls.

DWELLING, MULTIFAMILY

A structure containing three or more dwelling units on a single parcel or on contiguous parcels under the same ownership.

DWELLING, SINGLE-FAMILY

A building designed for or occupied exclusively by one family.

DWELLING, TWO-FAMILY

A building containing two dwelling units. Examples are a detached dwelling containing two dwelling units or a duplex.

DWELLING UNIT

A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for sanitation, cooking, eating, and sleeping. "Dwelling unit" includes living quarters for a domestic or other employee or tenant, an in-law or accessory apartment, a guesthouse, or a caretaker residence.

EARTH SATELLITE ANTENNA (also called "satellite dish" or "dish")

A parabolic dish antenna or other device or equipment of whatever nature or kind, including its structural supports, the primary use of which is to send and/or receive television, radio, microwave, or other electronic signals from space satellites.

ECOSYSTEM

A more or less self-contained biological community, together with the physical environment in which the community's organisms occur.

ELDERLY PEOPLE

People who are 66 years of age or over or families where either the husband or wife is 66 years of age or older.

EMERGENCY SERVICES

Fire, rescue, ambulance, police or CERT (Community Emergency Response Team) services, including related structures and activities.

ENDANGERED SPECIES

Any species of fish, wildlife, or plants which have been designated as such by regulation by the Secretary of the Department of Natural Resources. Designation occurs when the continued existence of these species as viable components of the state's resources are determined to be in jeopardy. This includes any species determined to be endangered species pursuant to the federal Endangered Species Act, 16 U.S.C. § 1531 et seq., as amended.

ENGINEER

An expert in civil engineering hired by the Town of Denton.

ENVIRONMENTAL ASSESSMENT

A comprehensive report that describes the natural features and characteristics of a proposed development site, the changes that will occur as the result of proposed development activities on the site, the anticipated environmental impacts and consequences of the proposed development, and mitigation measures to be taken to minimize undesirable impacts to the environment.

ENVIRONMENTAL CONSTRAINTS

Features, natural resources, or land characteristics that are susceptible to improvements and may require protections, preservation and conservation measures or the application of creative development techniques to prevent degradation of the environment, or may require limited development, or in certain instances may preclude development.

EROSION AND SEDIMENT CONTROL (E&SC)

Any structural or nonstructural practice or measure that protects soil particles from detaching by rain or wind and trapping any soil particles after having been detached and moved by rain or wind.

ESSENTIAL SERVICES

Facilities such as wires, lines, cables or pipes, located in public ways or in easements, provided for the purpose of or on a customer's premises. Such essential services do not require a private right-of-way and may be reasonably necessary for the furnishing of adequate water, sewer, gas, electric, telecommunications or similar services to adjacent customers. They do not include any cross-county electric transmission lines, including microwave, or any aboveground pipeline.

ESTABLISHMENT

The planting or regeneration of native vegetation throughout the buffer.
[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

EXCESS STORMWATER RUN-OFF

All increases in stormwater resulting from:
[Amended 12-12-2013 by Ord. No. 650, effective 12-19-2013]

- A. An increase in the imperviousness or lot coverage of the site, including all additions, to buildings, roads, and parking lots;
- B. Changes in permeability caused by compaction during construction or modifications in contours, including the filling or drainage of small depression areas;
- C. Alteration of drainageways, or regrading of slopes;
- D. Destruction of forest; or
- E. Installation of collection systems to intercept street flows or to replace swales or other drainageways.

FAMILY

An individual; two or more persons related by blood, marriage, civil union, or adoption living together in a dwelling unit, and (unless the dwelling contains an accessory dwelling unit) may also include not more than two unrelated persons; or a group of not more than four persons who need not be related by blood, marriage, or adoption living together in a dwelling unit. A family may include five or fewer foster children placed in a family foster home licensed by the state.

FARM

A parcel of land not less than 20 acres in size used for agriculture as defined in this subsection.

FARMERS' MARKET

An outdoor commercial establishment sponsored, organized, and/or operated under the auspices of a unit of government wherein agricultural products are sold by one or more operators.

FEEDLOT

Any tract of land or structure, pen or corral wherein cattle, sheep, goats and swine are maintained in close quarters for the purpose of fattening such livestock for final shipment to market.

FENCE or WALL

A barrier, other than natural vegetation, intended to mark a boundary or to enclose an area to provide screening or privacy.

FILLING STATION

Any building, structure or area of land used for the retail sale of automobile fuels, oils, and accessories and where repair service, if any, is incidental.

FINANCIAL ASSURANCE

A performance bond, letter of credit, cash deposit, insurance policy, or other instrument of security acceptable to the Town of Denton.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

FISHERIES ACTIVITIES

Commercial water-dependent fisheries facilities, including structures for the packing, processing, canning, or freezing of finfish, crustaceans, mollusks, amphibians and reptiles, and also including related activities such as wholesale and retail sales, product storage facilities, crab shedding, off-loading docks, shellfish culture operations, and shore-based facilities necessary for aquaculture operations.

FISHERY

A parcel or building where commercial water-dependent fishery facilities are located, including structures for the packing, processing, canning, or freezing of finfish, crustaceans, mollusks, amphibians and reptiles, including related activities such as wholesale and retail sales, product storage facilities, crab shedding, off-loading docks, shellfish culture operations, and shore-based facilities necessary for aquaculture operations.

FLAG

Any cloth, bunting or similar material containing distinctive colors, patterns or symbols, used as a symbol of patriotism, national, state or local government, or a religious group.

[Added 6-6-2011 by Ord. No. 631, effective 6-16-2011]

FLOODPLAIN

Any land area susceptible to being inundated by water from any source.

[Amended 8-2-2012 by Ord. No. 644, effective 8-9-2012]

FLOODWAY

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to pass the base flood discharge such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height.

[Amended 8-2-2012 by Ord. No. 644, effective 8-9-2012]

FLOOR AREA

- A. For commercial business and industrial buildings or buildings containing mixed uses: the sum of the gross horizontal area of the several floors of a building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings, but not including attic space providing headroom of less than seven feet; basement space not used for retailing; uncovered steps or fire escapes; accessory water towers or cooling towers; accessory off-street parking spaces; and accessory off-street loading berths.
- B. For residential buildings: the sum of the gross horizontal areas, with a clear height of more than six feet, of all floors of a dwelling, exclusive of garages, basements, and open porches, measured from the exterior faces of the exterior walls.

FOREST

For purposes of the Critical Area, the biological community dominated by trees and other woody plants covering a land area of one acre or more. This also includes forests that have been cut but not cleared. For purposes of the forest conservation provisions of this chapter, a forest is defined as:

- A. A biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater.

B. "Forest" includes:

- (1) Areas that have at least 100 live trees per acre with at least 50% of those trees having a two-inch-or-greater diameter (caliper) at 4.5 feet above the ground and larger; and
- (2) Areas that have been cut but not cleared.

C. "Forest" does not include orchards which have not been abandoned.

FOREST INTERIOR DWELLING SPECIES (FIDS)

Species of birds which require relatively large forested tracts in order to breed successfully (for example, various species of flycatchers, warblers, vireos, and woodpeckers).

FOREST MANAGEMENT

The protection, manipulation, and utilization of the forest to provide multiple benefits, such as timber harvesting, wildlife habitat, etc.

FOREST PRACTICE

The alteration of the forest either through tree removal or replacement in order to improve the timber, wildlife, recreational, or water quality values.

FRONTAGE

A. **STREET FRONTAGE**

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

B. **LOT FRONTAGE**

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

FULLY ESTABLISHED

The buffer contains as much diverse, native vegetation as necessary to support a firm and stable riparian habitat capable of self-sustaining growth and regeneration.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

GARAGE OR YARD SALE

A public sale conducted by an individual on his or her own premises for the purpose of selling his or her own personal property.

GARAGE, PRIVATE

A garage used primarily for motor-driven vehicle storage purposes only and having a capacity of not more than four vehicles.

GARAGE, SERVICE

A building, or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.

GARAGE, STORAGE

A building, or portion thereof, designed or used exclusively for storage of motor-driven vehicles and where motor-driven vehicles are not equipped, hired, or sold.

GARDEN APARTMENTS

Multifamily housing units that may share a common outside access. Ownership is not a factor in this type of unit, which may be either rental or condominium.

GAS SALES

Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail and where, in addition, minor repair work may be performed, such as ignition service, tire repair or replacement, repair and replacement of minor parts, such as pumps and filters, brake service, and the like. "Gas sales" does not include a repair or body shop, but shall include self-service filling stations and any convenience store accessory to or associated with such gas sales.

GOLF COURSE

An area, publicly or privately owned, on which the game of golf is played, containing at least nine holes, together with such necessary and usual accessory uses as a club house, caretakers' dwellings, dining and refreshment facilities, and other such uses, provided that the operation of such facilities is incidental and subordinate to the operation of a golf course.

GRADE

- A. For buildings having a wall or walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street.
- B. For buildings having a wall or walls adjoining more than one street, the average elevation of the sidewalk at the centers of all walls adjoining the streets.
- C. For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.
- D. Any wall parallel to or within 10° of being parallel to, and not more than 15 feet from, a street line is to be considered as adjoining the street. Sidewalk grades shall be established by the Town Engineer.

GRANDFATHERED

Describes the status accorded certain properties and development uses that are of record prior to the date of adoption of this chapter or must comply with provisions of this chapter.

GRANDFATHERED PARCEL OR GRANDFATHERED LOT

A parcel of land that was created or a lot created through the subdivision process and recorded as a legally buildable lot prior to December 1, 1985.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

GRAND OPENING

A grand opening or grand reopening is defined as the period when a business first opens or undergoes major remodeling or new ownership. A grand opening or reopening shall not last more than 14 days.

GROCERY STORE

Store established primarily for the sale of food items; could also stock personal care and household cleaning products (smaller in size than a supermarket).

GROUP HOME/DEVELOPMENTALLY DISABLED HOME

A residence within a single dwelling unit for at least four but not more than eight people who are physically or mentally disabled, together with not more than two persons providing care or assistance to such persons, all living together as a single housekeeping unit. Persons residing in such homes, including the aged and disabled, principally need residential care rather than medical treatment.

GROUP HOME/HALFWAY HOUSE

A home for not more than eight people who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct, together with not more than two people providing supervision and other services to such persons, all of whom live together as a single housekeeping unit.

GROUP HOME, PRIVATE

A residence used to provide assisted community living for persons (including battered or abused individuals with children) with mental, emotional, familial or social difficulties in a homelike environment. A large private group home admits at least nine but not more than 16 individuals total; a small private group home admits at least four but not more than eight individuals total.

GROWTH ALLOCATION

The number of acres of land in the Critical Area that the Town of Denton may use, or the county may allocate to municipal jurisdictions to use, to create new Intensely Developed Areas and new Limited Development Areas. The growth allocation acreage is 5% of the total Resource Conservation Area acreage in Denton at the time the Critical Area Commission approved Denton's original Critical Area Program, not including tidal wetlands, plus additional acres included from the county's calculated amount (5%) of Resource Conservation Area that existed when the Critical Area Commission approved Caroline County's original Critical Area Program (that the Town may request and the County may allocate).
[Amended 12-12-2013 by Ord. No. 650, effective 12-19-2013]

GUESTHOUSE

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

HABITAT PROTECTION AREA (HPA)

The buffer, nontidal wetlands, threatened and endangered species, plant and wildlife habitats, anadromous fish propagation waters and species in need of conservation that are designated for protection by the Secretary of Natural Resources or under Natural Resources Article, § 8-1806, Annotated Code of Maryland, or by regulations adopted under that authority.

HABITAT PROTECTION PLAN

A plan that provides for the protection and conservation of the species and habitats identified as Habitat Protection Areas in the Critical Area. The plan shall be specific to the site or area where the species or its habitat is located and shall address all aspects of a proposed development activity that may affect the continued presence of the species. These include, but are not limited to, cutting, clearing, alterations of natural hydrology, and increases in lot coverage. In developing the plan, an applicant shall coordinate with the Department of Natural Resources to ensure that the plan is adequate to provide for long-term conservation and can be effectively implemented on the specific site.
[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

HAZARDOUS TREE

A tree with a structural defect, such as a crack, canker, weak branch union, decay, dead wood, root damage, or root disease, that decreases the structural integrity of the tree and which, because of its location, is likely to fall and cause personal injury or property damage, including acceleration of soil erosion; or based on its location in the landscape, a healthy tree that, with continued normal growth, will damage an existing permanent structure or significantly increase the likelihood of soil erosion. "Hazardous tree" does not include a tree for which the likelihood of personal injury, property damage, or soil erosion can reasonably be eliminated or significantly diminished with routine and proper arboricultural practices, such as regular watering, application of fertilizer or mulch, and pruning; or by relocation of property that is likely to be

damaged.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

HEIGHT OF BUILDING

The vertical distance from the average finished grade to the highest point of the coping of a flat roof; the deckline of a mansard roof; to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.

HIGHLY ERODIBLE SOILS AND ERODIBLE SOILS

Soils with a slope greater than 15% or soils with a K value greater than 0.35 and slopes greater than 5%. "K value" means the soil erodibility factor in the Universal Soil Loss Equation. It is a quantitative value that is experimentally determined.

HISTORIC WATERFOWL STAGING AND CONCENTRATION AREA

An area of open water and adjacent marshes where waterfowl gather during migration and throughout the winter season. These areas are historic in the sense that their location is common knowledge and because these areas have been used regularly during recent times.

HOME OCCUPATION

A home occupation is an activity carried out for financial gain by the occupant in a residential dwelling and is subordinate to the residential use of the property.

HOSPITAL

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

HOTEL

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

HYDRIC SOILS

Soils that are wet frequently enough to periodically produce anaerobic conditions, thereby influencing the species composition or growth, or both, of plants on those soils.

HYDROPHYTIC VEGETATION

Those plants cited in "Vascular Plant Species Occurring in Maryland Wetlands" (Dawson, F. et al., 1985) which are described as growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content (plants typically found in water habitats).

[Amended 12-12-2013 by Ord. No. 650, effective 12-19-2013]

HYDROPONICS

The science of growing plants in solution or moist inert material containing the necessary minerals instead of soil frequently within a controlled environment.

ILLUMINATION

Direct artificial lighting or indirect artificial lighting designed to reflect light from light sources erected for the purposes of providing light to the sign or other structure.

IMMEDIATE FAMILY MEMBER

Spouse or civil union partner, father, mother, son, daughter, grandfather, grandmother, grandson, or granddaughter.

IMPERVIOUS SURFACE

Any constructed surface that prevents or retards the penetration of water into the soil.

INDUSTRIAL CENTER

A group of industrial or similar establishments that are planned, developed, owned, and managed as a single property.

[Added 10-4-2012 by Ord. No. 649, effective 10-14-2012]

INDUSTRIAL PARK

A planned, coordinated development of a tract of land with two or more separate industrial buildings. Such development is planned, designed, constructed, and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design and orientation, and open spaces and screening.

IN-KIND REPLACEMENT

The replacement of a structure with another structure that is smaller than or identical to the original structure in footprint area, width, length, and use.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

INTENSELY DEVELOPED AREAS (IDAs)

Areas of at least 20 adjacent acres or the entire upland portion of the Critical Area within the boundary of a municipality, whichever is less, where residential, commercial, institutional, and/or industrial developed land uses predominate, and where relatively little natural habitat occurs. These areas shall have had at least one of the following features as of December 1, 1985:

- A. Housing density equal to or greater than four dwelling units per acre;
- B. Industrial, institutional, or commercial uses are concentrated in the area; or
- C. Public sewer and water collection and distribution systems are currently serving the area, and housing density is greater than three dwelling units per acre.

INTERMEDIATE-CARE HOME

A facility maintained for the purpose of providing accommodations for not more than seven occupants needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the disabled or infirm.

INTERMEDIATE-CARE INSTITUTION

An institutional facility maintained for the purpose of providing accommodations for more than seven persons needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the disabled or infirm.

INTERMITTENT STREAM

A stream in which surface water is absent during part of the year. Intermittent streams may be found on the most recent U.S.G.S. 7.5-minute quadrangle published by the United States and shall be identified in the field

and accurately drawn on all development plans.

INVASIVE SPECIES

A species that is non-native or alien to the ecosystem under consideration, whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

JUNK (OR SALVAGE) YARDS

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

KENNEL

A commercial operation that provides food, shelter and care of animals for purposes not primarily related to medical care (A kennel may or may not be run by or associated with a veterinarian.), or engages in the breeding of animals for sale, or any place where more than two adult animals (over six months) are kept for a boarding or other fee, or any place where more than five adult animals are kept for any purpose.

K VALUE

The soils erodibility factor in the Universal Soil Loss Equation. It is a quantitative value that is experimentally determined.

LAND-BASED AQUACULTURE

The raising of fish or shellfish in any natural or man-made, enclosed or impounded, water body.

LAND CLEARING

Any activity that removes the vegetative ground cover.

LANDWARD EDGE

The limit of a site feature that is furthest away from a tidal water, tidal wetland, or a tributary stream.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

LARGE SHRUB

A shrub that, when mature, reaches a height of at least six feet.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

LEGALLY DEVELOPED

All physical improvements to a property that existed before Critical Area Commission approval of a local program, or were properly permitted in accordance with the provisions of the local program in effect at the time of construction.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

LIMITED DEVELOPMENT AREAS (LDAs)

Areas which are currently developed in low- or moderate-intensity uses which contain areas of natural plant and animal habitats, and in which the quality of runoff has not been substantially altered or impaired. These areas shall have had at least one of the following features as of December 1, 1985:

- A. Housing density ranging from one dwelling unit per five acres up to four dwelling units per acre;
- B. Areas not dominated by agriculture, wetland, forest, barren land, surface water, or open space;
- C. Areas having public sewer or public water, or both;

- D. Areas meeting the definition of "intensely developed areas" above, less than 20 acres in size.

LIMIT OF DISTURBANCE

The area of a development or redevelopment activity that includes temporary disturbance and permanent disturbance.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

LIQUOR STORE

A business that sells alcoholic beverages for consumption off-premises. For the purposes of this chapter, the term "liquor store" does not include grocery stores, supermarkets, or convenience stores in which beer and/or wine is offered for sale as a minor part of an overall larger inventory of goods. It shall also not include a restaurant that is otherwise operating in accordance with its approved liquor license and all other provisions of this chapter.

LIVE VIEWING BOOTH

Any booth, cubicle, stall or room of less than 600 square feet of floor space or area to which patrons may gain admittance, wherein the following are regularly featured:

- A. Persons who appear in a state of seminudity; and/or
- B. Live entertainment characterized by the depiction or description of specified anatomical areas or specified sexual activities.

LIVING SHORELINE

A suite of stabilization and erosion control measures that preserve the natural shoreline and are designed to minimize shoreline erosion, maintain coastal process, and provide aquatic habitat. Measures must include marsh plantings and may include the use of sills, sand containment structures, breakwaters, or other natural components.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

LOADING SPACE or LOADING BERTH

A space within the main building or on the same lot, providing for the standing, loading or unloading of trucks, having a minimum dimension of 12 feet by 35 feet and a vertical clearance of at least 14 feet.

LOCAL SIGNIFICANCE

Development of a minor scale, which causes environmental or economic consequences that are largely confined to the immediate area of the parcel of land on which it is located; does not substantially affect the Critical Area Program of the Town of Denton; and is not considered to be major development as defined in this program.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

LODGING HOUSE

Same as "boardinghouse."

LOT

A plot or parcel of land having at least the minimum area required by this chapter for a plat or parcel of land in the district in which such lot is situated and having its principal frontage on a public road or private road.

LOT, AREA

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

LOT, CORNER

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

LOT COVERAGE

The percentage of a total lot or parcel that is occupied by a structure, accessory structure, parking area, driveway, walkway or roadway, or covered with gravel, stone, shell, impermeable decking, a paver, permeable pavement, or any man-made material. Lot coverage includes the ground area covered or occupied by a stairway or impermeable deck. Lot coverage does not include: a fence or wall that is less than one foot in width that has not been constructed with a footer; a walkway in the buffer or expanded buffer, including a stairway, that provides direct access to a community or private pier; a wood mulch pathway; or a deck with gaps to allow water to pass freely.

LOT, DEPTH

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

LOT, FLAG

A lot with access provided to the bulk of the lot by means of a narrow corridor.

LOT, INTERIOR

A lot other than a corner lot.

LOT LINE

The boundary line of a lot.

LOT OF RECORD

A parcel of land which has been legally recorded in the land records of Caroline County.

LOT, REVERSED FRONTAGE

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

LOT, THROUGH

An interior lot having frontage on two streets.

LOT WIDTH

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

MAJOR DEVELOPMENT

Development of a scale that may cause statewide, regional, or interjurisdictional environmental or economic effects in the Critical Area, or which may cause substantial impacts on the critical area program of a local jurisdiction. This development includes, but is not limited to, airports, powerplants, wastewater treatment plants, highways, regional utility transmission facilities, prisons, hospitals, public housing projects, public beaches, and intensely developed park and recreation facilities.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

MAJOR SITE PLAN

Any site plan which would include the extension of public water or sewer lines, placement of roads or installation of any stormwater management device.

MAJOR SUBDIVISION

Subdivision that involves any of the following: the creation of more than three lots; the creation of any new public streets; the extension of a public water or sewer system; or the installation of drainage improvements through one or more lots to serve one or more other lots.

MALL

A large enclosed collection of independent retail stores and services, with associated shared parking areas, constructed and maintained by a management firm as a unit.

MANUFACTURED HOME (commonly called a "mobile home" or "trailer")

Any structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling or for human habitation, with or without a permanent foundation.

MANUFACTURED HOME PARK

A lot, parcel, or tract of land which is being used, designed, or held out to accommodate parking for manufactured homes for continuing occupancy, including all accessory buildings, vehicles, and appurtenances used or intended as equipment for such manufactured home park. A manufactured home park does not include an automobile or sales lot on which unoccupied mobile homes may be parked for inspection and sale.

MANUFACTURED HOME STAND

That part of an individual manufactured home lot which has been reserved for the placement of the manufactured home.

MANUFACTURE, MANUFACTURING

The process of converting raw, unfinished materials or products, or either of them, into articles or substances of different character, or for use for different purpose.

MARINA

A place for docking four or more pleasure boats or providing services to pleasure boats and the occupants thereof, including minor servicing and repair to boats while in the water, sale of fuel and supplies, and provisions of lodging, goods, beverages, and entertainment as accessory uses. A yacht or boat club shall be considered as a marina.

MEAN HIGH-WATER LINE

The average level of high tides at a given location.

MICROBREWERY, MICROWINERY, MICRODISTILLERY

A facility in which beer, wine, or other alcoholic beverages are brewed, fermented, or distilled for distribution and consumption, and which possesses the appropriate license from the State of Maryland. Tasting rooms for the consumption of on-site produced beer, wine, or distilled products are permitted on the premises.

[Added 3-7-2013 by Ord. No. 651, effective 3-17-2013]

MINOR BOUNDARY LINE ADJUSTMENT

A boundary line adjustment not resulting in a change that would allow increased development or density rights otherwise regulated by applicable land use codes.

MITIGATION

An action taken to compensate for adverse impacts to the environment resulting from development, development activity, or a change in land use or intensity.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

MODULAR HOME

Sectional, prefabricated structure that consists of one or more modules or sections manufactured in a remote facility and delivered to their intended site and designed to be used with a permanent foundation.

MOTEL, MOTOR COURT, MOTOR HOTEL, LODGE, or INN

Same as "hotel," except that the building or buildings are designed primarily to serve tourists traveling by automobile and that ingress and egress to rooms need not be through a lobby or offices.

MOTOR VEHICLE DEALER

A building, structure, or area of land used for the storage or display for sale of motor vehicles but not used for the storage of dismantled or wrecked motor vehicles.

NATIVE PLANT

A species that is indigenous to the physiographic area in Maryland where the planting is proposed.
[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

NATURAL FEATURES

Components and processes present in or produced by nature, including but not limited to soil types, geology, slopes, vegetation, surface water, drainage patterns, aquifers, recharge areas, climate, floodplains, aquatic life, and wildlife.

NATURAL HERITAGE AREA

Any communities of plants or animals which are considered to be among the best statewide examples of their kind, and are designated by regulation by the Secretary of the Department of Natural Resources.

NATURAL REGENERATION

The natural establishment of trees and other vegetation with at least 400 free-to-grow seedlings per acre, which are capable of reaching a height of at least 20 feet at maturity.
[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

NATURAL VEGETATION

Plant communities that develop in the absence of human activities.

NATURE DOMINATED

A condition where the landforms or biological communities, or both, have developed by natural processes in the absence of human interaction.

NEIGHBORHOOD CENTER

Permitted through a special exception in those districts where allowed in the Table of Uses,^[3] developments within existing neighborhoods that are limited to businesses that primarily cater to neighborhood residents, such as small grocery stores, personal and professional services, dry cleaners, video shops, cafes, tea rooms, small bakeries, and other uses that are deemed appropriate by the Planning Commission and Board of Appeals.

NEIGHBORHOOD ESSENTIAL SERVICES

Any utility facility needed to provide basic services such as water, sewer, telephone, and cable television to the individual users.

NEW DEVELOPMENT

For purposes of implementing specific provisions of this program, new developments (as opposed to redevelopment) means a development activity that takes place on a property with pre-development imperviousness (in IDA) or lot coverage (LDA and RCA) of less than 15% as of December 1, 1985.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

NONCONFORMING LOT

A lot existing at the effective date of this chapter (and not created for the purposes of evading the restrictions of this chapter) that does not meet the minimum area requirement of the district in which the lot is located.

NONCONFORMING PROJECT

Any structure, development, or undertaking that is incomplete at the effective date of this chapter and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

NONCONFORMING USE

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

NONPOINT SOURCE POLLUTION

Pollution generated by diffuse land use activities rather than from an identifiable or discrete facility. It is conveyed to waterways through natural processes, such as rainfall, storm runoff, or groundwater seepage rather than by deliberate discharge. Nonpoint source pollution is not generally corrected by end-of-pipe treatment, but rather by changes in land management practices.

NONPROFIT ORGANIZATION

Any organization engaging primarily in civic or community services, including Lions, Kiwanis, Rotary, Optimists, and organizations of a similar nature which are not operated for profit (e.g., having 501(c)3 status).

NONRENEWABLE RESOURCES

Resources that are not naturally regenerated or renewed.

NONTIDAL WETLANDS

Those areas regulated under Subtitle 9 of the Environment Article that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation." The determination of whether an area is a nontidal wetland shall be made in accordance with the publication known as the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands," published in 1989 and as may be amended. Nontidal wetlands do not include tidal wetlands regulated under Title 16 of the Environment Article of the Annotated Code of Maryland.

[Amended 12-12-2013 by Ord. No. 650, effective 12-19-2013]

NURSING CARE HOME

A facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to not more than eight persons.

NURSING CARE INSTITUTION

An institutional facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to more than eight persons.

NURSING HOME

A place devoted primarily to the maintenance and operation of facilities for the treatment and care of any persons suffering from illnesses, diseases, deformities, or injuries who do not require extensive or intensive

care such as is normally provided in a general or other specialized hospital; includes rest homes, convalescent homes, and homes for the aged. A nursing home does provide medical, nursing, convalescent or chronic care in addition to room and board.

OCCUPANCY, CERTIFICATE OF

The certificate issued by the Building Official, or designee, which permits the use of a building in accordance with the approved plans and specifications and which certifies compliance with the provisions of the law for the use and occupancy of the building as specified in the Town Code. See Chapter **38**, Building Construction, Article **II**, Building Code, and this chapter.

OFFICE, GENERAL

An office for the use of professional people such as doctors, lawyers, accountants, etc., or general business offices such as insurance companies, trade associations, manufacturing companies, investment concerns, banks and trust companies, real estate companies, etc., but not including any kind of retail or wholesale store or warehouse, except as otherwise provided herein.

OFFICE PARK

A development on a tract of land that contains a number of separate office buildings, supporting uses and open space designated, planned, constructed and managed on an integrated and coordinated basis.

OFFICE, PROFESSIONAL NONRESIDENTIAL

A single-family structure used for professional office purposes by any member of a recognized profession, such as, but not limited to, doctors, lawyers, architects, accountants, veterinarians and engineers, but not including medical or dental clinics or veterinarian clinics. Professional offices do not include general business offices, such as the offices of insurance companies, trade associations, manufacturing companies, investment concerns, banks or real estate companies.

OFFICE, PROFESSIONAL RESIDENTIAL

Rooms and/or buildings used for office purposes by not more than one member of any recognized profession, including doctors, dentists, lawyers, accountants, engineers, veterinarians, etc., but not including medical or dental clinics or veterinary clinics, provided that such use shall be incidental to and subordinate to residential use and not one involving a commercial enterprise. Such use shall preclude manufacturing or sale of any hardware product, except those remedial devices that are prescribed as a direct result of the specific service rendered on the premises, and those devices cannot be obtained by the client from any commercial establishment.

OFFSETS

Structures or actions that compensate for undesirable impacts. (See also "BMPs.")

OFF-STREET PARKING AREA

Space provided for vehicular parking not on a street or roadway.

OPEN WATER

Tidal waters of the state that do not contain tidal wetlands and/or submerged aquatic vegetation.

OPEN SPACE

Land and water areas retained in an essentially undeveloped state.
[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

OUTBUILDING

A separate accessory building or structure not physically connected to the principal building.

OWNER

The person, partnership, corporation, company, or other legal entity holding current legal title to a lot, tract, or parcel of land.

PARAPET

The extension of the main walls of a building above the roof.

PARKING AREA AISLES

A portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

PARKING AREA (LOT or STRUCTURE)

A structure, or an off-street area for parking or loading and unloading, whether required or permitted by this chapter, including driveways, accessways, aisles, and maneuvering areas, but not including any public or private street right-of-way.

PARKING FLOOR AREA

The floor area of a structure as defined herein less storage and warehouse areas used principally for nonpublic purposes of said structure. Any basement or cellar space used for retailing shall be included in the parking floor area for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.

PARKING SPACE, OFF-STREET

An all-weather surfaced area not in a street or alley, exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by an all-weather surfaced driveway which affords satisfactory ingress and egress for automobiles. At a minimum, each parking space shall measure nine feet by 18 feet.

PEDDLING (peddlers' activity)

The act of offering for sale and simultaneous delivery goods, wares or merchandise, including, but not limited to, magazines, books, periodicals, foodstuffs and personal property of every nature, from house to house or from place to place or on the public streets or in any other public or private place, including offering any of the above-mentioned items for sale and simultaneous delivery from any type of wagon, vehicle, boat or other movable structure.

PERENNIAL STREAM

A stream containing surface water throughout an average rainfall year. Perennial streams may be found on the most recent U.S.G.S. 7.5-minute quadrangle published by the United States and shall be identified in the field and accurately drawn on all development plans.

PERMANENT DISTURBANCE

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

- A. A material, enduring change in the topography, landscape, or structure that occurs as part of a development or redevelopment activity. Permanent disturbance includes: construction or installation of any material that will result in lot coverage; construction of a deck; grading that does not otherwise qualify as temporary disturbance; and clearing of a tree, forest, or developed woodland that does not otherwise qualify as temporary disturbance.
- B. Permanent disturbance does not include a septic system on a lot created before local program approval if the septic system is located in existing grass or clearing is not required.

PERSON

An individual, trustee, executor, other fiduciary, corporation firm, partnership, limited-liability company, association, organization, or other entity acting as a unit.

PET

Any animal kept for pleasure rather than utility.

PHARMACY

A place where legal drugs and medicines are prepared and dispensed.

PHYSIOGRAPHIC FEATURES

The soils, topography, land slope and aspect, and local climate that influence the form and species composition of plant communities.

PIER

Any pier, wharf, dock, walkway, bulkhead, breakwater, piles or other similar structure. "Pier" does not include any structure on pilings or stilts that was originally constructed beyond the landward boundaries of state or private wetlands.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

PLACE

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

PLACE OF WORSHIP

A building or premises where persons regularly assemble for religious worship, and those accessory activities customarily associated therewith, and where the buildings and premises are maintained and controlled by a religious body organized to sustain public worship.

PLANNED RESIDENTIAL DEVELOPMENT (PRD)

A development constructed on a tract of at least five acres under single ownership, planned and developed as an integral unit, and consisting of single-family detached residences combined with either duplexes, townhouses, or multifamily residences, or all of the above, all developed in accordance with Article **XIII**, Density and Dimensional Regulations.

PLANNED UNIT DEVELOPMENT (PUD)

A subdivision of varied land uses, residential structural types and densities developed so as to integrate all the features into a harmonious whole.

PLANNING COMMISSION

The Denton Planning Commission.

PLANT HABITAT AND WILDLIFE HABITAT

"Plant habitat" means a community of plants commonly identified by the composition of its vegetation and its physiographic characteristics. "Wildlife habitat" means those plant communities and physiographic features that provide food, water and cover, nesting and foraging or feeding conditions necessary to maintain populations of animals in the Critical Area.

PLOT

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

PORT

A facility or area established or designated by the state or local jurisdictions for purposes of waterborne commerce.

PREMISES

A lot, together with all buildings and structures thereon.

PRIMARY HIGHWAY

A highway designated as a state primary highway or United States highway by the Maryland Department of Transportation.

PRINCIPAL STRUCTURE

The primary or predominant structure on any lot or parcel. For residential parcels or lots, the principal structure is the primary dwelling.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

PRIVATE HARVESTING

The cutting and removal of trees for personal use.

PRIVATE PIER

A privately owned pier that is no more than six feet wide.

PRIVATE TIDAL WETLANDS

Includes:

- A. Land not considered state wetland bordering on or lying beneath tidal waters, which is subject to regular or periodic tidal action and supports aquatic growth;
- B. Tidal wetlands transferred by the state by a valid lease, patent, or grant confirmed by Article 5 of the Maryland Declaration of Rights are considered "private tidal wetlands" to the extent of the interest transferred; and
- C. Tidal waters created by the excavation of upland unless conveyed to the state.

PROGRAM AMENDMENT

Any change or proposed change to an adopted program that is not determined by the Chairman of the Critical Area Commission to be a program refinement.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

PROGRAM REFINEMENT

Any change or proposed change to an adopted program that the Chairman of the Critical Area Commission determines will result in a use of land or water in the Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area in a manner consistent with the adopted program, or that will not significantly affect the use of land or water in the Critical Area. Program refinement may include:

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

- A. A change to an adopted program that results from state law;
- B. A change to an adopted program that affects local processes and procedures;
- C. A change to a local ordinance or code that clarifies an existing provision; and
- D. A minor change to an element of an adopted program that is clearly consistent with the provisions of

State Critical Area law^[4] and all the criteria of the Commission.

PROJECT APPROVALS

The approval of development, other than development by the state or local government, in the Chesapeake Bay Critical Area by the appropriate local approval authority. The term includes approval of subdivision plats and site plans; inclusion of areas within floating zones; issuance of variances, special exceptions, and conditional use permits; and issuance of zoning permits. The term does not include building permits.
[Amended 12-12-2013 by Ord. No. 650, effective 12-19-2013]

PROPERTY LINES

The lines bounding a zoning lot, as defined herein.

PROPERTY OWNER

A person holding title to a property or two or more persons holding title to a property under any form of joint ownership.
[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

PUBLIC UTILITIES

Uses or structures for the public purpose of power transmission and distribution (but not power generation); fuel transmission and distribution (but not manufacturing or storage); water treatment and distribution; sewage collection and treatment; telephone service facilities (but not utility truck terminal facilities); radio and television facilities (not including broadcasting studios); and rail or highway rights-of-way (not including stations or terminals).

PUBLIC WATER AND SEWERAGE SYSTEMS

A water or sewerage system owned and operated by a municipality or county or an authority or owned and operated by the governing body and permitted by the State of Maryland, and subject to special regulations.

PUBLIC WATER-ORIENTED RECREATION

Shore-dependent recreation facilities or activities provided by public agencies that are available to the general public.
[Amended 12-12-2013 by Ord. No. 650, effective 12-19-2013]

PUBLIC WAY

Any sidewalk, pedestrian path, street, alley, highway, or other public thoroughfare.

PUBLIC WORKS AGREEMENT

An agreement between the developer and the Town setting forth the improvements which the developer will be responsible for and the conditions for the construction and acceptance of such improvements by the Town.

RECLAMATION

The reasonable rehabilitation of disturbed land for useful purposes, and the protection of the natural resources of adjacent areas, including water bodies.

RECLASSIFICATION

The changing of the zoning classification which applies to a particular area of land.

RECONFIGURATION

A change of the arrangement of the existing lot or parcel lines of any legal parcel of land or recorded, legally buildable lots.

RECREATION, ACTIVE

Leisure-time activities, usually of a formal nature and often performed with others, requiring equipment and taking place at prescribed places, sites or fields. Examples include playgrounds, playing fields and team participation such as baseball, soccer, lacrosse, and basketball. Outdoor lighting of playing fields may be permitted.

RECREATION FACILITY

A place designated and equipped for the conduct of sports, leisure-time activities, and other customary and usual recreational activities.

RECREATION, PASSIVE

Generally an undeveloped space or environmentally sensitive area that requires minimal development. Activities involve relatively inactive or less energetic activities, such as walking and picnicking. Examples include walking/biking paths and trails and picnic areas. Outdoor lighting is prohibited except for safety requirements.

RECREATION VEHICLE or RV

A motorized or towable vehicle that combines transportation and temporary living quarters for travel, recreation and camping. RVs do not include manufactured homes, off-road vehicles or snowmobiles. RVs are classified into two groups: towables and motorized. Towables are designed to be towed by a motorized vehicle (auto, van, or pickup truck) and are of such size and weight as not to require a special highway movement permit. Towables are designed to provide temporary living quarters for recreational camping or travel use and do not require permanent on-site hookup. The towables include conventional travel trailers, fifth-wheel travel trailers, folding camping trailers and the truck campers. A motorized RV is a recreational camping and travel vehicle built on or as an integral part of a self-propelled motor vehicle chassis. It may provide kitchen, sleeping, and bathroom facilities and be equipped with the ability to store and carry fresh water and sewage. Motorized RVs include motor homes (Class A), van campers (Class B), motor homes (Class C) and conversion vehicles.

REDEVELOPMENT

The process of developing land which is or has been developed. For purposes of implementing specific provisions of this program, "redevelopment" (as opposed to new development) means a development activity that takes place on property with pre-development imperviousness (in IDA) or lot coverage (in LDA and RCA) of 15% or greater.

[Amended 12-12-2013 by Ord. No. 650, effective 12-19-2013]

REFORESTATION

The establishment of a forest through artificial reproduction or natural regeneration.

REGULATIONS

The whole body of regulations, text, charts, tables, diagrams, maps, notations, references, and symbols, contained or referred to in this chapter.

RENEWABLE RESOURCE

A resource that can renew or replace itself and, therefore, with proper management, can be harvested indefinitely.

RESIDENCE, COMMERCIAL APARTMENT

A multifamily residence located above the principal commercial use.

RESIDENCE, MULTIFAMILY

A residential use consisting of a building containing three or more dwelling units. For purposes of this definition, a building includes all dwelling units that are enclosed within that building or attached to it by a common floor or wall (even the wall of an attached garage or porch) (e.g., townhouses and apartments).

RESIDENCE, MULTIFAMILY CONVERSION

A multifamily residence containing not more than four dwelling units and results from the conversion of a single building containing at least 2,000 square feet of gross floor area that was in existence on the effective date of this provision and that was originally designed, constructed and occupied as a single-family residence.

RESIDENCE, PRIMARY WITH ACCESSORY APARTMENT

A residential use having the external appearance of a single-family residence but in which there is located a second dwelling unit that comprises not more than 25% of the gross floor area of the building nor more than a total of 750 square feet.

RESIDENCE, TWO-FAMILY CONVERSION

A two-family residence resulting from the conversion of a single building containing at least 2,000 square feet of gross floor area that was in existence on the effective date of this provision and that was originally designed, constructed and occupied as a single-family residence.

RESOURCE CONSERVATION AREAS (RCA)

Areas characterized by nature-dominated environments (that is, wetlands, forests, abandoned fields) and resource-utilization activities (that is, agriculture, forestry, fisheries activities, or aquaculture). These areas shall have had at least one of the following features as of December 1, 1985:

- A. Density is less than one dwelling unit per five acres; or
- B. Dominant land use is in agriculture, wetland, forest, barren land, surface water, or open space.

RESOURCE UTILIZATION ACTIVITIES

Any and all activities associated with the utilization of natural resources such as agriculture, forestry, surface mining, aquaculture, and fisheries activities.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

RESTAURANT, RIVERFRONT

An establishment that conforms to the definition of a "restaurant, standard," and is located in the Recreational and Parks District, along the Choptank River and within the Buffer Exemption Area (BEA) of the Critical Area.

[Added 12-6-2010 by Ord. No. 615, effective 12-16-2010]

RESTAURANTS**A. RESTAURANT, STANDARD**

— A food-serving establishment whose principal business is the sale of food, and the principal method of operation is its service when ordered from a menu to seated customers at a table, booth or counter inside the establishment. A snack bar or refreshment stand at a public or nonprofit community swimming pool, playground or park, operated solely for the convenience of its patrons, shall not be considered a restaurant.

B. RESTAURANT, FAST-FOOD

— An establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and wrapped or presented so that it can readily be eaten outside or

inside the premises.

C. RESTAURANT, FAST-FOOD CAFETERIA

— Any establishment where ready-to-eat food is available upon a short waiting time and served to customers on a tray through a cafeteria line for consumption at a table, booth or counter inside the establishment.

D. RESTAURANT, FAST-FOOD CARRY-OUT

— Any establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and packaged or presented so it can readily be eaten away from the premises as there are no facilities for on-premises consumption of food.

E. RESTAURANT, DRIVE-IN OR DRIVE-THROUGH

— Any establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and packaged or presented so that it can be readily eaten inside the premises and whose method of operation is also to serve customers in motor vehicles either at a drive-through window or while parked.

RESTORATION

The act of returning a site or area to an original state or any action that reestablishes all or a portion of the ecological structure and functions of a site or area.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

RETAIL STORE

Stores selling one kind or various kinds of goods, as distinct from services, such as, but not limited to, drugstores, grocery stores, department stores, camera shops, bookstores, and record shops.

RIGHT-OF-WAY

A strip of land designated for the use of a road, highway, driveway, alley or walkway, or for any drainage or public utility purpose or other similar uses.

RIPARIAN HABITAT

A habitat that is strongly influenced by water and which occurs adjacent to streams, shorelines, and wetlands.

ROAD

A public thoroughfare under the jurisdiction of the state, a county, a municipal corporation, or any other public body. "Road" does not include a drive aisle or a driveway.

[Amended 12-12-2013 by Ord. No. 650, effective 12-19-2013]

ROOMING HOUSE

Same as "boardinghouse."

SATELLITE DISH (RECEIVE-ONLY)

A device or instrument designed or used for the reception of television or other electronic communications signal broadcast or relayed from an earth satellite, typically up to 12 feet in diameter, in the shape of a shallow dish or parabola.

SEASONALLY FLOODED WATER REGIME

A condition where surface water is present for extended periods, especially early in the growing season, and when surface water is absent, the water table is often near the land surface.

SEAT

For the purpose of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units installed or indicated, or each 24 linear inches of benches, pews, or space for loose chairs.

SECONDARY HIGHWAY

A highway designated as a state secondary highway by the Maryland Department of Transportation.

SELECTION

The removal of single, scattered, mature trees or other trees from uneven-aged stands by frequent and periodic cutting operations.

SEMIPUBLIC

A use owned or operated by a nonprofit, religious or philanthropic institution and providing education, cultural, recreational, religious, or similar types of public programs.

SENIOR CENTER

An establishment that may function as a meal site, screening clinic, recreational clinic, recreational center, social service agency branch office, mental health counseling clinic, older worker employment agency, volunteer coordinating center and community meeting hall.

SENSITIVE AREAS

Environmental protection areas identified in the Economic Growth, Resource Protection and Planning Act of 1992 (See § 5-7A-01 et seq. of the Annotated Code of Maryland.) for which special standards, designed to protect these areas from the adverse effects of development, have been included in this chapter. (See § 128-149.) These areas include the following:

- A. Streams and their buffers;
- B. One-hundred-year floodplain;
- C. Habitats of threatened and endangered species;
- D. Steep slopes; and
- E. Any other areas determined by the Town.

SETBACK

The minimum required distance between the point where any structure on a lot meets the ground surface and any lot line or boundary of a Town or state road right-of-way.

SEXUAL DEVICE

Shall have the meaning set forth in § 30-1 of the Denton Town Code.^[5]

SHORE EROSION CONTROL MEASURES

Any number of structural and nonstructural methods or techniques used to control the erosion of shoreline areas.

SHORE EROSION PROTECTION WORKS

Those structures or measures constructed or installed to prevent or minimize erosion of the shoreline in the Critical Area.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

SIGN

A sign is any structure or part thereof, or any device attached to, painted on, or represented on a building, fence, or other structure, upon which is displayed or included any letter, work, model, banner, flag, pennant, insignia, decoration, device, or representation used as, or which is in the nature of, an announcement, direction, advertisement, or other attention-directing device. A sign shall not include a similar structure or device located within a building except illuminated boards, but does not include the flag, pennant, or insignia of any nation or association of nations, or of any state, city, or other political unit, or of any political, charitable, educational, philanthropic, civic, or like campaign, drive, movement, or event.

SIGN, ABANDONED OR OBSOLETE

A sign either on-premises or off-premises, which identifies, describes, directs attention to, or gives directions for locating any business or establishment no longer in operation, or advertises any product no longer being marketed or any sign structure in disrepair.

SIGN, A-FRAME

A freestanding sign usually hinged at the top, or attached in a manner, and widening at the bottom to form a shape similar to the letter "A." Such signs are usually designed to be portable and not considered to be permanent signs.

SIGN AREA

That area enclosed by the periphery connecting the extreme points or edges of a sign. The area shall be determined using the largest sign area or silhouette visible at any one time from any one point. This area does not include the main supporting sign structure, but all other ornamental attachments, inner connecting lines, etc., which are not part of the main supports of the sign are to be included in determining sign area. On a two-sided sign, only one face is counted in computing the sign's area, provided the faces are located not more than two feet from each other.

SIGN, BANNER

Any cloth, bunting, plastic, paper or similar nonrigid material and captive/tethered balloon or inflatable sign used for advertising purposes attached to or pinned on or from any structure, staff, pole, line, framing, or vehicle.

SIGN, BILLBOARD

A structure designed, intended or used for advertising a product, property, business, entertainment, service, amusement, or the like, and not located where the matter advertised is available or occurs.

SIGN, BULLETIN BOARD

A board or wall area on which bulletins, notices, announcements or displays are posted.

SIGN, CHANGEABLE ELECTRONIC MESSAGE BOARD

A sign or portion thereof that displays electronic, nonpictorial text information in which each alphanumeric character, graphic, or symbol is defined by a small number of matrix elements using different combinations of light-emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area. Electronic changeable message board signs include computer-programmable, microprocessor-controlled electronic displays.

SIGN, CHANGEABLE MESSAGE BOARD

A freestanding, permanent or moveable sign with manually moveable and interchangeable letters or numbers.

SIGN, COMBINATION

A freestanding sign that has a permanent component advertising a business and also has a message board component.

SIGN, CONSTRUCTION

A sign erected during the construction of a building or other type of improvement, customarily listing the name of the owner, architect, engineer, designer, and/or contractors involved in the construction of the building or improvement.^[6]

SIGN, ELECTRONIC DISPLAY SCREEN

A sign or portion of a sign that displays an electronic image or video, which may or may not include text. This definition includes television screens, plasma screens, digital screens, flat screens, LED screens, video boards, and holographic displays.

SIGN, ELECTRONIC GRAPHIC DISPLAY

A sign or portion thereof that displays electronic, static images, static graphics or static pictures, with or without information, defined by a small number of matrix elements using different combinations of light-emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of a fade, repixilation or dissolve mode. Electronic graphic display signs include computer-programmable, microprocessor-controlled electronic or digital displays. Electronic graphic display signs include projected images or messages with these characteristics onto buildings or other objects.

SIGN, ELECTRONIC MESSAGE BOARD

Any sign or portion of a sign that uses changing lights to form a sign message or messages in text form wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

SIGN, FLAG

Any cloth, bunting or similar material containing distinctive colors, patterns or symbols, indicating the name, trademark or logo of a business or used as an advertising device.

[Amended 6-6-2011 by Ord. No. 631, effective 6-16-2011]

SIGN, FLASHING

Any illuminated sign on which the artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use. Any revolving illuminated sign shall be considered a flashing sign.

SIGN, FLAT/WALL

Any sign attached parallel to, but within nine inches of, a wall, which is supported by such wall or building and displays only one sign surface. This includes those signs painted in or erected and confined within the limits of an outside wall or building.

SIGN, FREESTANDING

A sign that is attached to, erected on or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure having a principal function other than the support of a sign. A sign that stands without separate supporting elements, such as a "sandwich sign," is also a freestanding sign.

SIGNIFICANTLY ERODING AREAS or SIGNIFICANT SHORELINE EROSION

Areas that erode two feet or more per year.

[Amended 12-12-2013 by Ord. No. 650, effective 12-19-2013]

SIGN, MARQUEE

A roof-like structure of a permanent nature which projects from the wall of a building or its supports and may overhang the public way.

SIGN, PENNANT

Any cloth, bunting, plastic, paper, or similar material, whether or not it contains a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

SIGN, PERMANENT MATERIAL

A sign constructed of materials engineered or manufactured to be durable, designed for long-term use, and appropriate for the conditions where such sign is located. Examples of permanent sign materials are: exterior-grade wood, such as redwood or cedar, high-density urethane, Dibond, aluminum, and medium-density overlay (MDO).

SIGN, POLITICAL

A temporary sign designed to attract support for a particular candidate, political party, or political issue or to express an opinion on any matter of public interest.

SIGN, PORTABLE OR MOBILE

A sign that is not permanently secured to a structure or the ground.

SIGN, PROJECTING

Any sign affixed to a building or wall in such a manner that its leading edge extends more than nine inches beyond the surface building or wall.

SIGN, SHIMMERING

A sign which reflects an oscillating, sometimes distorted visual image.

SIGN, STOREFRONT WINDOW

Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window. This definition shall not include the display of merchandise, provided that such display does not contain any advertising.

SIGN, TEMPORARY

A nonelectronic sign that is used in connection with a circumstance, situation, or event that is designed, intended or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign, or is intended to remain on the location where it is erected or placed for a period of not more than a predetermined number of days. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.

SIGN, TIME/TEMPERATURE

An electronic or mechanical device which shows time and/or temperature, but contains no business identification or advertising.

SIGN, VEHICLE

Any sign exceeding 10 square feet in area and mounted on, painted on, placed on, attached or affixed to a trailer, watercraft, truck, automobile, or other form of transportable vehicle so parked or placed so that the sign thereon is discernible from a public street or right-of-way as a means of communication or exhibiting.

SILVICULTURE

The care and cultivation of forest trees; forestry.

SITE PLAN

A drawing or plat which describes and locates required improvements of a development tract in accordance with the provisions of Article **XXIII** of this chapter.

- A. Concept or sketch: an informal pre-submission of an illustration(s) demonstrating proposed development of a site.
- B. Preliminary: drawing(s) with more substantive detail than a concept or sketch plan indicating the proposed layout of the subdivision or site, including the geometric layout with all proposed streets, lots, and easements drawn to scale.
- C. Final: detailed drawing(s) with all substantive specificity (information about the project, including, but not limited to, legal data, impact on environs, natural features, existing development and infrastructure and the site development).

SLUM

Any area where dwellings predominate that, by reason of dilapidation, overcrowding, lack of ventilation, light or sanitary facilities, or any combination of these factors, is detrimental to safety, health, or morals.

SMALL SHRUB

A shrub that, when mature, reaches a height no greater than six feet.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

SOIL CONSERVATION AND WATER QUALITY PLANS

Land use plans for farms that show farmers how to make the best possible use of their soil and water resources while protecting and conserving those resources for the future. It is a document containing a map and related plans that indicate:

- A. How the landowner plans to treat a farm unit;
- B. Which best management practices the land owner plans to install to treat undesirable conditions; and
- C. The schedule for applying best management practices.

SOLAR PANEL

A packaged interconnected assembly of solar cells, also known as "photovoltaic cells." The solar panel is used as a component in a larger photovoltaic system. Because a single solar panel can only produce a limited amount of power, many installations contain several panels. This is known as a "photovoltaic array." A photovoltaic installation typically includes an array of solar panels, an inverter, batteries and interconnection wiring.

SPECIAL EVENTS

Circuses, fairs, carnivals, festivals, or other types of special events that run for longer than one day but not longer than two weeks, are intended to or likely to attract substantial crowds, and are unlike the customary or usual activities generally associated with the property where the special event is to be located.

SPECIAL EXCEPTION

Permission given by the Board of Appeals to establish a specific use that would not be appropriate generally or without restriction throughout a zoning district but which if controlled as to number, area, location, or relation to the neighborhood would comply with the purpose and intent of this chapter. Such uses may be approved within a zoning district if specific provision for such a special exception is made in this chapter.

SPECIES IN NEED OF CONSERVATION

Those fish and wildlife whose continued existence as part of the state's resources are in question and which may be designated by regulation by the Secretary of Natural Resources as in need of conservation pursuant to the requirements of Natural Resources Article, §§ 10-2A-03 and 4-2A-03, Annotated Code of Maryland.

SPOIL PILE

The overburden and reject materials as piled or deposited during surface mining.

SPOT BLIGHT

A structure, improvement, or lot that is a blighted property as defined in this section.

SPOT BLIGHT ABATEMENT PLAN

A written plan prepared by the owner or owners of record of the real property to address spot blight.

STABLE, COMMERCIAL OR CLUB

Any building or land where horses are kept for breeding, hire, sale, boarding, riding or show.

STABLE, NONCOMMERCIAL

Any building or structure, accessory to the principal use of the premises as a residence, that shelters horses for the exclusive use of the occupants of the premises.

STATE TIDAL WETLAND

Any land under the navigable waters of the state below the mean high tide affected by the regular rise and fall of the tide. Tidal wetlands of this category which have been transferred by the state by a valid lease, patent, or grant confirmed by Article 5 of the Maryland Declaration of Rights are considered "private tidal wetlands" to the extent of the interest transferred.

STEEP SLOPES

Any slope with a grade of 15% or more shall be considered a steep slope.

STORAGE

The keeping, either indoors (including inside a cargo trailer) or outdoors, of equipment, vehicles, or supplies used in the conduct of a trade, business, or profession. Storage does not include the overnight parking in residential zones of a single vehicle weighing no more than 2.5 tons gross vehicle weight which, although used primarily for business, trade, or professional purposes, also provides daily transportation to and from work.

STORMWATER MANAGEMENT

- A. For quantitative control, a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by man-made changes to the land; and
- B. For qualitative control, a system of vegetative, structural, and other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff.

STORMWATER MANAGEMENT PLAN

A set of drawings or other documents, submitted by a person as a prerequisite to obtaining a stormwater management approval, which contain all of the information and specifications pertaining to stormwater management.

STORY

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

the ceiling next above it.

STORY, HALF

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

STREET

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

STREET CLASSIFICATION/FUNCTIONAL SYSTEMS FOR RURAL AREAS ROAD CLASSIFICATION

Rural roads consist of those facilities that are outside of small urban and urbanized areas. They are classified into four major systems: principal arterials, minor arterial roads, major and minor collector roads, and local access streets. The road classifications are shown conceptually in the Comprehensive Plan on Map 7.4.

STREET, CUL-DE-SAC

A street that terminates in a vehicular turnaround.

STREET LINE

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

STREET, SERVICE ACCESS

A minor street which is parallel and adjacent to (principal arterials) parkways, throughways or bypasses, and which provides access to abutting properties and protection from through traffic.

STRUCTURAL ALTERATIONS

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

STRUCTURE

Building or construction materials, or a combination of those materials, that are purposely assembled or joined together on or over land or water. "Structure" includes a temporary or permanent fixed or floating pier, piling, deck, walkway, dwelling, building, boathouse, platform, gazebo, or shelter for the purpose of marine access, navigation, working, eating, sleeping, or recreating.

[Amended 12-12-2013 by Ord. No. 650, effective 12-19-2013]

SUBDIVISION

The division of a tract of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future).

SUBDIVISION, MAJOR

Any subdivision other than a minor subdivision.

SUBDIVISION, MINOR

A subdivision that does not involve any of the following: the creation of more than a total of three lots; the creation of any new public streets; the extension of a public water or sewer system; or the installation of drainage improvements through one or more lots to serve one or more other lots.

SUBSTANTIAL ALTERATION

Any repair, reconstruction, or improvement of a principal structure, where the proposed footprint equals or exceeds 50% of the existing principal structure.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

SUPERMARKET

A store that is larger in size than, and has a wider selection of products than, a grocery store. A supermarket typically offers a wide variety of food and household merchandise organized into departments.

SUPPLEMENTAL PLANTING PLAN

A description and landscape schedule that shows the proposed species type, quantity, and size of plants to be located within a buffer if natural regeneration does not meet the required stem density.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

TATTOO STUDIO/PARLOR

A place where people receive permanent decorative tattoos and/or body piercing from a tattoo artist.

TAVERN

An establishment used primarily for the serving of liquor by the drink to the general public, and where food or packaged liquors may be served or sold only as an accessory to the primary use. Also called a "bar" or "lounge."

TELEVISION OR SATELLITE DISH

A device or equipment used primarily for the receiving of television, radio programming, or Internet which is a subordinate use or structure customarily incidental to and located upon the same lot as the main structure, in either a side or rear yard.

TEMPORARY EMERGENCY, CONSTRUCTION OR REPAIR RESIDENCE

A residence (which may be a mobile home) that is located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster; or located on the same lot as a residence that is under construction and occupied by the persons intending to live in such permanent residence when the work is completed; or located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such construction site. These residences shall be removed from the site within one month of resolution of the situation which prompted their need.

TEMPORARY DISTURBANCE

A short-term change in the landscape that occurs as part of a development or redevelopment activity. "Temporary disturbance" includes: storage of materials that are necessary for the completion of the development or redevelopment activity; construction of a road or other pathway that is necessary for access to the site of the development or redevelopment activity, if the road or pathway is removed immediately after completion of the development or redevelopment activity and the area is restored to its previous vegetative condition; and grading of a development site, if the area is restored to its previous vegetative condition immediately after completion of the development or redevelopment activity. "Temporary disturbance" does not include: a septic system in a forest or developed woodland on a lot created before local program approval, if clearing is required. "Temporary disturbance" also does not include a violation.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

THREATENED SPECIES

Any species of fish, wildlife, or plants designated as such by regulation by the Secretary of the Department of Natural Resources which appear likely, within the foreseeable future, to become endangered, including any species of wildlife or plant determined to be threatened species pursuant to the federal Endangered Species Act, 16 U.S.C. § 1531 et seq., as amended.

TIDAL WETLANDS

All state and private wetlands, marshes, submerged aquatic vegetation, lands, and open water affected by the daily and periodic rise and fall of the tide within the Chesapeake Bay and its tributaries, the coastal bays adjacent to Maryland's coastal barrier islands, and the Atlantic Ocean to a distance of three miles offshore of the low-water mark.

TOPOGRAPHY

The existing configuration of the earth's surface, including the relative relief, elevations, and position of land features.

TOURIST COURT; AUTO COURT

Same as "motel."

TOURIST HOME

A private, owner-occupied home in which bedrooms are rented to tourists or travelers.

TOWER

Any structure whose principal function is to support an antenna or wind turbine.

TOWNHOUSE

One of a group of attached single-family dwellings which are designed as single structures, with each dwelling unit separated by fire walls, fire separations, or similar party wall. No more than eight dwelling units shall be attached.

TOWNHOUSE UNIT

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

TRACT

A lot. (See definition of "lot.") The term "tract" is used interchangeably with the term "lot," particularly in the context of subdivisions, where one tract is subdivided into several lots.

TRANSITIONAL HABITAT

A plant community whose species are adapted to the diverse and varying environmental conditions that occur along the boundary that separates aquatic and terrestrial areas.

TRANSPORTATION FACILITIES

Anything that is built, installed, or established to provide a means of transport from one place to another.
[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

TREE

For purposes of the Critical Area, a woody perennial plant having a single, usually elongated main stem generally with few or no branches on its lower part; a perennial shrub or herb of arborescent form. For purposes of the forest conservation provisions of this chapter, a tree is defined as a large, woody plant having one or several self-supporting stems or trunks and numerous branches that reach a height of at least 20 feet at maturity.

TRIBUTARY STREAMS

Perennial and intermittent streams in the Critical Area that are so noted on the most recent U.S. Geological Survey 7.5-minute topographic quadrangle maps (scale 1:24,000) or on more detailed maps or studies at

the discretion of the Town.

UNDERSTORY

The layer of forest vegetation typically located underneath the forest canopy.
[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

UNDERSTORY TREE

A tree that, when mature, reaches a height between 12 and 35 feet.
[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

UNWARRANTED HARDSHIP

Without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.
[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

UPLAND BOUNDARY

The landward edge of a tidal wetland or nontidal wetland.
[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

USE

The purpose or activity for which land or any building thereon is designed, arranged or intended, or for which it is occupied or maintained.

USE, CONDITIONAL

Permission to conduct certain activities within a zoning district. Such activities are considered conditional uses, which are permitted within the zone only upon special approval of the Board of Appeals.

USE, PERMITTED

A use which may be lawfully established in a particular district or districts, provided it conforms to all regulations, requirements, and standards of such district.

USE, PRINCIPAL

A use listed in the Table of Use Regulations.^[7]

USE, SPECIAL EXCEPTION

See "use, conditional."

UTILITY FACILITIES, COMMUNITY OR REGIONAL

All utility facilities other than neighborhood utility facilities.

UTILITY FACILITIES, NEIGHBORHOOD

Utility facilities that are designed to serve the immediately surrounding neighborhood and that must, for reasons associated with the purpose of the utility in question, be located in or near the neighborhood where such facilities are proposed to be located.

UTILITY TRANSMISSION FACILITIES

Fixed structures that convey or distribute resources, wastes, or both, including, but not limited to, electric lines, water conduits, and sewer lines.

VARIANCE

A modification only of density, bulk or area requirements in this chapter where such modifications will not be contrary to the public interest and where owing to conditions peculiar to the property, and not the

results of any action taken by the applicant, a literal enforcement of this chapter would result in unnecessary hardship.

VENDOR OPERATIONS

Those uses offering a product for sale on a regular basis, in which said sales are not located within a permanent structure.

VIEWING BOOTH

Any booth, cubicle, stall, or compartment that is designed, constructed, or used to hold or seat patrons and is used for presenting motion pictures or viewing publications by any photographic, electronic, magnetic, digital, or other means or media (including, but not limited to, film, video or magnetic tape, laser disc, CD-ROM, books, magazines, or periodicals) for observation by patrons therein. A viewing booth shall not mean a theater, movie house, playhouse, or a room or enclosure or portion thereof that contains more than 600 square feet.

WAREHOUSE

A structure used for the storage and/or the sale of products at wholesale, and where the sale of a product at retail is incidental.

WASH PLANT

A facility where sand and gravel is washed during processing.

WATER-BASED AQUACULTURE

The raising of fish and shellfish in any natural, open, free-flowing water body.

WATERCOURSE

Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine, or wash, in and including any area adjacent thereto which is subject to inundation by reason of overflow or water.

WATER-DEPENDENT FACILITIES

Those structures or works associated with industrial, maritime, recreational, educational, or fisheries activities that require location at or near the shoreline within the buffer. An activity is water dependent if it cannot exist outside the buffer and is dependent on the water by reason of the intrinsic nature of its operation. Such activities include, but are not limited to, ports, the intake and outfall structures of power plants, water-use industries, marinas and other boat-docking structures, public beaches and other public water-oriented recreation areas, and fisheries activities.

[Amended 12-12-2013 by Ord. No. 650, effective 12-19-2013]

WATERFOWL

Birds which frequent and often swim in water, nest and raise their young near water, and derive at least part of their food from aquatic plants and animals.

WATER-USE INDUSTRY

An industry that requires location near the shoreline because it utilizes surface waters for cooling or other internal purposes.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

WHOLESALE

The selling of goods in relatively large quantities and usually at lower prices than at retail, especially such selling to retailers for resale to consumers.

WILDLIFE CORRIDOR

A strip of land having vegetation that provides habitat and a safe passageway for wildlife.

WILDLIFE HABITAT

Those plant communities and physiographic features that provide food, water, cover, and nesting areas, as well as foraging and feeding conditions necessary to maintain populations of animals in the Critical Area.

[Added 12-12-2013 by Ord. No. 650, effective 12-19-2013]

WILD OR EXOTIC ANIMAL

Any live monkey, raccoon, skunk, wolf, squirrel, fox, leopard, panther, tiger, lion, lynx or any other warm-blooded animal, poisonous snake or tarantula which can normally be found in the wild state or any other member of crocodilian, including but not limited to alligators, crocodiles, caimans, gavials or any other animal so classified by the State of Maryland. Ferrets, nonpoisonous snakes, rabbits and laboratory rats which have been bred in captivity, and which have never known the wild, shall be excluded from this definition.

WIND TURBINE

A device with vanes that are rotated by the wind to generate electricity, usually similar in appearance to a giant aircraft propeller and mounted on a tall, slim tower.

WOODED AREA

An area of contiguous wooded vegetation where trees are at a density of at least one six-inch-or-greater-caliper tree per 325 square feet of land and where the branches and leaves form a contiguous canopy.

YARD

An open space other than a court, on a lot unoccupied and unobstructed from the ground upward except as otherwise provided for in this chapter. See **Appendix VI** at the end of this chapter.

YARD, FRONT

A yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street line and the main building or any projection thereof, other than the terraces or uncovered porches. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

YARD, REAR

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

YARD, SIDE

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

ZONING DISTRICT

An area within which certain uses of land and structures are permitted and certain others are prohibited; yards and other open spaces are required; minimum lot areas and dimensions and other requirements are established.

ZONING OVERLAY DISTRICT

A district which is placed over the existing regular or parent zoning because of siting of a zoning district or imposes additional restrictions, e.g., the Critical Area Overlay District.

ZONING PARENT DISTRICT

Those basic districts initially listed other than special districts in Articles **IV** through **IX**.

ZONING PERMIT

A written statement issued by the Director of Planning and Codes authorizing buildings, structures, or uses consistent with the terms of this chapter, and for the purpose of carrying out and enforcing its provisions.

- [1]: *Editor's Note: See § 8-1803 of the Natural Resources Article of the Annotated Code of Maryland.*
- [2]: *Editor's Note: See Ch. 73, Land Subdivision.*
- [3]: *Editor's Note: The Table of Use Regulations is included at the end of this chapter.*
- [4]: *Editor's Note: See § 8-1801 et seq. of the Natural Resources Article of the Annotated Code of Maryland.*
- [5]: *Editor's Note: The former definition of "shopping center," which immediately followed this definition, was repealed 10-4-2012 by Ord. No. 649, effective 10-14-2012.*
- [6]: *Editor's Note: The former definition of "sign, decorative flag," which immediately followed, was repealed 6-6-2011 by Ord. No. 631, effective 6-16-2011. See now the definition of "flag."*
- [7]: *Editor's Note: The Table of Use Regulations is included at the end of this chapter.*

Article III. Zoning Districts and Zoning District Maps

§ 128-9. Zoning districts established.

The following zoning districts are hereby established for Denton, Maryland:

SR	Suburban Residential
TR	Town Scale Residential
MR	Mixed Residential
PN	Planned Neighborhood (Floating Zone - eligible and applied)
GC	General Commercial
CBC	Central Business Commercial
RHC	Regional Highway Commercial
CM	Commercial Medical
I	Industrial
MI	Mixed Industrial
RA	Rural Agriculture
RD	Redevelopment (Floating Zone - eligible and applied)
RP	Recreation and Parks
CA	Chesapeake Bay Critical Area (Overlay Zone)
RC	Rural Conservation (Overlay Zone)
HD	Historic District (Overlay Zone)
AE	Arts and Entertainment (Overlay Zone)

§ 128-10. Official Zoning Maps.

- A. The incorporated areas of the Town are hereby divided into zones (zoning districts), as shown on the Official Zoning Maps which, together with all explanatory matter thereon, are hereby adopted by reference

and declared to be a part of this chapter.^[1]

[1]: *Editor's Note: The Zoning Maps are on file in the Town offices.*

- B. The Official Zoning Maps shall be identified by the signature of the Town Councilpersons, attested by the Town Administrator, and bearing the seal of the Town under the following words: "This is to certify that this is the Official Zoning Maps referred to in § 128-10 of the Zoning Regulation of the Town of Denton, Maryland," together with the date of the adoption of this chapter.
- C. Regardless of the existence of purported copies of the Official Zoning Maps which may from time to time be made or published, the Official Zoning Maps which shall be located in the Department of Planning and Codes Administration office shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the Town. Copies of the Official Zoning Maps shall also be located in the Town Administrator's or Town Clerk's Office.
- D. Official Critical Area Overlay District Maps.
 - (1) An Official Critical Area Overlay Map has been prepared for the Town of Denton and shall be maintained in force as part of the Official Zoning Maps of the Town of Denton. This map shall delineate the extent of the Critical Area Overlay District and shall correspond to the Chesapeake Bay Critical Area.
 - (2) The Critical Area Overlay District shall include all lands and waters defined in § 8-1807 of the Natural Resources Article, Annotated Code of Maryland. They include:
 - (a) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the state wetlands maps, and all state and private wetlands designated under Title 16 of the Environment Article, Annotated Code of Maryland.
 - (b) All lands and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands and the heads of tides designated under Title 16 of the Environment Article, Annotated Code of Maryland; and
 - (c) Modification to these areas through inclusion or exclusion proposed by the Town of Denton and approved by the Critical Area Commission as specified in § 8-1807 of the Natural Resources Article, Annotated Code of Maryland.
 - (3) Within the designated Critical Area, all land shall be assigned one of the following land use management classifications:
 - (a) Intensely Developed Area (IDA).
 - (b) Limited Development Area (LDA).
 - (c) Resource Conservation Area (RCA).
 - (d) Buffer Exemption Area (BEA)
 - (4) The land use management classification shall be as designated in the Town of Denton Critical Area Program, Chapter 43, Critical Areas, as amended. The Critical Area Overlay District Map may be amended by the Town Council in compliance with amendment provisions in this chapter, the Maryland Critical Area Law and Critical Area Regulations.

§ 128-11. Replacement of Official Zoning Maps.

- A. In the event that the Official Zoning Maps become damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Town Council may, by resolution, adopt new Official Zoning Maps which shall supersede the prior Official Zoning Maps.
- B. The new Official Zoning Maps may correct drafting or other errors or omissions in the prior Official Zoning Maps, but no such corrections shall have the effect of amending the original Zoning Ordinance or any subsequent amendment thereof. The Director of Planning shall certify as to the accuracy of the new Official Zoning Maps, and the maps shall be identified by the signature of the Town Councilpersons, attested by the Town Administrator, and bearing the seal of the Town under the following words: "This is to certify that these Official Zoning Maps supersede and replace the Official Zoning Maps adopted (date of adoption of maps being replaced) as part of the Zoning Regulation of the Town of Denton, Maryland."

§ 128-12. Interpretation of Zoning District Map.

- A. The location of zoning districts as determined from the Official Zoning Map are subject to the following rules of interpretation:
 - (1) The regulations pertaining to a zoning district shall extend throughout the whole area bounded by the zoning district lines.
 - (2) Where a boundary line is shown to be located within a street, alley, railroad track, or other physical feature, it shall be deemed to be in the actual center of the feature.
 - (3) Where a boundary line is shown as being a specific distance from a street or other physical feature, this distance shall control and shall be measured from the center of the feature.
 - (4) Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- B. Where physical or cultural features existing on the ground are at variance with those shown on the Zoning District Map or under circumstances not covered under this section, the Planning Commission shall interpret the location of the zoning district boundaries.
- C. The Official Critical Area Overlay Map shall not be used for actual determination of the Critical Area, buffer lines of 1,000 feet, 100 feet and 200 feet for the purposes of subdivision, site plan and permit applications. Such determinations shall be made by a professional land surveyor, at the applicant's expense, certified to and noted on plats provided by the applicant.

Article IV. Purpose and Intent of Zoning Districts

§ 128-13. SR Suburban Residential.

The purpose of the Suburban Residential District is to provide for single-family residential development of spacious character, together with such public buildings, schools, churches, open space, public recreational facilities and accessory uses, as may be necessary or are normally compatible with residential surroundings. This district is located to protect existing development of high character and contains vacant land considered appropriate for such development in the future. Limited amounts of two-family and multifamily residences are

permitted in this district only in the context of a planned residential development (PRD) as denoted in § **128-84** of this chapter.

§ 128-14. TR Town Scale Residential.

The purpose of the Town Scale Residential District is to provide for single-family residential development of town-scale character, together with such public buildings, schools, churches, open space, public recreational facilities and accessory uses, as may be necessary or are normally compatible with residential surroundings. This district is located to accommodate future single-family development in the patterns, forms, and densities which currently exist in established medium-density single-family neighborhoods within the Town. Limited amounts of two-family and multifamily residences are permitted in this district only in the context of a planned residential development (PRD) as denoted in § **128-84** of this chapter.

§ 128-15. MR Mixed Residential.

The purpose of the Mixed Residential District is to provide for higher density single-family and multiple-family residences within the Town core, together with such public buildings, schools, churches, open space, public recreational facilities, and accessory uses as may be necessary or are normally compatible with residential surroundings. A planned residential development (PRD), as denoted in § **128-84** of this chapter, is permitted with conditions.

§ 128-16. GC General Commercial.

The purpose of the General Commercial District is to provide sufficient space in appropriate locations for a wide variety of business, commercial, and service activity, but which uses are not characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or the nuisance factors of dust, odor, and noise associated with manufacturing. The overall intent of this district is to provide areas for local commercial needs within the core areas of the Town which are compatible with Town character. Specific residential uses are allowed as denoted by the Official Table of Use Regulations.^[1]

[1]: *Editor's Note: The Table of Use Regulations is included at the end of this chapter.*

§ 128-17. CBC Central Business Commercial District.

The purpose of the Central Business Commercial District is to provide retail and office development and redevelopment within the Central Business Commercial District of the Town. Appropriate uses are generally the same as for the GC District, but with altered yard requirements and altered off-street parking requirements in recognition of the practical difficulty of providing off-street parking in the Central Business Commercial District, and in recognition of the collective responsibility to provide off-street parking for smaller establishments. Development/redevelopment in this district shall be compatible with the existing historic, aesthetic, and pedestrian character of the downtown area in terms of scale and design. Residential uses are also appropriate in this district in order to support commercial uses, and are denoted in the Official Table of Use Regulations.^[1]

[1]: *Editor's Note: The Table of Use Regulations is included at the end of this chapter.*

§ 128-18. CM Medical District.

The purpose of the CM Medical District is to provide an area for the orderly development of medical-related uses, including care facilities within the Town. Permitted uses in the district include those uses customarily associated with medical care and assisted living. Residential uses are also appropriate in this district in order to support commercial uses, and are denoted in the Official Table of Use Regulations.^[1]

[1]: *Editor's Note: The Table of Use Regulations is included at the end of this chapter.*

§ 128-19. RHC Regional Highway Commercial.

The purpose of the Regional Highway Commercial District is to provide for a variety of retail and office establishments and commercial services for use by the traveling public on or near major roads or streets in the Town and at the same time is intended to maintain the appearance of the highways and their access points by limiting outdoor advertising and establishing high standards for development. Commercial development in this district shall be in the form of well-planned and heavily buffered commercial concentrations as opposed to traditional forms of highway strip commercial, including big box retail stores. Commercial development in this district shall be subject to high standards for buffering and landscaping, access control, efficient internal auto and pedestrian orientation, screening of loading/unloading and service areas, lot depth-to-width ratios which promote minimal road frontage, service roads and reverse lot frontage concepts and other site design amenities which enhance aesthetic appeal.

§ 128-20. I Industrial.

The purpose of the Industrial District is to provide areas in the appropriate locations for light manufacturing, fabricating, warehousing, and wholesale distributing in low buildings with off-street loading and off-street parking for employees and with access by major thoroughfares or railroad. Development standards for this district shall be adequate to control excessive heat, odor, noise, dust, and vibration nuisance impacts which could potentially occur. Extensive bufferyards and screening shall be required to screen industrial development from adjacent residential development. Waste removal businesses and similar uses are not permitted in this district. This primary zoning district is further intended to allow the establishment of an adult-oriented business consistent with the requirements of Chapter **30**, Adult-Oriented Businesses, and any other applicable laws or regulations.

§ 128-21. MI Mixed Industrial.

The purpose of the Mixed Industrial District is to offer property located northeast of Lincoln Street and Gay Street and southwest of the old railroad spur, the opportunity to transition over time, as directed by the market, to a more mixed residential use. The current use is mainly industrial and these uses will remain as permitted, with the addition of mixed residential uses allowed as referred to in the Official Table of Use Regulations.^[1] A planned residential development (PRD), as denoted in § **128-84** of this chapter, is permitted with conditions.

[1]: *Editor's Note: The Table of Use Regulations is included at the end of this chapter.*

§ 128-21.1. RA Rural Agriculture.

The purpose of the Rural Agriculture District is to protect and preserve areas of the Town which are presently rural or agricultural in character and use. This zoning district is to provide for agricultural activities, and one detached single-family residential dwelling unit and one caretaker dwelling unit may be allowed per 20 acres. Part of this district is also regulated by overlay zones: Rural Conservation and the Critical Area.

§ 128-21.2. RP Recreation and Parks.

The purpose of the Recreation and Parks District is to protect and preserve areas of the Town which are presently or proposed to be recreation-oriented (active or passive) areas in character and use. This zoning district is to provide for passive and active recreation activities.

§ 128-21.3. PN Planned Neighborhood District.

A. Purpose. The Planned Neighborhood (PN) District is a floating zone. That means that while provisions and regulations are made to govern any development within a PN District, no such district will be pre-mapped on the Official Zoning Map until made PN eligible (PNE) by Town Council's adoption of an ordinance enacting the floating zone. The PN District is intended to permit master-planned, mixed-use developments of large tracts of annexed lands when specified as a Planned Neighborhood eligible (PNE) floating zone in the annexation agreement. At the same time an annexation application is submitted, a PNE District request shall be accompanied by a Planned Unit Development (PUD) concept plan. The concept plan shall be approved by the Town Council before the PNE zoning designation of eligible (PNE) is changed to the specific land. Upon approval of a final PUD plan, the zoning designation of the specific land shall become Planned Neighborhood applied (PNA).

- (1) The purpose of the PN Planned Neighborhood District is to provide for the development of well-planned, mixed-use neighborhoods that exhibit the following characteristics:
 - (a) Integrated mix of uses, including residential, commercial, employment/office, civic, and open space;
 - (b) A range of housing types and densities to accommodate a diverse population of age groups and income levels;
 - (c) Compact design;
 - (d) Interconnected streets designed to balance the needs of all users, with sidewalks and on-street parking;
 - (e) Open spaces integral to the community; and
 - (f) Location adjacent to and extending the fabric of existing development.
- (2) There is a general presumption that an application for a PUD project at an appropriate location conditionally approved as a PN District, proposing uses permitted within the PN District with residential densities as provided in this section, inures to the general benefit of the Town and is in compliance with the Town's Comprehensive Plan.

B. Applicability. The Town Council may apply the PN Planned Neighborhood District to any lands annexed by the Town which have not been rezoned prior to the original adoption of this section, Ordinance No. 446,

adopted May 3, 2004, and effective May 10, 2005. The PN District is intended to apply to tracts of land exceeding 50 acres.

- C. Intent. The PN Planned Neighborhood District is intended to promote the following:
- (1) Implement the recommendations of the Denton Comprehensive Plan;
 - (2) Develop neighborhoods that are pedestrian friendly and encourage pedestrian travel;
 - (3) Promote design that results in residentially scaled buildings fronting on, and generally aligned with, streets;
 - (4) Encourage the inclusion of a diversity of household types, age groups, and income levels;
 - (5) Promote traditional town building and site development patterns, with an interconnected and broadly rectilinear pattern of streets, alleys, and blocks, to accommodate both pedestrians and automobiles;
 - (6) Encourage creation of functionally diverse, but visually unified, communities focused on central squares;
 - (7) Promote use of neighborhood greens, landscaped streets, boulevards, and single-loaded parkways woven into street and block patterns to provide space for social activity, parks, and visual enjoyment;
 - (8) Provide buildings for civic or religious assembly or for other common or institutional purposes that act as visual landmarks and symbols of identity;
 - (9) Promote the location of dwellings, shops, and workplaces in close proximity to each other, the scale of which accommodates and promotes pedestrian travel for trips within the community;
 - (10) Preserve open space, scenic vistas, agricultural lands, and natural areas;
 - (11) Permit design flexibility in order to achieve an appropriate mix of residential and nonresidential building uses; and
 - (12) Require efficient utilization of designated growth areas.
- D. Land uses in the PN District. The uses permitted within the PN District shall be as established by the land use table set forth in this chapter, which shall prevail over conflicting requirements of this chapter or the Subdivision regulations, Chapter **73**, Land Subdivision.
- E. Density determination.
- (1) General. The total number of dwelling units permissible in a PUD project in the PN District shall be determined in accordance with the provisions of this section (as adjusted by density bonuses as set forth below), subject to the following:
 - (a) Areas used for nonresidential purposes shall be subtracted from the adjusted tract acreage, as described in Subsection **E(2)** below before determining permissible residential density.
 - (b) All dwelling units constructed above commercial uses in the storefront area shall be permissible in addition to the number of dwelling units otherwise authorized under this section. However, the total number of dwelling units in a development shall not be increased by more than 10 dwelling units or 5%, whichever is greater.
 - (2) Base density calculation. Base density shall be determined by the land area yielded through

calculations of the adjusted tract acreage (also defined as "net area"), as determined by Table E(2). The minimum residential density for a proposed PN District shall be 3.5 dwelling units per adjusted tract acres. Except as may be provided for below, the maximum residential density for a proposed PN District shall be no more than 5.0 dwelling units per adjusted tract acre.

Table E(2) Table Density Factors for Calculating Adjusted Tract Acreage

	Density Factor	Description of Constraint
DF 1	0.00	Street rights-of-way, floodways within one-hundred-year floodplain; wetlands and soils classified as "very poorly drained"; utility easements for high-tension electrical transmission lines (less than 69 KV); steep slopes, that is, those greater than 25%; soils classified as "poorly drained" (in unsewered areas); one-hundred-year floodplain (excluding floodways or wetlands within the floodplain); additional environmental constraints, such as FIDS and other habitat areas
DF 2	0.05	Rural Conservation Overlay District (Resource Conservation Area of Critical Area Buffer): shall be applied only to area component not constrained by DF 1
DF 3	0.75	Soils classified as "poorly drained" (in sewerred areas); slopes between 15% and 25%
DF 4	1.00	Unconstrained land

(3) Density incentives to further certain public objectives.

- (a) Housing type diversity. A density increase of up to 5% is permitted at the discretion of the Town Council when the proposal provides a mixture of at least four of the five of the following types of housing: single-family detached, two-family (semidetached), multifamily, townhouse, and apartments. The architecture of the proposed dwellings shall be harmonious among the various housing types, and they shall be integrated physically, that is, they should not be separated into different neighborhoods but rather mixed in together on the same streets so that at least two dwelling types are located together within the same block.
- (b) Implementation. For each of the public purposes described in Subsection **E(3)(a)** above, if the Town Council is satisfied that the public purpose objectives are being satisfied, density bonuses may be implemented by reducing the minimum lot area requirements up to 20%. The cumulative density bonuses applied to a PUD project may not exceed 10% of the maximum residential base density.

F. General design requirements.

- (1) Design standards referenced in this section shall be considered as minimum performance standards for the PN District.
- (2) Planned neighborhoods are intended to provide for a range of complementary uses and may consist of up to four use areas: single-family residential areas (SRAs), central residential areas (CRAs), storefront areas (SAs), and conservation areas (CAs). At a minimum, they must contain both a SRA and a CA. These areas are intended to provide for the diversity necessary for traditional town life, while maximizing the interactions among related uses and minimizing the adverse impacts of different uses upon each other.
 - (a) Single-family residential areas (SRAs) provide locations for a broad range of housing types, including single-family detached, semidetached, and attached, and may also include accessory

dwelling units. SRAs may include the Rural Conservation District (Rural Conservation Area of the Critical Area); however, no more than one detached single-family residential dwelling unit and one caretaker dwelling unit may be allowed per 20 acres and shall be subject to award of growth allocation. See § 128-33C.

- (b) Conservation areas (CAs) are permanently protected open spaces, including greens, commons, passive and active recreation areas, environmentally sensitive and constrained areas, habitat protection areas and private noncommon acreage used for agriculture, wholesale nurseries, tree farms, equestrian facilities, etc.
- (c) The central residential area (CRA) is intended to contain a variety of housing options and related uses.
- (d) The storefront area (SA) is intended primarily to provide uses that meet the retail and service needs of a traditional community center and its vicinity within one- and two-story buildings and may contain other compatible uses, such as civic and institutional uses of community-wide importance, specifically including second-floor residential uses.

G. Development standards.

(1) The following development standards shall apply to the PN District:

- (a) The setback, lot size, lot dimensions, lot coverage, height, and yard requirements in the PN shall be established for each individual project by the Planning Commission in accordance with the PN design guidelines, § 128-21.3. In establishing these requirements, the Planning Commission shall consider such factors as the proposed development intensity and the existing character of adjacent neighborhoods.
- (b) Land coverage. The maximum amount of land that may be built over (covered) by parking lots, roads, sidewalks, or plazas, buildings, or other structures shall be 60% of the adjusted tract area of the PN property(ies).
- (c) Minimum required open space.
 - [1] A minimum of 30% of the adjusted tract acreage shall be open space, including parks, recreational, habitat, forest, agriculture, stream buffers and wetland preservation areas. Not less than 50% of the minimum required open space shall be in a form usable to and accessible by the residents, such as a central green, neighborhood squares or commons, recreational playing fields, woodland walking trails, other kinds of footpaths, a community park, or any combination of the above.
 - [2] Open space land shall be permanently protected through conservation easements and may be developed for uses consisting of the following:
 - [a] Agricultural uses, including horticultural, wholesale nurseries and the raising of crops, and buildings related to the same;
 - [b] Equestrian facilities, including related stables and pastures;
 - [c] Woodlots, arboreta, and other similar silvicultural uses;
 - [d] Woodland preserve, game preserve, wildlife sanctuary, conservation meadows, or other similar conservation uses;

- [e] Municipal or public uses, public park or recreation area owned and operated by a public or private nonprofit agency, or governmental or public utility buildings or uses, not to include business facilities, storage of materials, trucking or repair facilities, the housing of repair crews, or private or municipal sanitary landfills; and
 - [f] Active or passive recreation, if it is noncommercial in nature and provided that no more than 50% of the minimum required open space is so used. Parking areas and any roofed structures associated with the active recreation may not be included within the 50% minimum.
- [3] The required open space shall be located and designed to add to the visual amenities of neighborhoods and to the surrounding area by maximizing the visibility of internal open space as terminal vistas (the building or landscape seen at the end of a street, or along the outside edges of street curves) and by maximizing the visibility of external open space as perimeter greenbelt land (the undeveloped and permanently protected acreage around a community). Such greenbelt open space shall be designated to provide buffers and to protect scenic views as seen from existing roadways and from public parks, and shall not be less than 100 feet deep.
- [4] PN developments shall include multiple greens, commons, or passive parks measuring a total of at least 1,500 square feet for each dwelling unit, plus 500 square feet of land for active recreation per dwelling unit.
- [5] Civic greens or squares shall be distributed throughout the neighborhood so as to be located within 1,500 feet of 90% of all residential units in the SRA and CRA areas.
- (2) Residential unit mix. At a minimum, each PN development shall have at least three of the five unit types. Each phase of a proposed PN shall have at least three of the five unit types. The Planning Commission may vary this phase requirement if satisfied that at build-out three of five unit types are included in the overall PN development. Each phase of a proposed PN development shall provide housing opportunities for a diverse population mix of age groups and income levels.

Unit Type	Minimum Percentage	Maximum Percentage
Detached single-family dwelling	50	80
Two-family dwelling	10	40
Townhouse	5	20
Multifamily	5	10
Apartment	5	10

H. Small PN projects. The Town Council may modify the minimum standards established in Subsection **F** above for a PN development of less than 50 acres, provided:

- (1) The proposed PN development is shown as part of and integrated into a general development plan for an adjacent (larger) PN project; the applicant demonstrates that the proposed development could be integrated into an adjacent development(s) or neighborhood(s) by such features as street extensions, the location of its SAs, and the location of common areas; and it is determined by the Town Council that the proposed design meets the goals and objectives of the Comprehensive Plan and the intent of this section; or
- (2) The Town Council may find that the proposed PN is an infill or transition project between existing developments and/or adjacent to a proposed or planned large-scale PN project and that the proposed design of the PN project is consistent with the goals and objectives of the Comprehensive Plan and the

intent of this section.

- (3) All PN projects shall be consistent with the PN design guidelines.

§ 128-21.4. Procedure for approval of PN District floating zone amendment and PUD plan approval.

- A. Purpose. The purpose and intent of the PN District floating zone amendment process is to permit specific and detailed mapping of areas for planned unit developments (PUDs) to provide for the creation of carefully planned, well-designed residential, commercial and/or mixed-use communities at appropriate locations.
- B. PN District design standards. Applicants shall be guided throughout the review process by the PN design guidelines. Because it is recognized that design professionals, including architects, landscape architects, and land planners, are trained to strive for creative excellence, the design standards and criteria are not intended to restrict creative solutions or to dictate all design details. The PN design guidelines serve as a tool for the Town planning staff by providing a checklist of elements to be considered. The standards also inform the design professionals of items that should be considered or included from the outset of the design process.
- C. Preliminary application. Preliminary application for a floating zone amendment for a PN Planned Neighborhood District approval and a proposed PUD plan conditional approval shall be made to the Town Council. Preliminary applications shall include:
- (1) A written petition for location of a PN Planned Neighborhood District and approval of a PUD plan, signed by the owners and contract purchasers, if any, of the property that is the subject of the petition.
 - (2) A narrative describing the following:
 - (a) Statement of present and proposed ownership of all land within the development;
 - (b) Overall objectives of the proposed planned unit development and a statement of how the proposed planned unit development corresponds to and complies with the goals and objectives of the Zoning regulations, the proposed PN District, and the Comprehensive Plan;
 - (c) Method of providing sewer and water service and other utilities, such as but not limited to telephone, cable, gas, and electric services;
 - (d) Storm drainage areas and description of stormwater management concepts to be applied;
 - (e) Method of and responsibility for maintenance of open areas, private streets, recreational amenities, and parking areas;
 - (f) School availability and school population impact analysis;
 - (g) General description of architectural and landscape elements, including graphic representations; and
 - (h) If petitioner desires to develop the property in phases, a preliminary phasing plan, indicating:

- [1] The phase(s) in which the project will be developed, indicating the approximate land area, uses, densities, and public facilities to be developed during each phase.
- [2] If different land use types are to be included within the planned unit development, the plan should include the mix of uses anticipated to be built in each phase.

(3) A concept PUD plan, which includes:

- (a) Boundary survey, prepared by a professional land surveyor, of the area subject to the application;
- (b) Graphic and tabular presentation of proposed site development information that clearly depicts the following:
 - [1] Total acreage of subject property and identification of all adjoining landowners;
 - [2] Description of proposed land uses, including residential, commercial, institutional, and recreational;
 - [3] Maximum number and type of dwelling units, approximate densities of residential areas and anticipated population, including a separate population of school age children;
 - [4] Land area and locations generally allocated to each proposed use; and
 - [5] Location of proposed roads, public open space, any sensitive resource areas (environmental or cultural), and public facilities.

D. Referral of preliminary application to Planning Commission. If the Town Council finds that the preliminary application for a PN Planned Neighborhood District approval and a proposed PUD plan conditional approval is generally consistent with the Comprehensive Plan and the standards of the PN District, the preliminary application shall be conditionally approved and referred to the Planning Commission for review in accordance with Subsection **E** below. "Conditional approval," as used herein, means only that the Town Council has made a preliminary finding that the proposal is generally consistent with the Comprehensive Plan and this chapter. Conditional approval shall authorize the Planning Commission, planning staff, and Town consultants to continue to analyze the proposal subject to all applicable review processes and procedures. No development may occur until:

- (1) A floating zone has been applied to the property by legislative action of the Town Council;
- (2) A final PUD plan is approved for the floating zone by the Town Council; and
- (3) A final PUD plan is approved by the Planning Commission and the subdivision plat is recorded according to provisions of this chapter.

E. PUD plan submittal to the Planning Commission. After the Town Council conditionally approves the preliminary application for a PN Planned Neighborhood District and the proposed PUD plan, the petitioner shall submit the following to the Planning Commission for review and recommendations to the Town Council:

- (1) Graphic PUD plan requirements:
 - (a) PUD plan that includes the following individual sheets: Single sheets shall not exceed 36 inches by 48 inches. Plans should be presented at a scale no smaller than one inch equals 400 feet such that the entire site may be shown on a single sheet.
 - [1] Conditionally approved concept PUD plan;

- [2] Boundary survey, prepared by a professional land surveyor, including identification of adjacent property owners;
- [3] Existing condition information, including (Information may be displayed on more than one sheet for clarity.):
 - [a] Topographic survey (minimum one-foot contour interval);
 - [b] Soils;
 - [c] Forested areas and tree lines;
 - [d] Wetlands, hydric soils, streams and water features;
 - [e] Steep slopes;
 - [f] Easements and deed restrictions;
 - [g] Roads, driveways and rights-of-way;
 - [h] Existing buildings; and
 - [i] Existing land uses.
- [4] Proposed open space, protected areas, public and private parks;
- [5] Pedestrian and vehicular master plan showing dominant street configuration and pedestrian walking and biking alignments;
- [6] Detailed plan of at least one phase, showing:
 - [a] Road alignments;
 - [b] Lot configuration;
 - [c] Commercial area plan, if applicable;
 - [d] Public and private open space(s);
 - [e] Perspective streetscape (typical for represented phase);
 - [f] Examples of proposed residential and commercial architecture;
 - [g] Plan view, perspective and elevations of private and/or public community facilities; and
 - [h] Plan view, perspective and elevations of entrance to PUD, including gateway improvements, if applicable.
- [7] Phasing plan, including:
 - [a] The general boundaries or location of each phase. Although the phasing plan shall include the information required by Subsection E(1)(a)[7][b] and [c] below (in narrative, tabular or graphical form); it is not required to depict the location of the land uses, densities or public facilities within each phase.
 - [b] The phase(s) in which the project will be developed, indicating the approximate land area, uses, densities, and public facilities to be developed during each phase.

- [c] If different land use types are to be included within the planned unit development, the plan should include the approximate mix of uses anticipated to be built in each phase.
- (b) Studies and reports by qualified professionals:
 - [1] Traffic study that evaluates traffic impacts of proposed entrances on existing public (state, county and town) roads and major existing intersections within one mile of the project that may be impacted by traffic generated by the proposed project;
 - [2] Nontidal wetlands delineation;
 - [3] Endangered species study prepared by qualified professionals; and
 - [4] Historical and archeological survey.
- (c) PUD design standards, which shall generally conform to the elements of the PN design guidelines. The PUD design standards should provide specific detail regarding:
 - [1] Site design standards in designated neighborhood and/or commercial areas, including permitted uses, building types, frontage, setbacks and lot sizes, building heights, parking, street widths and cross sections, sidewalks, lighting, and road geometry. Lighting should comply with standards set forth in Article **XXII** of this chapter.
 - [2] Building standards for designated neighborhood and/or commercial areas, including size and orientation, building facades, regulated architectural elements (windows, trim, etc.), rooflines, architectural styles, fencing, parking, and signage.
 - [3] Landscape, buffer and environmental standards, including location and scope, materials, and scheduling.
- (d) Project scheduling information, including anticipated permitting hearings, approvals, construction start, phasing, anticipated absorption, and completion of key site elements. (Note: This information is understood to be representative of a best estimate and will be used by the Town planning agencies as a tool for long-range planning activities but shall not be binding.)
- (e) The PUD plan shall also include a management statement regarding the anticipated ownership, construction, operation, and maintenance of:
 - [1] Sanitary sewers, water mains, and all stormwater management systems;
 - [2] Streets, roads, alleys, driveways, curb cuts, entrances and exits, parking and loading areas, and outdoor lighting systems; and
 - [3] Parks, parkways, walking paths, cycleways, playgrounds, and open spaces.
- (2) The PUD plan shall comply with requirements of this section and the requested floating zone and may be accompanied by such other written or graphic material that may aid the decisions of the Planning Commission and Town Council.
- (3) The Town Council may establish additional and supplemental requirements for the PUD plan during its consideration of the preliminary application, if the Town Council determines such requirements are necessary to enable the Town Council to evaluate the particular floating zone amendment request.

F. Planning Commission review and recommendation on floating zone amendment and PUD plan.

- (1) The Planning Commission shall review the PN Planned Neighborhood District floating zone amendment request and the proposed PUD plan and PUD plan for compliance with the requirements of this chapter and consistency with the Comprehensive Plan and the PN design guidelines.
- (2) The Planning Commission shall evaluate the degree to which the floating zone request and PUD plan incorporates and/or addresses the PN design guidelines and furthers the goals and objectives of the Comprehensive Plan.
- (3) The Planning Commission may make reasonable recommendations to the petitioner regarding changes to the PUD plan proposal which, in the judgment of the Commission, shall cause the proposal to better conform to the requirements of the Comprehensive Plan, the PN design guidelines and the goals and objectives of this chapter. The petitioner may resubmit the PUD plan to the Planning Commission in consideration of the Commission's comments.
- (4) If, after four PUD plan submissions, the PUD plan has not received a favorable recommendation from the Planning Commission, the Commission shall make a negative recommendation to the Town Council setting forth its reasons as to why the PUD plan should not be approved.
- (5) The Planning Commission shall consider and comment on the findings required of the Town Council by Subsection **G(2)** and shall make a favorable or negative recommendation to the Town Council.
- (6) The Planning Commission shall return the PUD plan with any revisions, together with written comments and recommendations and its floating zone comments, to the Town Council for action pursuant to the floating zone and PUD plan approval process.

G. Town Council approval of floating zone and PUD plan.

- (1) The Town Council shall review the PUD plan and other documents, together with such comments and recommendations as may have been offered by the Planning Commission.
- (2) The Town Council may approve or disapprove the proposed floating zone map amendment and associated PUD concept plan and shall follow the procedures set forth in Article **XX** for a zoning reclassification. However, the change or mistake standard set forth in § **128-169A** shall not apply to a floating zone amendment which locates a PN District in accordance with this section, and the Town Council shall apply the criteria as set forth in this section. Concurrently with the location of a floating zone, the Town Council may approve the PUD concept plan, which in addition to the provisions of the PN District shall govern the subdivision and/or development of the property. In approving the PN District floating zone map amendment, the Town Council shall make findings of fact, including but not limited to the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development for the areas, and the relationship of the proposed amendment to the Comprehensive Plan. The Town Council may approve the PN District map amendment if it finds that the proposed floating zone amendment is:
 - (a) Consistent with the Comprehensive Plan;
 - (b) Consistent with the stated purposes and intent of the PN District;
 - (c) Complies with the requirements of this chapter; and
 - (d) Is compatible with adjoining land uses.
- (3) After approval of a floating zone amendment by the Town Council, two complete copies of the approved PUD concept plan shall be filed with the Town Clerk. Eight additional complete copies of the approved PUD concept plan shall be filed with the Director of Planning for Planning Commission

reference during its subsequent review and approval of subdivision plats and/or site plans.

- (4) As part of the final PUD concept plan approval, the Town Council shall approve a date for initiation of the proposed development.
- (5) In the event that a floating zone amendment or a prior annexation agreement with a PN floating zone is approved by the Town Council without subdivision and approval of an associated PUD concept plan, the subject property may not be subdivided until the owner complies with the PUD review and approval provisions of this chapter, and may not be developed except in conformance with a subdivision plan as required by and in conformance with this chapter.

H. Additional required procedures.

- (1) The administrative procedures for approval of a subdivision plan for property located within the PN District are set forth in Article **XXIII** of this chapter. Subdivision plans shall conform to the approved PUD concept plan, including the PUD design standards.
- (2) The administrative procedures for approval of a subdivision located within the PN District shall be those of Chapter **73**, Land Subdivision. Final subdivision plats shall conform to the approved PUD concept plan.
- (3) Any development, site plan or subdivision approval for land in a PN District shall be consistent with the provisions of the PN District and the specific PUD concept plan applicable to the property, as approved or amended by the Town Council.

I. Amendment of PUD plan. The procedure for amendment of an approved PUD plan (concept, preliminary or final) shall be the same as for a new application, except that minor amendments of a PUD plan may be approved by the Planning Commission at a regular meeting.

- (1) Using the guidelines set forth below, the Director of Planning shall determine whether the proposed amendment is a minor amendment. An amendment shall be deemed a minor amendment, provided that such amendment:
 - (a) Does not conflict with the applicable purposes and land use standards of this chapter;
 - (b) Does not prevent reasonable emergency vehicle access or deprive adjacent properties of adequate light and air flow;
 - (c) Does not significantly change the general character of the land uses of the approved PUD plan (concept, preliminary or final);
 - (d) Does not result in any substantial change of major external access points;
 - (e) Does not increase the total approved number of dwelling units or height of buildings; and
 - (f) Does not decrease the minimum specified setbacks, open space area, or minimum or maximum specified parking and loading spaces.
- (2) The phrase "minor amendments" includes, but is not limited to, changes to the location, number or types of uses within the planned unit development or any phase(s) thereof, subject to Subsection **I(1)(c)**, above; internal road locations or configurations; the number, type or location of dwelling units, subject to Subsection **I(1)(e)**, above; and the location of public amenities, services or utilities.
- (3) The Planning Commission may only approve minor amendments that increase residential density or intensify nonresidential uses if the amendments provide for enhancement of the architectural design

and landscaping of the area subject to the amendment.

- (4) Any amendment of a PUD plan that adversely impacts upon the delivery or the Town's cost of public utilities, public services, public infrastructure, or otherwise adversely affects amenities available to the public or the public health and safety shall not be considered a minor amendment.

§ 128-21.5. PN design guidelines.

- A. Purpose and intent. The purpose and intent of establishing design guidelines for the PN Planned Neighborhood District is:
 - (1) To preserve and enhance the unique character of the Town of Denton while integrating new development into the overall fabric of the community;
 - (2) To encourage creative design and innovative approaches to achieve the community character called for in the Town's Comprehensive Plan;
 - (3) To ensure that each incremental addition to the Town is designed in a manner that is mindful of what has come before and contributes to the achievement of overall community design objectives;
 - (4) To encourage a broad housing market that will accommodate a diverse population mix of all ages, income levels, and socioeconomic backgrounds reflective of the Town's existing demographics.
- B. Specific goals and objectives. The goals and objectives of the PN design guidelines are to:
 - (1) Design for the human scale and perceptions to create a sense of neighborhood and community.
 - (2) Enhance Denton's sense of place in its rural and regional setting by maintaining the small town feel, as expressed in the Comprehensive Plan, Chapter 1, while keeping new development in harmony with nature.
 - (3) Create a pleasant and functional pedestrian realm that consists of common open spaces, tree-lined streets, landscaped areas (between public and private spaces) and utility corridors.
 - (4) Encourage internal and peripheral open space.
 - (5) Create neighborhood centers or town centers within walking distances of all surrounding neighborhoods.
 - (6) Create appropriate transition areas between neighborhoods.
 - (7) Design for local access and collector streets internal to the community.
 - (8) Integrate buildings of smaller scale in a pattern of various footprints.
 - (9) Plan for mixed and multiple land uses; also include a mix of housing types, income and a horizontal and vertical mix of uses.
 - (10) Utilize appropriate details in building design.
 - (11) Create housing which offers a variety of options to accommodate and encourage a diverse population mix of varied socioeconomic backgrounds reflective of the Town's demographics.

- C. Applicability. The provisions of the PN design guidelines shall be considered during the review of all PUD plans, site plans, subdivision plans, or other permits or applications for new development, new construction involving structural alterations, and new structures on all land zoned in the PN District. Where these guidelines conflict with any provision of the Denton Zoning Ordinance or the Subdivision Ordinance,^[1] these guidelines shall control.

[1]: *Editor's Note: See Ch. 73, Land Subdivision.*

- D. Design provisions. The Planning Commission will rely on the Comprehensive Plan and the PN design guidelines concerning issues of design, neighborhood and community character, and compatibility. In general, these call for the following characteristics, which shall be set forth on a set of drawings, plans, and/or elevations sufficient to permit the Planning Commission to apply the following standards.
- E. General design provisions. The following standards generally apply to development proposed in the PN District.
- (1) Architectural considerations.
 - (a) The architectural design of structures and their materials and colors should be visually harmonious with the overall appearance, history, and cultural heritage of the Town, with natural landforms and existing vegetation and with other development plans approved by the Town.
 - (b) Specific consideration should be given to compatibility with adjacent properties where such projects demonstrate the Town's character.
 - (c) Facing buildings should not differ in height by more than a ratio of two to one, excluding church steeples, decorative cornices, chimneys, and the like.
 - (d) Materials should be used that have similar texture and appearance as appropriate to the Town's character.
 - (e) Exterior materials should be natural in appearance, with preference given to wood or wood-appearance siding, stone, and brick. Exterior building colors should be traditional or muted tones.
 - (2) Overall form and spatial relationships.
 - (a) Areas of new construction should be sited so as to best preserve natural vistas and the existing topography.
 - (b) Peripheral greenbelt open space should be designed to follow natural features whenever possible and to maintain an agricultural, woodland, or countryside character.
 - (c) The planned neighborhood should be distinguished from the peripheral greenbelt open space by a well-defined line or edge so that developed areas will transition very quickly to rural, undeveloped lands.
 - (d) Peripheral open space should surround the planned neighborhood. An exception to this standard is that storefront areas may be located along Town or county major collector roads at the planned neighborhood perimeter. Another exception is that planned neighborhoods proposed to be located within 500 feet of existing residential development should be encouraged to be contiguous with preexisting neighborhoods through the use of multiple street and footpath connections.
 - (e) Residential lots should not be located within 500 feet of any arterial road having four or more lanes, nor within 300 feet of any two-lane state highway, unless effectively screened, as to sight

and sound, from the public by virtue of topography, dense vegetation, or other physical or visual barriers. No such screening need be required when the depth of a perimeter greenbelt exceeds these distances.

- (f) Storefront areas (SAs) and central residential areas (CRAs) should be surrounded by single-family residential areas (SRAs) or, where applicable, by a combination of residential and civic uses.
 - (g) The transition between different land uses should be handled so as to avoid distinct visual differences, such as in the scale of buildings. Similar land-use types should front one another, while dissimilar land-use types should abut along alleys or rear parking areas.
 - (h) Storefront areas (SAs) should be located at or near the geographic center of the residential areas they primarily serve and should be located within 1,500 feet of $\frac{3}{4}$ of all dwellings within its service area. A storefront area shall not be designed to front on, be highly visible from or take access from a state-maintained highway.
 - (i) Higher-density residential uses should be located within the central residential areas (CRAs).
- (3) Block design.
- (a) Planned neighborhoods should be designed in a net-like pattern of blocks and interconnecting streets and alleys, defined by buildings, street furniture, landscaping, pedestrian ways, and sidewalks.
 - (b) While topography, existing vegetation, hydrology, and design intentions should influence block shape and size, the maximum length for a block should be 500 feet, with an allowance for blocks up to 800 feet when midblock footpaths are provided. No less than one eight-foot pedestrian alley or way should be provided for every 250 feet of street frontage in the commercial zones, connecting with rear parking lots.
 - (c) Each block that includes storefronts and/or residential lots or uses less than 45 feet wide should be designed to include an alley serving rear parking areas or garages.
 - (d) In order to calm traffic speeds, the use of "T" intersections, where vehicles must stop and turn to the right or to the left rather than proceeding forward in a straight line, are encouraged. At least 25% of all intersections within the subdivision residential areas shall take this form, unless other design devices (such as traffic islands or circles, four-way stop signs, or speed bumps) are employed to reduce vehicle travel speed.

F. Single-family residential areas (SRAs). In addition to the general design provisions set forth in Subsection **E** above, the following guidelines generally apply in the single-family residential areas (SRAs) of the PN District.

- (1) Residential design styles should reflect vernacular architecture.
- (2) Repetitious housing styles within individual neighborhoods are discouraged.
- (3) Porch frontages are encouraged on all single-family detached homes.
- (4) Residential buildings should front on public ways and be located so as to create a sense of enclosure along the street.
- (5) Build-to lines (BTL) should include appropriate variations to encourage neighborhood identity and creativity.

- (6) Lot widths within individual neighborhoods should be varied. Orientation of housing can also vary.
 - (7) Lot widths should be designed to ensure that garages do not dominate the front facade of residential structures.
 - (8) Traditional roof pitches and multiple rooflines are encouraged.
- G. Central residential areas (CRAs). In addition to the general design provisions set forth in Subsection **E** above, the following guidelines generally apply in the central residential areas (CRAs) of the PN District.
- (1) In general, townhouse and multifamily units should adhere to the architectural guidelines for single-family and two-family dwellings.
 - (2) Townhouse and multifamily units should blend into the overall character of the neighborhoods.
 - (3) Multifamily structures should appear as large single-family units. Small groups of townhomes, four or less, may be designed to appear as large single-family structures.
 - (4) Single-family residences should be mixed with other permitted housing types.
 - (5) No more than four units should be included in a single townhouse unit group. Each unit should have a distinct architectural appearance, but the overall appearance of the units should be compatible with and complementary to adjacent single-family residential units and with the other units in the neighborhood.
 - (6) Parking for townhouse and multifamily structures should be located to the rear or side of the units.
 - (7) The majority of multifamily and townhouse units should be located in the central residential area (CRA) of the community.
- H. Conservation areas (CAs). The following design provisions generally apply in the conservation areas (CAs) in the PN District.
- (1) The open space provided within planned neighborhoods should include areas known as "conservation areas," consisting of greenbelts, greens, parks, and other open spaces.
 - (2) The greenbelt parts of conservation areas should be designed to create a visual and physical distinction between the proposed development, the surrounding countryside, and any neighboring developments.
 - (3) Greens and squares are spatially defined and distributed open spaces within the planned neighborhood, designed to serve a variety of outdoor leisure and assembly needs of planned neighborhood residents and to enhance the form and appearance of the development.
 - (4) There should be a main village green, located within 500 feet of the planned neighborhood's geographical center. When a storefront area is part of the development proposal, this main green should be located in close proximity to it. Other, smaller greens should be dispersed throughout the remainder of the planned neighborhood in such a way that no lot is more than a walking distance of 1,350 feet from a green, square, or park. The main village green should be designed to a pedestrian scale, meaning that it should not be longer or wider than 300 feet and should be between 20,000 and 40,000 square feet in area. The other, smaller greens, squares, and parks (but not including the central open space within loop lanes) should be no less than 8,000 square feet in size. All greens should be planted with shade trees along their edges, at intervals not greater than 50 feet, with groups of trees located at various points throughout their area.

- I. Storefront area (SA). In addition to the general design provisions set forth in Subsection **E** above, the following guidelines generally apply in the storefront area (SA) of the PN District.
 - (1) Maximum size. New commercial buildings in the storefront area and their associated parking spaces should not occupy more than 5% of the adjusted tract area of the entire planned neighborhood. Commercial buildings may occupy up to 10% of the adjusted tract area if they include second-story office uses. Commercial buildings may occupy up to 15% of the adjusted tract area if they include second-story residential units. In order to qualify for the figure of 15%, at least half of the new commercial building coverage (foundation footprint) should be of two-story construction, and at least 25% of the second-story space shall be designed for residential uses.
 - (2) Uses. The mixed-use/commercial portions of the planned neighborhood should be contained within the storefront area. This area should be designed to provide a variety of retail shops and services to support the day-to-day needs of planned neighborhood residents and other local residents, complemented by other compatible business, civic, and residential uses in commercial-type buildings in a manner consistent with a small downtown or central marketplace in the community.
 - (3) Commercial areas should surround, be located adjacent to, or be across the street from a public park, green, or square of at least 10,000 square feet, which area may be credited as part of the open space required of the development.
 - (4) New commercial buildings may be either traditional in their architectural character or be a contemporary expression of traditional styles and forms, respecting the scale, proportion, character, and materials of shops in the community. Shopfront design should be based upon historic examples in the area, with large display windows having sills between 12 and 18 inches above sidewalk level and lintels nine to 12 feet above sidewalk level. Commercial buildings should also articulate the line between the ground and upper levels with a cornice, canopy, balcony, arcade, or other visual device.
 - (5) The massing of larger commercial buildings should be de-emphasized in a variety of ways, including the use of projecting and recessed sections, to reduce their apparent overall bulk and volume. Such breaks in their facades and rooflines should occur not more frequently than the width of two historic shopfronts (generally about 25 feet each), nor less frequently than 100 feet. To harmonize with the traditional scale of commercial buildings in historic towns and villages, new commercial buildings should not contain more than 3,500 square feet (above grade), and those with more than 1,500 square feet of floor space (above grade) should be of at least one-and-one-half-story construction.
 - (6) A majority of buildings should be designed for multiple uses, with offices and/or residential units above.
 - (7) Buildings should be topped with pitched roofs with overhanging eaves, but flat roofs with articulated parapets and cornices may be allowed. Desired materials on pitched roofs include slate (either natural or man-made), shingle (either wood or asphalt composition), and metal formed to resemble standing seams. Roof color should be traditional, meaning that it should be within the range of colors found on existing buildings in the community. Specifically excluded are white, tan or blue shingles, red clay tiles, and corrugated metal. The use of fascias, dormers, and gables is encouraged to provide visual interest. All gables should be functional.
 - (8) Gas station canopies should have pitched roofs, and the lighting should be from luminaries completely recessed into the ceilings of said canopies so that the lighting elements themselves are not visible from or beyond the lot lines.
 - (9) Exterior wall materials may include stucco, wood clapboard (including vinyl or aluminum imitation clapboard siding), native stone, split-face aggregate block, or brick of a shape, color, and texture very

similar to that found in the historic villages and towns of Caroline County. Specifically prohibited should be brick that is white, tan, or spray-painted, and T-111 plywood siding. Except on rear walls, all forms of concrete block should also be prohibited. In addition, metal buildings should also be excluded from this subdistrict.

- (10) Large work area doors or open bays shall not open toward or face the public ways.
- (11) HVAC and other fixed operating machinery shall be either screened from view or located so that such items are not visible from the highway, public rights-of-way, or adjoining noncommercial areas. Large trash receptacles, dumpsters, utility meters, and aboveground tanks, etc., shall be similarly treated.
- (12) Signage.
 - (a) All signage should:
 - [1] Be affixed to a building facade, canopy, or arcade;
 - [2] Be located no higher than the sills of second-story windows;
 - [3] Be visible to both pedestrians and drivers;
 - [4] Be illuminated with steady external lighting (if lighted at all); and
 - [5] Use lighting conforming to the standards contained in Article **XXII** of this chapter.
 - (b) All signage shall be consistent with Article **XV**, Signs, of this chapter.
- (13) Traditional canvas awnings without interior illumination are encouraged, and any signage consistent with Article **XV**, Signs, of this chapter.
- (14) Storefront buildings should have at least 60% of their front facade coincident with their street frontage, including frontage onto courtyards.
- (15) Principal entrances to buildings should be from the front sidewalk, except in courtyard designs.
- (16) Storefront buildings fronting on the same street and located on the same block should be attached, except as necessary to accommodate pedestrianways.
- J. Lighting design provisions. An exterior lighting plan shall be submitted to the Town whenever subdivision or site plan approval is sought in the PN District in order to determine whether the provisions of this section have been met and that adjoining property will not be adversely impacted by the proposed lighting.
 - (i) In general, the following provisions apply to lighting proposed as part of any development. (See also Article **XXII**, Outdoor Lighting, of this chapter.)
 - (a) Lighting should be designed so as to prevent direct glare, light spillage and hazardous interference with automotive and pedestrian traffic on adjacent streets and all adjacent properties.
 - (b) Light fixtures should be designed as an integral design element that complements the design of the neighborhood through style, material, and color.
 - (c) All utility lines shall be installed underground.
 - (d) Street pedestrianway lights should be decorative and blend with the architectural style of the neighborhood and should not exceed 14 feet in height.

- (e) Flickering or flashing lights are prohibited.
 - (f) Light sources should not be located within buffer areas except on pedestrian walkways.
 - (g) Lighting that unnecessarily illuminates any other lot and substantially interferes with the use or enjoyment of another lot is prohibited.
 - (h) Lighting fixtures should not exceed the minimum height and power necessary to accomplish their intended function.
 - (i) Lighting fixtures shall not cause light to shine upward or beyond lot boundaries.
 - (j) Lighting fixtures shall not use metal halide or similar form of bright white light source.
 - (k) Spot lights shall be discouraged.
- (2) Residential. In addition to the general provisions set forth in Subsection **J(1)** above, the following provisions apply to lighting for residential development.
- (a) Multifamily residential units should be properly lighted to ensure public safety and the security of the buildings.
 - (b) Lighting on individual streets should be designed consistent with the planned function of the street without excessive illumination.
 - (c) Porch light and yard post lighting should be incorporated into the street lighting design in residential developments.
- (3) Nonresidential. In addition to the provisions set forth in Subsection **J(1)** above, the following provisions apply to lighting used for nonresidential uses (including but not limited to commercial, civic, recreational, fraternal, and religious facilities).
- (a) All exterior lighting should be shielded so as not to shine directly onto surrounding properties or public ways or rights-of-way, except as planned and approved for safety purposes. In addition, the globe, lens, bulb, or filament should be shielded to not be visible from adjoining properties.
 - (b) Lighting should be designed to provide uniform illumination of the property to prevent extreme contrasts between light and dark areas and to provide for adequate safety and security.
 - (c) Lighting may be used to accent key architectural elements and/or to emphasize landscape features. Architectural lighting should be recessed under roof overhangs or generated from concealed, low-level light fixtures.
- K. Parking provisions. A parking plan shall be submitted to the Town whenever subdivision or site plan approval is sought in order to determine whether the requirements of this section have been met. Parking standards are flexible and take into account off-site parking. The Planning Commission shall review the parking plan to ensure adequate parking is available, and that it is appropriately integrated into the overall PUD plan. The parking plan should comply with Article **XII** of this chapter, entitled "Parking, Loading and Unloading Area Requirements." In addition to the provisions set forth in Article **XII**, the following standards generally apply to parking in the PN District.
- (1) Parking areas should be small scale and highly landscaped.
 - (2) Parking shall not be a dominant site feature and should be screened, landscaped, and lit to assure public safety.

- (3) In storefront areas, parking should consist of ample on-street parking and small lots located to the side or rear of buildings and screened from the main commercial street.
- (4) Parking lots should not be located on street corners and at intersections.
- (5) Parking lots should not be located at terminal vistas.
- (6) Parking lots should not be located near parks or public squares unless designed to serve the park.
- (7) Access to parking should be provided from rear driveways where possible.
- (8) Parking areas for adjacent commercial uses should be interconnected to minimize traffic on adjacent streets.
- (9) Shared parking arrangements are encouraged.
- (10) Parking blocks should be oriented to buildings to allow pedestrian movement down and not across rows.
- (11) Through access should be provided within and between parking blocks; dead-end drives are strongly discouraged.
- (12) On-street parallel, angled, or head-in parking is encouraged in commercial areas.

L. Street provisions. In addition to complying with the provisions of the Subdivision Regulations, Chapter **73**, Land Subdivision, relating to streets, the following standards generally apply in the PN District.

- (1) Streets should be designed to accommodate the pedestrian, the cyclist, and the vehicle.
- (2) Street layout should be composed of interconnecting narrow streets laid out in a modified grid.
- (3) Streets should connect to at least two other streets. Culs-de-sac and dead-end streets should be avoided.
- (4) Distinct (e.g., patterned) pedestrian crosswalks should be installed at intersections and any other location where pedestrian systems cross a street.
- (5) Traffic calming should be an integral part of the overall street design.
- (6) Development plans should address improvements to off-site roads that serve a project, including off-site pedestrian linkages.
- (7) The view from the long axis of a street should terminate at a significant design feature.
- (8) The design speed for all streets within the PN District should be a maximum of 25 miles per hour.
- (9) A separate bicycle lane should be provided on streets planned for high traffic volumes (greater than or equal to 4,000 average daily trips).
- (10) Direct access onto collector streets from residential property is discouraged.
- (11) Curb radii should be 20 feet with a clear zone radius of 30 feet.
- (12) Curb radii should be sufficiently small to reduce vehicle speed.
- (13) On-street parking on minor streets should be provided on one or both sides, as appropriate.

- M. Sidewalks, curbs and gutters. In addition to the provisions relating to sidewalks, curbs and gutters as set forth in the Subdivision Regulations, Chapter **73**, Land Subdivision, the following standards generally apply in the PN District.
- (1) Sidewalks.
 - (a) A continuous sidewalk system should provide pedestrian access from all residential units to all other land uses.
 - (b) The minimum width for sidewalks in residential neighborhoods and recreational areas is five feet.
 - (c) The minimum width for sidewalks in commercial areas is eight feet. However, wider sidewalks may be necessary depending on the anticipated volume of pedestrian traffic or type of business use in a specific commercial area.
 - (d) Pedestrian crosswalks should be located at all major pedestrian crossings.
 - (e) Bump-outs should be provided at major pedestrian crossings on commercial streets and undivided major collector streets.
 - (f) Utility structures and mailboxes should not be located so as to reduce the width of sidewalks.
 - (g) In commercial areas, sidewalks may be used for outdoor retail display or outdoor dining areas, provided that they do not impede pedestrian flows or create a hazard.
 - (h) Where appropriate, durable street furniture, trash receptacles, and other amenities should be placed along sidewalks.
 - (2) Curbs and gutters.
 - (a) Curbs and gutters are required on the entire street frontage of any parcel or lot, except alleys; however, these shall comply with the Stormwater Regulations, Chapter **106**, Stormwater Management.
 - (b) Curbs and gutters shall be built to the construction standards and specifications as determined by the Town.
 - (c) Only one curb cut per street frontage should be allowed on residential lots that do not have alley access.
 - (d) There should be a maximum of two curb cuts per commercial lot per street frontage.
- N. Landscaping, shading and buffers. All development proposals in the PN District shall comply with Article **XVI** of this chapter, entitled "Environmental Standards, Landscaping, Shading and Buffers."
- O. Denton Pattern Book. In addition to the design standards set forth in this section, development proposals in the PN District shall meet the standards set forth in the Denton Pattern Book, prepared by Urban Design Associates, copies of which are available in the Town office. The Pattern Book is intended to supplement existing applicable design guidelines. Persons proposing development in a PN District should consult the Denton Pattern Book and incorporate the design concepts and standards into the proposed PUD or PN design standards for the particular project. Failure to adhere to the design principles set forth in the Pattern Book may be a basis for the denial of PUD plan approval by the Town. The Town may approve a PUD plan that meets or exceeds the goals and objectives of the Denton Pattern Book, and the Town may waive the Denton Pattern Book standards where the applicant proposes specific design standards that are determined to be consistent with the goals and objectives of the PN District, as well as the Comprehensive

Plan.

§ 128-21.6. AE Arts and Entertainment District.

- A. Purpose. The Arts and Entertainment District (AE) District is a floating zone. That means that while provisions and regulations are made to govern any development within an AE District, no such district will be pre-mapped on the Official Zoning Map until approved as an AE district by the Town Council. The AE District is intended to permit master-planned, mixed-use infill and redevelopment with an emphasis on for-profit and nonprofit artistic, cultural, educational and musical uses of properties in identified redevelopment areas of the Town. The AE District permits development and land use pursuant to a master development plan approved by the Town Council at the time the AE District zoning is applied to specific land(s).
- B. Intent.
- (1) The intent of the AE District is to accomplish the following:
 - (a) Promote the arts and to achieve public and cultural benefit through flexible and creative land use regulation in return for significant contributions to the arts;
 - (b) Utilize cultural and economic development as a tool to encourage the infill and redevelopment in planned redevelopment areas of the Town;
 - (c) Encourage public/private projects that make the direct link between art and economic development;
 - (d) Serve some of the needs of our arts community and stimulate revitalization by promoting the reuse of underused and vacant properties for artist live/work space, affordable housing, performance venues, galleries, and other creative commercial and retail enterprises;
 - (e) Create an arts and entertainment destination point for the region;
 - (f) Encourage a scale of development, a mixture of building uses, and other attributes such as safe and efficient conditions for pedestrian and vehicular movement;
 - (g) Encourage pedestrian activity, especially retail, entertainment, and residential uses; and
 - (h) Expand the Town's housing supply in a variety of rent and price ranges.
 - (2) The district standards encourage appropriate development of underutilized properties and consolidation of developable land for art use where it will achieve a more efficient land use and improved site design. Design standards promote compatible infill and redevelopment by, among other things, allowing development on sites that may not meet the minimum land area and dimension requirements of the current zones.
- C. Definitions. The following definitions apply within the AE District.

ART/CRAFT STUDIO

A facility for art use as defined above that is separate from any residential uses.

ART GALLERY

Building or space for the exhibition of art, usually visual art.

ARTISTIC WORK

An original and creative work, whether written, composed, or executed within the designated AE District that falls within one of the following categories: a book or other writing; a play or performance of a play; musical composition or the performance of a musical composition; painting or other picture; sculpture; traditional or fine crafts; the creation of a film or the acting within a film; or the creation of a dance or the performance of a dance. An artistic work does not include adult entertainment, or any piece or performance created or executed for industry-oriented or industry-related production, such as a commercial or advertising copy.

ARTIST LIVE/WORK SPACE

The use of all or a portion of a building for both art use and the habitation of artists.

ART USE

The production of art or creative work either written, composed, created or executed for a one-of-a-kind production exclusive of any piece or performance created or executed for industry-oriented distribution or related production. Such use may include the fine and applied arts, including painting or other like picture, traditional and fine crafts, sculpture, writing, creating film, creating animation, the composition of music, choreography and the performing arts. Such use does not include adult entertainment.

- D. Applicability. The Town Council may apply the AE District to any lands identified on the Official Zoning Map as being eligible for the AE District floating zone designation.
- E. Permitted uses. Permitted uses shall be limited to those allowed in the original zone(s) on which the AE floating zone is applied. In addition, art galleries, art craft/studio uses, artist live/work space, art use, and artistic work use shall be permitted and encouraged if not already permitted in the original zone.
- F. Development standards. The following development standards shall apply to the AE District:
 - (1) Density, design, materials, use and scale should reflect local style, climate, heritage and materials unique to Denton.
 - (2) Flexible development standards to reduce lot areas, lot frontage, lot widths and yards and to increase building heights may be permitted consistent with a master development plan approved in accordance with the provisions of this section.
 - (3) The master development plan should be compatible with existing uses and architecture. In general, the following compatibility standards shall apply:
 - (a) Building size, height, bulk and scale. Buildings should be similar in height and size or be designed in such way that they appear similar in height and size, creating an overall mass that is consistent with the prevalent mass of other structures in the area, e.g., by dividing walls into units of similar proportions to adjacent structures.
 - (b) Building orientation. Primary facades and entries face the adjacent street or internal pedestrian courts with a connecting walkway that does not require pedestrians to walk through parking lots or across driveways and that maintains the integrity of the existing streetscape.
 - (c) Privacy. Optimize privacy of residents and minimize infringement on the privacy of adjoining land uses by considering appropriate bufferyards, the placement of windows and door entrances. Create opportunities for interactions among neighbors in common pedestrian circulation areas of the project.

- (d) Building materials should be similar to materials of the surrounding neighborhood or use other characteristics such as scale, form, architectural detailing, etc., to establish compatibility.
- (4) All planned uses shall comply with the Denton Critical Area and floodplain regulations. See Chapter A129, Critical Area Program, and Ch. 58, Floodplain Zones, respectively.
- (5) Where the creation of a new lot is proposed, the Town shall have the discretion to waive the requirement set forth in § 73-6F(5) of the Town Code that the lot front on a public street, provided there is sufficient pedestrian accessways and access for emergency services.
- (6) Where the design standards set forth above conflict with any provision of this chapter or Chapter 73, Land Subdivision, these standards shall control.

G. Public facilities and utilities.

- (1) Existing and planned public facilities should be shown on development plans.
- (2) All public streets, walkways and alleyways shall be shown on development plans. All through streets and walkways must be public. The local street and walkway system shall be safe, efficient, convenient, attractive, and shall accommodate use by all segments of the population.
- (3) The street and walkway system should provide multiple, direct and continuous intra- and inter-neighborhood connections between destinations.
- (4) Additions to the Town's street network shall include sidewalks.
- (5) Closed street systems are prohibited, but short culs-de-sac (less than 120 feet long) that connect to the main grid system are allowed when consistent with the surrounding community. The Planning Commission may permit flag lots where appropriate.
- (6) Street widths should be consistent with the surrounding community and sized to promote walkability and multimodal use (i.e., pedestrians, bikes, cars, trucks, buses, etc.).
- (7) Roads, lighting, sidewalks, street furniture, utilities and other public facilities should enhance pedestrian circulation.
- (8) Parking shall generally comply with the parking standards set forth in the Town's Commercial Infill Guidelines, Residential Infill Guidelines and other provisions of this chapter. Parking requirements can be waived where adequate public parking is available in close proximity, and the new parking demand does not interfere with the established parking patterns in the neighborhood. If public parking is proposed as the means of providing any required parking, such arrangement shall be documented on the master development plan and approved by the Mayor and Council.

§ 128-21.7. Redevelopment District.

- A. Purpose. The Redevelopment District (RD) is a floating zone. That means that while provisions and regulations are made to govern any redevelopment within the Redevelopment District, no such district will be pre-mapped on the Official Zoning Map until Town Council adopts a Redevelopment District eligible (RDE) zoning district. The Redevelopment District is intended to permit rehabilitation and redevelopment of properties within the Town which are considered blight and slum pursuant to state law and the Town's ordinances and regulations, or are older industrial or commercial areas intended for redevelopment or in situations where buildings or properties are surrounded by incompatible zones or have traditionally been

used for incompatible purposes (when it is not economically feasible to continue those buildings or properties in their current use). The Redevelopment District floating zone permits the redevelopment and land use pursuant to a master development plan approved by the Town Council at the time that the Redevelopment District is applied (RDA) to the specific lands. The RD District is intended to overlay and supplement, but not eliminate the existing zoning classification which it is put over. The RD District is intended to legalize and allow the rehabilitation, redevelopment, and orderly and controlled expansion of commercial and residential uses within such buildings and upon such properties lacking practical potential to continue present use under the current land use plan and to preserve and expand the number of jobs in the Town, while protecting and preserving the adjacent residences and the character of the surrounding neighborhoods.

B. Conditions. The Redevelopment District classification may be granted by the Town Council upon application by the property owner or upon the motion of the Denton Planning Commission or the Town Council and after complying with the procedures necessary to zone or rezone a property under Article **XX** of this chapter. When a redevelopment area is approved to be applied (RDA) to a specific area, that area shall be so designated (RDA) on the Official Zoning Map, and such applied redevelopment area shall be treated as a zone classification for the purpose of establishing and interpreting its boundaries. In order to be eligible for rezoning to a RD District there must be a finding by the zoning authorities that:

- (1) The development or redevelopment potential for the subject property is consistent with the purpose and intent of this overlay classification and designated as such in the Town's Comprehensive Plan;
- (2) The proposed development or redevelopment of the subject property is compatible with adjoining land uses;
- (3) The general standards and limitations set forth in this chapter can be met at the subject property;
- (4) The granting of the RD classification will not be detrimental to the health, safety and welfare of the inhabitants of the Town; and
- (5) The granting of the RD classification will promote the general welfare of the inhabitants of the Town as a whole.

C. Intent.

- (1) The intent of the Redevelopment District is to accomplish the following:
 - (a) Undertake urban renewal by redeveloping and rehabilitating slum or blighted properties or neighborhoods pursuant to a master redevelopment plan.
 - (b) Migrate, over time, Town-core (inner) industrial uses to more recently established industrial zones elsewhere in or allow for market driven redevelopment to mixed residential uses.
 - (c) Restore existing neighborhood communities and stimulate revitalization by promoting reuse and redevelopment of existing infill lots within the Town;
 - (d) Provide workforce housing opportunities to accommodate a diverse population of age groups and income levels and professions;
 - (e) Expand the Town's housing supply in a variety of rent and price ranges; and
 - (f) Require efficient utilization of existing underutilized infill properties within the Town.
- (2) The Redevelopment District is further intended to encourage appropriate development of

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

- D. Applicability. The Town Council may apply the Redevelopment District (RDA) to any lands identified on the Official Zoning Map as being eligible (RDE) for the Redevelopment District floating zone designation. Lands approved as RDA shall be so designated (RDA) on the Official Zoning Map.
- E. Permitted uses. Permitted uses shall be limited to those allowed in the original zone(s) over which the Redevelopment District is to be applied.
- F. Development standards. The development standards set forth in § **128-21.6F** shall apply to development plans for any development proposed in the Redevelopment District.
- G. Public facilities and utilities. Public facilities and utilities proposed for development within a Redevelopment District shall comply with § **128-21.6G**.

§ 128-21.8. Procedure for approval of AE District floating zone or Redevelopment District floating zone amendment and master development plan.

- A. Master development plan submittal to the Planning Commission. An applicant shall submit its request for a floating zone amendment and the master development plan to the Planning Commission for review and Planning Commission recommendations to the Town Council.
 - (1) Graphic master development plan requirements. The master development plan shall include the information listed in the appendix for preliminary site plans and/or subdivision plats, as appropriate. In addition, the master development plan shall include the following:
 - (a) A description of the proposed development site, i.e., a plot plan or survey plot.
 - (b) A description of existing conditions in the vicinity of the site (e.g., block face on both sides of the street with 500 feet of the proposed development site). These descriptions shall include documenting photographs and an analysis of the prominent architectural features and shall address the following:
 - [1] Site location and topography.
 - [2] Street connections.
 - [3] Pedestrian pathways.
 - [4] Lot coverage.
 - [5] Impervious surfaces.
 - [6] Elevations of all proposed buildings.
 - [7] Building orientation.

- [8] Roofs.
- [9] Massing and proportions.
- [10] Entryways.
- [11] Windows.
- [12] Garage doors.
- [13] Finishes and materials.
- [14] Ornamentation.
- [15] Roof detail.
- [16] Color.

- (2) The master development plan and the requested floating zone may be accompanied by such other written or graphic material that may aid the decisions of the Planning Commission and Town Council.
- (3) The Planning Commission may establish additional and supplemental requirements for the master development plan during its consideration of the preliminary application; it determines such requirements are necessary to enable the Planning Commission and the Town Council to evaluate the particular plan and floating zone amendment request.

B. Planning Commission review and recommendation of floating zone amendment and master development plan.

- (1) The Planning Commission shall review the floating zone amendment request and master development plan for compliance and consistency with the development standards set forth in § **128-21.6F**, the Town's commercial infill, residential infill and Historic District design guidelines and the goals and objectives of the Comprehensive Plan.
- (2) The Planning Commission may make reasonable recommendations to the petitioner regarding changes to the master development plan proposal, which, in the judgment of the Commission, shall cause the proposal to better conform to the requirements of the Comprehensive Plan, the applicable design guidelines and the intent of this chapter. The petitioner may resubmit the master development plan to the Planning Commission in consideration of the Planning Commission's comments.
- (3) The Planning Commission shall consider and comment on the findings required of the Town Council by Subsection **C(2)** and shall make a favorable or negative recommendation to the Town Council.
- (4) The Planning Commission shall forward the master development plan, with any revisions, together with written comments and recommendations, and its floating zone comments, to the Town Council for action pursuant to the floating zone and master development plan approval process.

C. Town Council approval of floating zone and master development plan.

- (1) The Town Council shall review the master development plan and other documents, together with such comments and recommendations as may have been offered by the Planning Commission.
- (2) The Town Council may approve or disapprove the proposed floating zone map amendment and associated master development plan, and shall follow the procedures set forth in Article **XX** for the approval of a floating zone. Concurrently with the location of a floating zone, the Town Council may

approve the master development plan, which, in addition to the provisions of the applicable floating zone district, shall govern the subdivision and/or development of the property. In approving the floating zone Official Zoning Map amendment, the Town Council may approve the floating zone Official Zoning Map amendment if it finds that:

- (a) The proposed floating zone amendment is consistent with the Comprehensive Plan;
 - (b) The proposed floating zone amendment is consistent with the stated purposes and intent of the applicable floating zone district;
 - (c) The proposed floating zone amendment complies with the requirements of this chapter;
 - (d) The plan is internally and externally compatible and harmonious with existing and planned land uses in the area; and
 - (e) Existing or planned public facilities are adequate to service the proposed development.
- (3) In the event that a floating zone amendment is approved by the Town Council without subdivision and approval of an associated master development plan, the subject property or properties may not be subdivided until the owner complies with the master development plan review and approval provisions of this chapter, and may not be developed except in conformance with a site plan as required by and in conformance with this chapter.
- D. Additional required procedures. In addition to the procedures set forth above, where applicable, the petitioner shall also comply with the Town's site plan approval procedures set forth in Article **XXIII** of this chapter, as well as the Town's subdivision regulations. Any development, site plan or subdivision approval for land in a floating zone district shall be consistent with the provisions of the applicable floating zone district and the specific master development plan applicable to the property, as approved or amended by the Town Council.
- E. Amendment of master development plan.
- (1) Any minor amendment of an approved master development plan may be approved by the Planning Commission at a regular meeting. An amendment will be considered minor if the Planning Commission determines that the amendment:
 - (a) Does not conflict with the applicable purposes and land use standards of this chapter;
 - (b) Does not prevent reasonable access of emergency vehicle access or deprive adjacent properties of adequate light and air flow; and
 - (c) Does not significantly change the general character of the land uses of the approved master development plan.
 - (2) Any amendment of a master development plan that adversely impacts upon the delivery or the Town's cost of public utilities, public services, public infrastructure, or otherwise adversely affects amenities available to the public or the public health and safety shall not be considered a minor amendment.

§ 128-21.9. RC Rural Conservation District.

The purpose of the Rural Conservation (RC) Overlay District is to preserve and protect areas of the Town which are within the Critical Area Rural Conservation Area (RCA). Development is limited to one single-family residence

per 20 acres. Part of this district is also regulated by the Rural Agriculture (RA), Suburban Residential (SR), and/or Planned Neighborhood (PNA and PNE overlay) Districts.

Article V. Special District: FP Floodplain District

§ 128-22. Purpose.

[Amended 8-2-2012 by Ord. No. 644, effective 8-9-2012]

It is the purpose of the Floodplain District to designate all areas within the Town subject to inundation by floodwaters as defined and referenced by Chapter **58** of the Denton Town Code. It is the intent hereof that the FP District shall protect the general welfare of the Town of Denton residents and value of property by preventing excessive damage to buildings, structures and land due to the conditions of flooding.

§ 128-23. Higher standards to control.

The provisions of this section are in addition to the provisions of other districts of this chapter. In all cases of conflicting requirements, the provision which represents the greater restriction or higher standards shall govern. See Chapter **58**, Floodplain Zones.

§ 128-24. Delineation.

[Amended 8-2-2012 by Ord. No. 644, effective 8-9-2012]

The FP District shall include all area subject to inundation by floodwaters as defined and referenced by Chapter **58** of the Denton Town Code.

§ 128-25. Regulations.

[Amended 8-2-2012 by Ord. No. 644, effective 8-9-2012]

Reference Chapter **58** of the Denton Town Code for the provisions of all development activities in the FP District.

Article VI. (Reserved)

§ 128-26. through § 128-28. (Reserved)

Article VII. Special District: Planned Unit Development, Mixed-Use District

§ 128-29. Purpose.

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

§ 128-30. Planned unit development (PUD).

- A. Planned unit development in general. It is the intent of this zone to control the placement, design, use, and density of well-planned residential developments which will offer a variety of building types and a more efficient overall use of land and, within these limits, permit the optimum amount of freedom and variety in the design and management of such varying types of residential structures, including one- and two-family units, townhouses and garden apartments. Within the intention of these regulations, the following objectives are sought to provide for the planned unit development:
 - (1) To provide a more attractive and varied living environment than would be possible through the strict application of SR, TR, and MR District requirements.
 - (2) To encourage a more intimate, efficient and aesthetic use of open space.
 - (3) To encourage developers to use a more creative approach in the development of land.
 - (4) To encourage variety in the physical development pattern of residential areas.
- B. The Town Council shall follow the procedures set forth in Article **XX** and § **128-21.3** for the approval of a floating zone.
- C. PUD requirements.
 - (1) Permitted uses. Planned unit developments are contemplated to be primarily residential in nature. However, planned unit developments of sufficient size and appropriate character may have commercial development which is incidental to the planned unit development and is intended primarily for the use of the residents of the planned unit development. Specifically permitted uses are as follows:
 - (a) Single-family detached units.
 - (b) Multifamily dwellings, attached or detached, one- and two-family units, townhouses and garden-type apartments.
 - (c) Apartments.
 - (d) An office, temporary or permanent, belonging to the developer and clearly incidental to management and sales operations of the PUD.

- (e) Temporary structures incidental to construction.
 - (f) In a PUD of over 50 acres or more, a planned commercial center may be permitted. Such commercial center shall be an integral part of the plan for the PUD. The total aggregate area of all the commercial establishments and their parking area shall be established in the approval of the general development plan, but in no case shall be more than 20% of the gross area of the PUD. Planned commercial centers shall be a group of commercial uses compatible with the residential nature of the PUD and the remainder of the Town of Denton. These may include any use listed as permitted, conditional or special exception uses in § **128-60**. No construction on the planned commercial center shall begin until 30% of the total planned residential units are completed.
 - (g) Land and places for public assembly, recreational buildings, public buildings and accessory buildings, or may require the reservation of lands for such uses if it is deemed they are advantageous or necessary for the purpose of serving the planned unit development and the local community.
- (2) Where permitted. Planned unit developments are permitted in the SR, TR, MI, MR and PN Floating Zone Districts. In general, a planned unit development is contemplated in residential zones where tracts of suitable location, size, and character exist. The uses/structures proposed are to be planned and developed according to the requirements and procedures of this chapter. Planned unit developments shall be approximately located with respect to the general pattern of urban development, existing or proposed, and to existing public and private facilities and services.
 - (3) Computation of dwelling units permitted. The total density in the planned unit development will not be greater than if conventionally developed (i.e., as computed from net area of the site). The total permitted dwelling units may be averaged over the entire PUD or clustered in various groupings.
 - (4) The setback, lot size, lot dimensions, lot coverage, height, and yard requirements in the planned unit development shall be established for each individual project by the Planning Commission. In establishing these requirements, the Planning Commission shall consider such factors as the proposed intensity of the project and the existing character of the neighborhood.
 - (5) Land coverage. The maximum amount of land that may be built over (covered) by parking lots, roads, sidewalks, or plazas, buildings, or other structures shall be 60% of the net land area of the PUD.
 - (6) Area. The proposed PUD shall in no case contain less than three acres of land.
[Amended 2-7-2011 by Ord. No. 619, effective 2-17-2011]
 - (7) Open space. Common open space shall comprise not less than 25% of the gross area and shall comply with the provisions of Article **XVII**. All open space shall be designated for the common use of all occupants of the PUD, and at least 50% of such space shall be developed as recreational areas.
 - (8) Sanitary facilities. No PUD plan shall be approved unless the proposed development can be served by public water and sewer disposal systems, which shall be existing at the time the plan receives final approval in accordance with all water and sewer rules and regulations existing at the time of approval. Satisfactory evidence must be furnished to the Planning Commission and the Town Council that the existing Town sewer and water systems can handle the increased demand placed upon them by the proposed PUD and meet current Health Department requirements for standards of operation.
 - (9) Parking. At least two usable off-street parking spaces shall be provided for each dwelling unit, either on the lot it occupies or within 150 feet of such lot or of an apartment. Additional parking may be required as determined by the Planning Commission.

D. Administrative procedures.

- (1) Preliminary application shall be made to the Town Council and referred to the Planning Commission for stage one consideration of the PUD Zone and shall include, but not be limited to:
 - (a) A general diagram showing the PUD relation to the Town of Denton and major public access to the PUD (15 copies).
 - (b) The general development plan or concept plan setting forth preliminary information as identified in **Appendix I** at the end of this chapter. In addition to such information, the Planning Commission may require, but shall not be limited to, the following:
 - [1] Elevations and percentages of each building type, number of units and location of buildings.
 - [2] Proposed convenience centers, open spaces, their size, their location, their uses, and their proposed ownership (Town and/or association).
 - [3] General statement concerning provision of utilities (draft terms and provisions of a public works agreement).
 - [4] Statement of expected Town responsibilities.
 - [5] Cost benefit analysis of the proposed PUD for the Town.
 - [6] Tentative timetable and staging of development (schedule of construction).
 - [7] Applicant shall pay an application fee as previously established by the Town.
 - [8] Property and any other taxes on the property proposed to be developed shall be current.
 - (c) After the Planning Commission makes its findings, the application will be forwarded to the Town Council for consideration. If the Town Council finds that the proposal has merit, it will be conditionally approved.
- (2) Preliminary site plan. The developer shall submit the following to the Planning Commission for its review after receiving conditional approval from the Town Council:
 - (a) Fifteen copies of a preliminary site plan shall be filed with the Town. The preliminary site plan shall comply with the requirements of this article and be accompanied by such other written or graphic material as may be necessary or desirable in aiding the decisions of the Town Council and the Planning Commission.
 - (b) The Planning Commission shall review the site plan for compliance with the requirements of this chapter. In their review of the preliminary site plan the Planning Commission shall consult with such Town officials and its consultants as may be appropriate, and may offer such comments as may be appropriate.
 - (c) Preliminary site plan shall include but not be limited to the requirements set forth in **Appendix I** of this chapter.
 - (d) The preliminary site plan shall be accompanied by a schedule of construction or timetable (acceptable to the Town Council and Planning Commission).
 - (e) The developer shall provide a statement detailing the means by which the PUD and all its various aspects shall be managed. This shall include deed restrictions and covenants designed to ensure

perpetuity of agreements.

- (f) The preliminary site plan shall also include a management statement governing the construction, operation, and maintenance of:
 - [1] Sanitary and storm sewers, water mains, stormwater facilities, and other underground structures.
 - [2] Streets, alleys, driveways, curb cuts, entrances and exits, parking and loading areas, and outdoor lighting systems.
 - [3] Parks, parkways, cycleways, playgrounds, open spaces, fences, walls, screen planting, and landscaping and signs.
- (g) The Planning Commission and/or Town Council may establish additional requirements for preliminary site plans for the PUD.
- (h) After review and a public hearing on the proposed zoning, the Planning Commission shall return the site plan, together with comments and recommendations, to the Town Council for appropriate action.
- (3) Final review and approval procedure.
 - (a) The Town Council shall review the final preliminary site plan and other documents.
 - (b) The Town Council shall hold a public hearing in the manner required in Article **XX** of this chapter.
 - (c) The Town Council may approve or disapprove the proposed PUD zoning. In granting approval, the Town Council shall secure:
 - [1] A surety bond or equivalent to be filed for or deposited in escrow with the Town Council in an amount sufficient to ensure completion of all requirements established by the Town Council.
 - [2] A final site plan in the form of a final plat shall be prepared, filed, and recorded. The final plat shall comply with the specifications set forth in **Appendix I**, and applicable state, county and Town laws, regulations, and ordinances governing the subdivision of land. (See Chapter **73**, Land Subdivision.)
 - [3] Permits for building shall be issued in accordance with the schedule for construction approved by the Town Council as part of the final approval.
 - [4] When a PUD is to be developed in stages, each stage shall be processed as a separate development after first submitting and receiving approval of the PUD Zone for the entire project.
 - [5] As part of the final approval, the Town Council shall approve dates for initiation and completion of the PUD and/or its phases. Any departure from these dates shall constitute material breach of contract, and outstanding bonds can be called in. The Town Council may waive for cause.
 - [6] For issuance of more than one residential building permit for the property, the applicant and Town shall execute a public works agreement that memorializes the rights and obligations of the applicant and Town with respect to public and private improvements and rights-of-way.

- (4) Conflict with other articles.
 - (a) Provisions of the PUD Zone, when found to be in conflict with other provisions of this chapter, shall supersede those other provisions with which they conflict.
 - (b) Provisions of the PUD Zone, when found to be in conflict with other provisions of Chapter **73**, Land Subdivision, shall supersede those other provisions with which they conflict.

Article VIII. Special District: CA Critical Area Overlay District

[Amended 12-12-2013 by Ord. No. 650, effective 12-19-2013]

§ 128-31. Purpose and goals; regulation and applicability; general requirements; accommodations.

- A. Goals. The goals of the Town's Critical Area Ordinance are to accomplish the following:
 - (1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or run off from surrounding lands;
 - (2) Conserve fish, wildlife, and plant habitat; and
 - (3) Establish land use policies for development in the Critical Area which accommodate growth as well as address the environmental impacts that the number, movement, and activities of people may have on the area.
- B. The Town Critical Area Ordinance.
 - (1) The Town Critical Area Ordinance consists of the Town Critical Area Ordinance text and the Official Critical Area Map(s). Related provisions may be found in the Town Subdivision Regulations^[1] and the Town Zoning Ordinance.
[1]: Editor's Note: See Ch. 73, Land Subdivision.
- C. Regulated activities and applicability. Any applicant for a permit or license to pursue activities within the Critical Area, including, but not limited to, development or redevelopment, grading, sediment and erosion control, timber harvesting, shoreline erosion control, installation of a septic system and drain field, operation of a waste collection or disposal facility, operation of a commercial or private marina or other water-related commercial or industrial operation (whether public or private), mining (whether surface or subsurface) or quarrying, farming or other agriculture-related activities, shall have such permits or licenses issued by the duly appointed local approving authority after review to determine compliance with the Town Critical Area Ordinance.
- D. Critical Area Overlay District Map.
 - (1) The Official Critical Area Overlay District Map is maintained in force as part of the Official Zoning Map for Denton. The Official Critical Area Map delineates the extent of the Critical Area Overlay District that shall include:
 - (a) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as

indicated on the state wetland maps, and all state and private wetlands designated under Title 16 of the Environment Article of the Annotated Code of Maryland; and

- (b) All land and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands and the heads of tides designated under Title 16 of the Environment Article of the Annotated Code of Maryland.
- (2) Critical Area Overlay Map. Within the designated Critical Area Overlay District, all land shall be assigned one of the following land management and development area classifications:
 - (a) Intensely Developed Area (IDA).
 - (b) Limited Development Area (LDA).
 - (c) Resource Conservation Area (RCA).
- (3) The Critical Area Overlay District Map may be amended by the Town Council in compliance with amendment provisions in this article, the Maryland Critical Area Law,^[2] and COMAR Title 27, as amended from time to time.

[2]: *Editor's Note: See § 8-1801 et seq. of the Natural Resources Article of the Annotated Code of Maryland.*

E. General requirements.

- (1) Development and redevelopment shall be subject to the Habitat Protection Area requirements prescribed in this article.
- (2) Reasonable accommodations for the needs of disabled citizens.
 - (a) An applicant seeking relief from the Critical Area standards contained in this article in order to accommodate the reasonable needs of disabled citizens shall have the burden of demonstrating, by a preponderance of evidence, the following:
 - [1] The alterations will benefit persons with a disability within the meaning of the Americans with Disabilities Act;^[3]

[3]: *Editor's Note: See 42 U.S.C. § 12101 et seq.*
 - [2] Literal enforcement of the provisions of this article would result in discrimination by virtue of such disability or deprive a disabled resident or user of the reasonable use and enjoyment of the property;
 - [3] A reasonable accommodation would reduce or eliminate the discriminatory effect of the provisions of this article or restore the disabled resident's or user's reasonable use or enjoyment of the property;
 - [4] The accommodation requested will not substantially impair the purpose, intent, or effect of the provisions of this article as applied to the property; and
 - [5] The accommodation would be environmentally neutral with no greater negative impact on the environment than the literal enforcement of the statute, ordinance, regulation or other requirement; or would allow only the minimum environmental changes necessary to address the needs resulting from the particular disability of the applicant/appellant.
 - (b) The Planning Commission shall determine the nature and scope of any accommodation under this article and may award different or other relief than requested after giving due regard to the

purpose, intent, or effect of the applicable provisions of this article. The Planning Commission may also consider the size, location, and type of accommodation proposed and whether alternatives exist which accommodate the need with less adverse effect.

- (c) The Planning Commission may require, as a condition of approval, that upon termination of the need for accommodation, that the property be restored to comply with all applicable provisions of this article. Appropriate bonds may be collected or liens placed in order to ensure the Town's ability to restore the property should the applicant fail to do so.

§ 128-32. Intensely Developed Areas.

Development standards. For all development activities in the Intensely Developed Areas, the applicant shall identify any environmental or natural feature described below and meet all of the following standards:

- A. Development activities shall be designed and implemented to minimize destruction of forest and woodland vegetation;
- B. All roads, bridges, and utilities are prohibited in a Habitat Protection Area, unless no feasible alternative exists. If a road, bridge, or utility is authorized, the design, construction, and maintenance shall:
 - (1) Provide maximum erosion protection;
 - (2) Minimize negative impact on wildlife, aquatic life, and their habitats; and
 - (3) Maintain hydrologic process and water quality.
- C. All development activities that must cross or affect streams shall be designed to:
 - (1) Reduce increases in flood frequency and severity that are attributable to development;
 - (2) Retain tree canopy so as to maintain stream water temperature within normal variation;
 - (3) Provide a natural substrate for stream beds; and
 - (4) Minimize adverse water quality and quantity impacts of stormwater.
- D. All development and redevelopment activities shall include stormwater management technologies that reduce pollutant loadings by at least 10% below the level of pollution on the site prior to development or redevelopment as provided in Critical Area 10% Rule Guidance Manual — Fall 2003 and as may be subsequently amended.

§ 128-33. Limited Development Areas.

- A. Development standards. For all development activities in the Limited Development Areas, the applicant shall identify any environmental or natural feature described below, and shall meet all of the following standards:
 - (1) Development and redevelopment shall be subject to the water-dependent facilities requirements of this article;
 - (2) Roads, bridges, and utilities are prohibited in a Habitat Protection Area unless no feasible alternative

exists. If a road, bridge, or utility is authorized, the design, construction and maintenance shall:

- (a) Provide maximum erosion protection;
 - (b) Minimize negative impacts on wildlife, aquatic life and their habitats; and
 - (c) Maintain hydrologic processes and water quality.
- (3) All development activities that must cross or affect streams shall be designed to:
- (a) Reduce increases in flood frequency and severity that are attributable to development;
 - (b) Retain tree canopy so as to maintain stream water temperature within normal variation;
 - (c) Provide a natural substrate for stream beds; and
 - (d) Minimize adverse water quality and quantity impacts of stormwater.
- (4) If there is a wildlife corridor system identified by the Wildlife Heritage Service on or near the site which can be enhanced by additional plantings, the applicant shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetative tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with off-site habitats. The wildlife corridor system may include Habitat Protection Areas identified in this article. The Town shall ensure the maintenance of the wildlife corridors by requiring the establishment of conservation easements, restrictive covenants, or similar instruments approved by the Town Attorney through which the corridor is preserved by public or private groups, including homeowners' associations, nature trusts and other organizations, if present.
- (5) Development on slopes of 15% or greater, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the slope and is consistent with the policies and standards for Limited Development Areas.
- (6) Except as otherwise provided in this subsection, for stormwater runoff, lot coverage is limited to 15% of a lot or parcel or any portions of a lot or parcel that are designated Limited Development Area.
- (a) If a parcel or lot of 1/2 acre or less in size existed on or before December 1, 1985, then lot coverage is limited to 25% of the parcel or lot.
 - (b) If a parcel or lot greater than 1/2 acre and less than one acre in size existed on or before December 1, 1985, then lot coverage is limited to 15% of the parcel or lot.
 - (c) If an individual lot one acre or less in size is part of a subdivision approved after December 1, 1985, then lot coverage may exceed 15% of the individual lot; however, the total lot coverage for the entire subdivision may not exceed 15%.
 - (d) Lot coverage limits provided in Subsection **A(6)(a)** and **(b)** above may be exceeded, upon findings by the Planning Commission or its designee that the following conditions exist:
 - [1] The lot or parcel is legally nonconforming. A lot or parcel legally developed as of July 1, 2008, may be considered legally nonconforming for the purposes of lot coverage requirements.
 - [2] Lot coverage associated with new development activities on the property have been minimized;
 - [3] For a lot or parcel 1/2 acre or less in size, total lot coverage does not exceed the lot coverage

limits in Subsection **A(6)(a)** by more than 25% or 500 square feet, whichever is greater;

- [4] For a lot or parcel greater than 1/2 acre and less than one acre in size, total lot coverage does not exceed the lot coverage limits in Subsection **A(6)(b)** or 5,445 square feet, whichever is greater;
- [5] The following table summarizes the limits set forth in Subsection **A(6)(d)[1]** through [4] above:

**Table A(6)(d)[5]
Lot Coverage Limits**

Lot/Parcel Size (square feet)	Lot Coverage Limit
0 to 8,000	25% of parcel plus 500 square feet
8,001 to 21,780	31.25% of parcel
21,780 to 36,300	5,445 square feet
36,301 to 43,560	15% of parcel

- (e) If the Planning Commission or its designee makes the findings set forth in Subsection **A(6)(d)** above and authorizes an applicant to use the lot coverage limits set forth in that subsection, the applicant shall:
- [1] Demonstrate that water quality impacts associated with runoff from the development activities that contribute to lot coverage have been minimized through site design considerations or the use of best management practices to improve water quality; and
 - [2] Provide on-site mitigation in the form of plantings to offset potential adverse water quality impacts from the development activities resulting in new lot coverage. The plantings shall be equal to two times the area of the development activity.
 - [3] If the applicant cannot provide appropriate stormwater treatment and plantings due to site constraints, then the applicant shall pay a fee to the Town in lieu of performing the on-site mitigation. The amount of the fee shall be \$1.50 per square foot of the required mitigation.
- (7) The alteration of forest and developed woodlands shall be restricted and shall be mitigated as follows:
- (a) The total acreage in forest and developed woodlands within the Town in the Critical Area shall be maintained or preferably increased;
 - (b) All forests and developed woodlands that are allowed to be cleared or developed shall be replaced in the Critical Area on not less than an equal area basis;
 - (c) If an applicant is authorized to clear more than 20% of a forest or developed woodlands on a lot or parcel, the applicant shall replace the forest or developed woodlands at 1.5 times the areal extent of the forest or developed woodlands cleared, including the first 20% of the forest or developed woodlands cleared.
 - (d) An applicant may not clear more than 30% of a forest or developed woodlands on a lot or parcel, unless the Board of Appeals grants a variance and the applicant replaces forest or developed woodlands at a rate of three times the areal extent of the forest or developed woodlands cleared.
 - (e) If an applicant is authorized to clear any percentage of forest or developed woodlands associated with a subdivision or site plan approval, the remaining percentage shall be maintained through recorded, restrictive covenants or similar instruments approved by the Town.

- (8) The following are required for forest or developed woodlands clearing as required in Subsection **A(7)** above:
- (a) The applicant shall ensure that any plantings that die within 24 months of installation shall be replaced. A performance bond in an amount determined by the Town shall be posted to assure satisfactory replacement as required in Subsection **A(7)** above and plant survival;
 - (b) A permit issued by the Town before forest or developed woodlands is cleared. Clearing forests and developed woodlands before obtaining a Town permit is a violation; any forests and developed woodlands cleared before obtaining a Town permit shall be replanted at three times the areal extent of the cleared forest or developed woodlands;
 - (c) Clearing of forest or developed woodlands that exceed the maximum area allowed in Subsection **A(7)** above shall be replanted at three times the areal extent of the cleared forest or developed woodlands;
 - (d) If the areal extent of the site limits the application of the reforestation standards in this section, the applicant may be allowed to plant off site at the required ratio or pay a fee in lieu of planting at a rate of \$1.50 per square foot.
- (9) If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodlands cover of at least 15%.
- (a) The applicant shall designate, subject to the approval of the Town, a new forest area on a part of the site not forested; and
 - (b) The afforested area shall be maintained as forest cover through easements, restrictive covenants or other protective instruments approved by the Town Attorney.
- B. Process. Prior to commencing a development activity on a site in a Limited Development Area, the applicant shall follow the following process:
- (1) A site-specific field investigation shall be conducted by the applicant to identify forest areas, specimen trees streams, wetlands, sensitive environmental areas, and rare, threatened or endangered species habitat that may be present. Forested areas and specimen trees shall be identified and shown on all site development and subdivision plans in order to ensure that appropriate protection measures are implemented.
 - (2) The applicant shall prepare a plan clearly showing the limits of disturbance for the project and forested areas to be conserved. The applicant shall show appropriate temporary tree protection devices, including fencing, signs, berms, etc., necessary to protect existing trees and forest.
 - (3) For projects that involve clearing or require afforestation, the location of afforestation and reforestation areas shall be clearly shown on a planting plan that will include all specifications for implementing the planting and include a construction sequence and proposed maintenance and monitoring agreement.
 - (4) Afforestation and reforestation areas shall be monitored by the Town for a period of two years following completion of the project, and the developer will be responsible for replacing any trees or plantings that do not survive and are necessary to maintain compliance with the site plan and/or planting plan.

§ 128-34. Resource Conservation Areas.

- A. Development standards. For all development activities and resource utilization in the Resource Conservation Areas, the applicant shall meet all of the following standards:
- (1) Land use management practices shall be consistent with the policies and criteria for the Habitat Protection Area provisions of this article.
 - (2) Land within the Resource Conservation Area may be developed for residential uses at a density not to exceed one dwelling unit per 20 acres.
 - (3) Development activity within the Resource Conservation Areas shall be consistent with the requirements and standards for Limited Development Areas as specified in this article.
 - (4) Nothing in this section shall limit the ability of a participant in any agricultural easement program to convey real property impressed with such an easement to family members, provided that no such conveyance will result in a density greater than one dwelling unit per 20 acres.
- B. Process. Prior to commencing a development activity on a site in a Resource Conservation Area, the applicant shall follow the following process:
- (1) A site-specific field investigation shall be conducted by the applicant to identify forest areas, specimen trees streams, wetlands, sensitive environmental areas, and rare, threatened or endangered species habitat that may be present. Forested areas and specimen trees shall be identified and shown on all site development and subdivision plans in order to ensure that appropriate protection measures are implemented.
 - (2) The applicant shall prepare a plan clearly showing the limits of disturbance for the project and forested areas to be conserved. The applicant shall show appropriate temporary tree protection devices, including fencing, signs, berms, etc., necessary to protect existing trees and forest.
 - (3) For projects that involve clearing or require afforestation, the location of afforestation and reforestation areas shall be clearly shown on a planting plan that will include all specifications for implementing the planting and include a construction sequence and proposed maintenance and monitoring agreement.
 - (4) Afforestation and reforestation areas shall be monitored by the Town for a period of two years following completion of the project, and the developer shall be responsible for replacing any trees or plantings that do not survive and are necessary to maintain compliance with the site plan and/or planting plan.

§ 128-35. Land use and density.

- A. Permitted uses.
- (1) Permitted uses in the Critical Area shall be limited to those uses allowed by the underlying zoning classification as modified by Table A and the supplemental use standards in Part 6 provided such uses meet all standards established by the Critical Area Overlay Zone.

Table A(1)

Permitted Uses

LEGEND:

**P = Permitted if allowed in the
underlying zoning district**

**PC = Permitted with conditions if
allowed in the underlying zoning
district**

NP = Not permitted

Item	Use Description	Land Use Management Designation		
		IDA	LDA	RCA
1.00	RESIDENTIAL			
1.10	Accessory dwelling unit	P	P	PC
2.00	INSTITUTIONAL			
2.10	Existing institutional uses	P	P	PC
2.20	New institutional uses	P	P	NP
2.30	Cemetery	P	P	PC
2.40	Group home	P	P	PC
2.50	Day care	P	P	PC
3.00	COMMERCIAL			
3.10	Existing commercial uses	P	P	PC
3.20	New commercial uses	P	P	NP
3.30	Home occupation	P	P	PC
3.40	Bed-and-breakfast facility	P	P	PC
4.00	MARITIME/WATER DEPENDENT			
4.10	Expansion of existing commercial marinas	P	P	PC
4.20	New marina, commercial	P	P	NP
4.30	Community piers and noncommercial boat docking and storage	P	P	PC
4.40	Public beaches and public water-oriented recreational and educational areas	P	P	PC
4.50	Research areas	P	P	PC
4.60	Fisheries activities	P	P	P
4.70	Structures on piers	PC	PC	PC
4.80	Private pier	P	P	P
5.00	RECREATION			
5.10	Golf course	P	P	PC
6.00	INDUSTRIAL			
6.10	Existing industrial uses	P	P	PC
6.20	New industrial uses	PC	PC	NP
6.30	Non maritime heavy industry	PC	NP	NP
7.00	TRANSPORTATION/PARKING/ COMMUNICATIONS/ UTILITIES			
7.10	Utility transmission facilities	PC	PC	PC
8.00	PUBLIC/QUASI-PUBLIC			
8.10	Sanitary landfill; rubble fill	PC	NP	NP
8.20	Solid or hazardous waste collection or	PC	NP	NP

8.20	Solid or hazardous waste collection or disposal facilities	PC	NP	NP
8.30	Sludge facilities	PC	NP	NP
9.00	OTHER (Reserved)			

B. Maximum permitted density.

- (1) The maximum permitted density in the Town Critical Area shall be as shown in Table B(1).

Table B(1)
Maximum Residential Density
(dwelling units per acre)
Land Use Management Designation

IDA	LDA	RCA
Density permitted by underlying zoning	Density permitted by underlying zoning	1 dwelling unit per 20 acres

- (2) Calculation of one-in-twenty acre density of development. In calculating the one-in-twenty acre density of development that is permitted on a parcel located within the Resource Conservation Area, the Town:
- (a) Shall count each dwelling unit;
 - (b) May permit the area of any private wetlands located on the property to be included under the following conditions:
 - [1] The density of development on the upland portion of the parcel may not exceed one dwelling unit per eight acres; and
 - [2] The area of private wetlands shall be estimated on the basis of vegetative information as designated on the state wetlands maps or by private survey approved by the Town Council, the Critical Area Commission, and the Maryland Department of the Environment.

§ 128-36. Supplemental use standards.

The following supplemental use standards apply to the permitted uses listed in Table A(1) above and shall apply when the permitted use is allowed in the underlying zoning district.

A. Accessory dwelling unit.

- (1) If a permitted use in the underlying zoning district, one additional dwelling unit (accessory dwelling unit) as part of a primary dwelling unit may be permitted in the Resource Conservation Area, provided the additional dwelling unit is served by the same sewage disposal system as the primary dwelling unit and:
 - (a) Is located within the primary dwelling unit or its entire perimeter is within 100 feet of the primary dwelling unit and does not exceed 900 square feet in total enclosed areas; or
 - (b) Is located within the primary dwelling unit and does not increase the amount of lot coverage already attributed to the primary dwelling unit.
- (2) An additional dwelling unit meeting all of the provisions of this section may not be subdivided or

conveyed separately from the primary dwelling unit; and

- (3) The provisions of this section may not be construed to authorize the granting of a variance, unless the variance is granted in accordance with the variance provisions contained herein.

B. Existing institutional uses.

- (1) Existing institutional facilities, including those that directly support agriculture, forestry, aquaculture or residential development shall be allowed in Resource Conservation Areas.
- (2) Expansion of existing institutional facilities and uses in the Resource Conservation Area shall be subject to the nonconforming use provisions of this article and the grandfathering provisions in § **128-38** and may require growth allocation.

C. New institutional uses.

- (1) New institutional facilities and uses, except those specifically listed in Table A(1), shall not be permitted in Resource Conservation Areas.
- (2) Certain institutional uses may be permitted in a Resource Conservation Area if allowed in the underlying zoning district and if the use complies with all requirements for such uses as provided in the Town Zoning Ordinance. These institutional uses are limited to:
 - (a) A cemetery that is an accessory use to an existing church, provided man-made lot coverage is limited to 15% of the site or 20,000 square feet, whichever is less;
 - (b) A day-care facility in a dwelling where the operators live on the premises and there are no more than eight children;
 - (c) A group home or assisted living facility with no more than eight residents; and
 - (d) Other similar uses determined by the municipality and approved by the Critical Area Commission to be similar to those listed above.

D. Existing commercial uses.

- (1) Existing commercial facilities and uses, including those that directly support agriculture, forestry, aquaculture or residential development, shall be allowed in Resource Conservation Areas.
- (2) Expansion of existing commercial facilities and uses in the Resource Conservation Area shall be subject to the nonconforming use provisions of this article and the grandfathering provisions in § **128-38** and may require growth allocation.

E. New commercial uses.

- (1) New commercial uses, except those specifically listed in Table A(1), shall not be permitted in Resource Conservation Areas.
- (2) Certain commercial uses may be permitted in the Resource Conservation Area if allowed in the underlying zoning district and if the use complies with all requirements for such uses as provided in the Town Zoning Ordinance. These commercial uses are limited to:
 - (a) A home occupation as an accessory use on a residential property and as provided for in the Town's Zoning Ordinance;

- (b) A bed-and-breakfast facility located in an existing residential structure and where meals are prepared only for guests staying at the facility; and
- (c) Other uses determined by the municipality and approved by the Critical Area Commission to be similar to those listed above.

F. Expansion of existing commercial marinas.

- (1) Expansion of existing commercial marinas may be permitted within Resource Conservation Areas, provided that:
 - (a) Water quality impacts are quantified and appropriate best management practices that address impacts are provided;
 - (b) It will result in an overall net improvement in water quality at or leaving the site of the marina;
 - (c) The marina meets the sanitary requirements of the Department of the Environment; and
 - (d) Expansion is permitted under the nonconforming use provisions of this article.
- (2) Expansion of existing commercial marinas may be permitted in the buffer in the Intensely Developed Areas and Limited Development Areas, provided that the applicant demonstrates that:
 - (a) The project meets a recognized private right or public need;
 - (b) Adverse effects on water quality, fish, plant and wildlife habitat are minimized;
 - (c) Insofar as possible, non-water-dependent structures or operations associated with water-dependent projects or activities are located outside the buffer; and
 - (d) Expansion is permitted under the nonconforming use provisions of this article.

G. New marina, commercial.

- (1) New commercial marinas shall not be permitted in Resource Conservation Areas.
- (2) New commercial marinas may be permitted in Limited Development Areas and Intensely Developed Areas if allowed in the underlying zoning, provided:
 - (a) New marinas shall establish a means of minimizing the discharge of bottom wash waters into tidal waters.
 - (b) New marinas meet the sanitary requirements of the Maryland Department of the Environment.
 - (c) New marinas may be permitted in the buffer in the Intensely Developed Areas and Limited Development Areas, provided that it can be shown that:
 - [1] The project meets a recognized private right or public need;
 - [2] Adverse effects on water quality, fish, plant and wildlife habitat are minimized; and
 - [3] Insofar as possible, non-water-dependent structures or operations associated with water-dependent projects or activities are located outside the buffer.

H. Community piers and noncommercial boat docking and storage.

- (1) New or expanded community marinas and other noncommercial boat-docking and storage facilities

may be permitted in the buffer, subject to the requirements in this article, provided that:

- (a) These facilities may not offer food, fuel, or other goods and services for sale and shall provide adequate and clean sanitary facilities;
 - (b) The facilities are community owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision;
 - (c) The facilities are associated with a residential development approved by the Town for the Critical Area and consistent with all state requirements and the requirements of this article applicable to the Critical Area;
 - (d) Disturbance to the buffer is the minimum necessary to provide a single point of access to the facilities; and
 - (e) If community piers, slips, or moorings are provided as part of the new development, private piers in the development are not allowed.
- (2) Number of slips or piers permitted. The number of slips or piers permitted at the facility shall be the lesser of Subsection **H(2)(a)** or **(b)** below:
- (a) One slip for each 50 feet of shoreline in the subdivision in the Intensely Developed and Limited Development Areas and one slip for each 300 feet of shoreline in the subdivision in the Resource Conservation Area; or
 - (b) A density of slips or piers to platted lots or dwellings within the subdivision in the Critical Area according to the following schedule:

Table H(2)(b)	
Number of Slips Permitted	
Platted Lots or Dwellings in the Critical Area	Slips
Up to 15	1 for each lot
16 to 40	15% or 75%, whichever is greater
41 to 100	30% or 50%, whichever is greater
101 to 300	50% or 25%, whichever is greater
Over 300	75% or 15%, whichever is greater

- I. Public beaches and public water-oriented recreational and educational areas.
- (1) Public beaches or other public water-oriented recreation or education areas, including, but not limited to, publicly owned boat launching and docking facilities and fishing piers may be permitted in the buffer in Intensely Developed Areas.
 - (2) These facilities may be permitted within the buffer in Limited Development Areas and Resource Conservation Areas, provided that:
 - (a) Adequate sanitary facilities exist;
 - (b) Service facilities are, to the extent possible, located outside the buffer;
 - (c) Permeable surfaces are used, to the extent practicable, if no degradation of groundwater would result;

- (d) Disturbance to natural vegetation is minimized; and
- (e) Areas for possible recreation, such as nature study, and hunting and trapping, and for education, may be permitted in the buffer within Resource Conservation Areas if service facilities for these uses are located outside of the buffer.

J. Research areas.

- (1) Water-dependent research facilities or activities operated by state, federal, or local agencies or educational institutions may be permitted in the buffer, if non-water-dependent structures or facilities associated with these projects are, to the extent possible, located outside of the buffer.

K. Fisheries activities.

- (1) Commercial water-dependent fisheries, including, but not limited to, structures for crab shedding, fish off-loading docks, shellfish culture operations and shore-based facilities necessary for aquaculture operations and fisheries activities may be permitted in the buffer in Intensely Developed Areas, Limited Development Areas and Resource Conservation Areas.

L. Structures on piers.

- (1) Except as provided in Subsection **L(1)(a), (b) and (c)** below, construction of a dwelling unit or other non-water-dependent structure on a pier located on state or private tidal wetlands within the Critical Area is prohibited.
 - (a) A building permit for a project involving the construction of a dwelling unit or other non-water-dependent structure on a pier located on state or private wetlands within the Critical Area may be approved, provided a permit was issued by the Department of Natural Resources on or before January 1, 1989.
 - (b) A building permit for a project involving the construction of a dwelling unit or other non-water-dependent structure on a pier located on state or private wetlands within the Critical Area may be approved if the following conditions exist:
 - [1] The project is constructed on a pier that existed as of December 1, 1985, that can be verified by a Department of Natural Resources aerial photograph dated 1985, accompanied by a map of the area;
 - [2] The project does not require an expansion of the pier greater than 25% of the area of piers or dry docks removed on the same property; however, additional expansion may be allowed in the amount of 10% of the water coverage eliminated by removing complete piers from the same or other properties. If the horizontal surface of a pier to be removed is not intact, but pilings identify its previous size, then that area may be used in determining the additional expansion permitted. The project expansion based on water coverage eliminated can be considered only if all nonfunctional piers on the property are removed except for the project pier. The total expansion may not exceed 35% of the original size of the piers and dry docks removed; and
 - [3] The project is located in an Intensely Developed Area.
 - (c) A building permit for the repair of an existing dwelling unit or other non-water-dependent structure on a pier located on state or private wetlands within the Critical Area may be approved.
 - (d) If a structure that is not water dependent is permitted under the exceptions included in this

section, an applicant is required to demonstrate that the project will meet the following environmental objectives using the standards established herein:

- [1] The construction and operation of the project will not have a long-term adverse effect on the water quality of the adjacent body of water;
- [2] The quality of stormwater runoff from the project will be improved; and
- [3] Sewer lines or other utility lines extended for the pier will not affect the water quality of adjoining waters.

M. Golf course.

- (1) A golf course, excluding main buildings and/or structures such as the clubhouse, pro-shop, parking lot, etc., may be permitted in Resource Conservation Areas, provided that:
 - (a) Such use is permitted in the underlying zoning; and
 - (b) Development is in accordance with the official guidance adopted by the Critical Area Commission on August 3, 2005.

N. Existing industrial uses.

- (1) Existing industrial facilities and uses, including those that directly support agriculture, forestry, or aquaculture, may be permitted in Resource Conservation Areas.
- (2) Expansion of existing industrial facilities and uses in the Resource Conservation Areas shall be subject to the nonconforming use provisions of this article and the grandfathering provisions in § **128-38** and may require growth allocation.

O. New industrial uses.

- (1) New industrial uses shall not be permitted in Resource Conservation Areas.
- (2) New, expanded or redeveloped industrial facilities may only be permitted in Limited Development Areas and Intensely Developed Areas if permitted uses in the underlying zoning district, and provided such facilities meet all requirements for development in the Limited Development Area and Intensely Developed Areas.
- (3) New, expanded or redeveloped water-dependent industrial or port-related facilities and the replacement of these facilities may be permitted only in those portions of Intensely Developed Areas that have been designated as Buffer Management Areas.

P. Nonmaritime heavy industry.

- (1) Nonmaritime heavy industry may be permitted if:
 - (a) The site is located in an Intensely Developed Area; and
 - (b) The activity or facility has demonstrated to all appropriate local and state permitting agencies that there will be a net improvement in water quality to the adjacent body of water.

Q. Utility transmission facilities.

- (1) Utility transmission facilities, except those necessary to serve permitted uses, or where regional or interstate facilities must cross tidal waters, may be permitted in the Critical Area provided that:

- (a) The facilities are located in Intensely Developed Areas; and
 - (b) Only after the activity or facility has demonstrated to all appropriate local and state permitting agencies that there will be a net improvement in water quality to the adjacent body of water.
- (2) These provisions do not include power plants.
- R. Sanitary landfill; rubble fill.
 - (1) Sanitary landfills or rubble fills shall not be permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality or wastewater management problem.
 - (2) Existing, permitted facilities shall be subject to the standards and requirements of the Department of the Environment.
- S. Solid or hazardous waste collection or disposal facilities.
 - (1) Solid or hazardous waste collection or disposal facilities, including transfer stations, shall not be permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality or wastewater management problem.
 - (2) Existing, permitted facilities shall be subject to the standards and requirements of the Department of the Environment.
- T. Sludge facilities.
 - (1) Permanent sludge handling, storage and disposal facilities, other than those associated with wastewater treatment facilities, shall not be permitted in the Critical Area unless:
 - (a) The facility or activity is located in an Intensely Developed Area; and
 - (b) The applicant has demonstrated to all appropriate local and state permitting agencies that there will be a net improvement in water quality to the adjacent body of water.
 - (2) Agricultural or horticultural use of sludge under appropriate approvals when applied by an approved method at approved application rates may be permitted in the Critical Area, except in the one-hundred-foot-buffer.

§ 128-37. Growth allocation.

- A. Growth allocation acreage.
 - (1) Growth allocation available to the Town includes:
 - (a) An area equal to 5% of the RCA acreage located within the Town and/or;
 - (b) Growth allocation available to the Town as provided for by Caroline County.
 - (2) As of the date of adoption of this article, there is no specific acreage of growth allocation allotted to the Town. The county will review potential growth allocation requests from the Town on a case-by-case basis.

B. Growth Allocation Floating Zone District.

- (1) Purpose. The Growth Allocation Floating Zone is not mapped but is designated for use in areas classified as Resource Conservation Areas and/or Limited Development Areas within the Town Critical Area Overlay District. The purpose of the floating zone is to permit a change in the land management classification established in the Critical Area Overlay District on specific sites so that they may be developed to the extent permitted by the underlying zoning classification or the land use management classification. Only projects which have been approved by the Town Council for award of the Critical Area Growth Allocation are eligible for the floating zone district.
- (2) Designation of floating zones.
 - (a) The Growth Allocation District shall be a floating zone.
 - (b) The Growth Allocation District provides for changing the land management classification of Resource Conservation Areas and Limited Development Areas in the Critical Area Overlay District.

C. Standards. When locating new Intensely Developed or Limited Development Areas, the following standards shall apply:

- (1) A new Intensely Developed Area shall only be located in a Limited Development Area or adjacent to an existing Intensely Developed Area.
- (2) A new Limited Development Area shall only be located adjacent to an existing Limited Development Area or an Intensely Developed Area.
- (3) New Intensely Developed Areas shall be at least 20 acres in size unless:
 - (a) They are contiguous to an existing Intensely Developed Area or located in a Limited Development Area; or
 - (b) They are a grandfathered commercial or industrial use which existed as of March 1989. The amount of growth allocation deducted shall be equivalent to the area of the entire parcel or parcels subject to the growth allocation request.
- (4) No more than 1/2 of the Town's growth allocation may be located in Resource Conservation Areas except as provided in Subsection **C(9)** below.
- (5) A new Limited Development Area or Intensely Developed Area shall be located in a manner that minimizes impacts to Habitat Protection Areas as defined herein and in COMAR 27.01.09, as amended from time to time, and in an area and manner that optimizes benefits to water quality.
- (6) A new Intensely Developed Area shall only be located where it minimizes impacts to the permitted land uses of the Resource Conservation Area.
- (7) A new Intensely Developed Area or a Limited Development Area in a Resource Conservation Area shall be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters.
- (8) New Intensely Developed Areas or Limited Development Areas to be located in Resource Conservation Areas shall conform to all criteria of this article for such areas, shall be so designated on the Town Critical Area Maps and shall constitute an amendment to this article, subject to review and recommendation by the Planning Commission and the approval of the Town Council and the Critical Area Commission, as provided herein.

- (9) If the Town is unable to utilize a portion of its growth allocation, as set out in Subsection **C(1)** and **(2)** above, within or adjacent to existing Intensely Developed or Limited Development Areas, then that portion of the growth allocation which cannot be so located may be located in the Resource Conservation Areas, in addition to the expansion allowed in Subsection **C(4)** above under program measures specifically approved by the Critical Area Commission.
 - (10) For residential development, the area to be developed shall be limited to no more than the underlying zoning requirements or 85% of the site, whichever is the lesser amount.
 - (11) In addition to meeting the minimum requirements of the Critical Area regulations, the Planning Commission reserves the right to require additional water quality and/or wildlife habitat improvements in the project design.
 - (12) For residential development, a community pier shall be provided rather than individual private piers consistent with standards included in § **128-36** and Table H(2)(b).
- D. Additional factors. In reviewing map amendments or refinements involving the use of growth allocation, the Town shall consider the following factors:
- (1) Consistency with the Town's adopted Comprehensive Plan and whether the growth allocation would implement the goals and objectives of the adopted plan. "Consistency with" means that a standard or factor will further, and not be contrary to, the following items in the comprehensive plan:
 - (a) Policies;
 - (b) Timing of the implementation of the plan, of development, and of rezoning;
 - (c) Development patterns;
 - (d) Land uses; and
 - (e) Densities or intensities.
 - (2) For a map amendment or refinement involving a new Limited Development Area, whether the development is:
 - (a) To be served by a public wastewater system or septic system that uses the best available nitrogen removal technology;
 - (b) A completion of an existing subdivision;
 - (c) An expansion of an existing business; or
 - (d) To be clustered.
 - (3) For a map amendment or refinement involving a new Intensely Developed Area, whether the development is:
 - (a) To be served by a public wastewater system;
 - (b) If greater than 20 acres, to be located in a designated Priority Funding Area; and
 - (c) To have a demonstrable economic benefit.
 - (4) The use of existing public infrastructure, where practical;

- (5) Consistency with state and regional environmental protection policies concerning the protection of threatened and endangered species and species in need of conservation that may be located on or off site;
- (6) Impacts on a Priority Preservation Area;
- (7) Environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater discharges to tidal waters, tidal wetlands, and tributary streams; and
- (8) Environmental impacts associated with location in a coastal hazard area or an increased risk of severe flooding attributable to the proposed development.

E. Additional provisions in the use of growth allocation.

- (1) Subdivision of any parcel of land that was recorded as of December 1, 1985, and classified as RCA or LDA, where all or part of the parcel is identified by the Town as a growth allocation area, shall result in the acreage of the entire parcel not in tidal wetlands counting against the growth allocation, unless the development concept outlined in Subsection **E(2)** below is used.
- (2) In order to allow some flexibility in the use of growth allocation when development is only proposed on a portion of the property, the following methodology may be used: On a parcel proposed for the use of growth allocation, a single development envelope may be specified, and the acreage of the development envelope, rather than the acreage of the entire parcel, shall be deducted from the Town's growth allocation if the development envelope meets the following criteria:
 - (a) The development envelope shall include individually owned lots, required buffers, impervious surfaces, roads, utilities, stormwater management measures, on-site sewage disposal measures, any acres subject to human use such as active recreation acres, and any additional acreage needed to meet the development requirements of the criteria. The required buffers refer to the minimum one-hundred-foot buffer and the twenty-five-foot nontidal wetlands buffer.
 - (b) Only one development envelope shall be established per parcel of land that existed as of December 1, 1985.
 - (c) If a development envelope is proposed in the RCA, a minimum of 20 acres must remain outside of the development envelope or the acreage of the entire parcel must be deducted. If the original parcel in the RCA is less than 20 acres, then the acreage of the entire parcel must be deducted. If there is a permanently protected Resource Conservation Area (an area protected by easement) adjacent and contiguous to a residue that is less than 20 acres, that will result in a minimum twenty-acre residue, then the entire parcel does not have to be deducted.
 - (d) The minimum twenty-acre residue outside of the development envelope may be developed at an RCA density unless some type of permanent protection exists that restricts development.
- (3) For growth allocation areas proposed in the RCA, a three-hundred-foot naturally vegetated buffer is strongly encouraged, and on projects where it is provided, it shall not be deducted even if the buffer does not meet the twenty-acre minimum requirement.

§ 128-38. Grandfathering.

A. Continuation of existing uses.

- (1) The continuation, but not necessarily the intensification or expansion, of any use in existence in March 1989 may be permitted, unless the use has been abandoned for more than one year or is otherwise restricted by existing municipal ordinances.
- (2) If any existing use does not conform with the provisions of this article, its intensification or expansion may be permitted only in accordance with the variance procedures in § 128-39.

B. Residential density on grandfathered lots.

- (1) Except as otherwise provided, the following types of land are permitted to be developed with a single-family dwelling, if a dwelling is not already placed there, notwithstanding that such development may be inconsistent with the density provisions of this article.
 - (a) A legal parcel of land, not being part of a recorded or approved subdivision, that was recorded as of December 1, 1985;
 - (b) Land that received a building permit subsequent to December 1, 1985, but prior to March 1989;
 - (c) Land that was subdivided into recorded, legally buildable lots, where the subdivision received final approval between June 1, 1984, and December 1, 1985; or
 - (d) Land that was subdivided into recorded, legally buildable lots, where the subdivision received the final approval after December 1, 1985, and provided that either development of any such land conforms to the, Intensely Developed Area, Limited Development Area or Resource Conservation Area requirements in this article or the area of the land has been counted against the growth allocation permitted under this article.

C. Consistency. Nothing in this section may be interpreted as altering any requirements of this article related to water-dependent facilities or Habitat Protection Areas.

§ 128-39. Variances.

- A. Applicability. The Town has established provisions where, owing to special features of a site or other circumstances, implementation of this article or a literal enforcement of provisions within this article would result in unwarranted hardship to an applicant, a Critical Area variance may be obtained.
 - (1) In considering an application for a variance, the Town shall presume that the specific development activity in the Critical Area that is subject to the application and for which a variance is required does not conform with the general purpose and intent of the Natural Resources Article of the Annotated Code of Maryland, § 8-1801, COMAR Title 27, as amended from time to time, and the requirements of this article.
 - (2) "Unwarranted hardship" means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.
- B. Standards. The provisions for granting such a variance shall include evidence submitted by the applicant that the following standards are met:
 - (1) Special conditions or circumstances exist that are peculiar to the land or structure involved and that a literal enforcement of provisions and requirements of this article would result in unwarranted hardship;

- (2) A literal interpretation of the provisions of this article will deprive the applicant of the use of land or a structure permitted to others in accordance with the provisions of this Critical Area Ordinance;
- (3) The granting of a variance will not confer upon an applicant any special privilege that would be denied by this Critical Area Ordinance to other lands or structures within the Critical Area;
- (4) The variance request is not based upon conditions or circumstances which are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming on any neighboring property; and
- (5) The granting of a variance shall not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Critical Area, and the granting of the variance will be in harmony with the general spirit and intent of the State Critical Area Law^[1] and this article.

[1]: *Editor's Note: See § 8-1801 et seq. of the Natural Resources Article of the Annotated Code of Maryland.*

- C. Process. Applications for a variance will be made, in writing, to the Board of Appeals with a copy provided to the Critical Area Commission. The Board of Appeals shall follow its established procedures for advertising and notification of affected landowners.
 - (1) After hearing an application for a Critical Area Ordinance variance, the Board of Appeals shall make written findings reflecting analysis of each standard.
 - (2) If the variance request is based on conditions or circumstances that are the result of actions by the applicant, the Board of Appeals shall consider that fact.
 - (3) The applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance established in Subsection **A** above.
 - (4) The Board of Appeals shall notify the Critical Area Commission of its findings and decision to grant or deny the variance request in accordance with Subsection **G** below.
- D. Findings. Based on competent and substantial evidence, the Board of Appeals shall make written findings as to whether the applicant has overcome the presumption of nonconformance as established in Subsection **A** above and, if applicable, Subsection **B** above. With due regard for the person's technical competence, and specialized knowledge, the written findings may be based on evidence introduced and testimony presented by:
 - (1) The applicant;
 - (2) The Town or any other government agency; or
 - (3) Any other person deemed appropriate by the Board of Appeals.
- E. Appeals. Appeals from decisions concerning the granting or denial of a variance under these regulations shall be taken in accordance with all applicable laws and procedures of the Board of Appeals for variances. Variance decisions by the Board of Appeals may be appealed to the Circuit Court within 30 days of the date on which the Board of Appeals issues its written decision in accordance with the Maryland Rules of Procedure. Appeals may be taken by any person, firm, corporation or governmental agency aggrieved or adversely affected by any decision made under this article.
- F. Conditions and mitigation. The Board of Appeals shall impose conditions on the use or development of a property which is granted a variance as it may find reasonable to ensure that the spirit and intent of this article is maintained, including, but not limited to, the following:

- (1) Adverse impacts resulting from the granting of the variance shall be mitigated as recommended by the appropriate local body or approving authority, but not less than by planting on the site per square foot of the variance granted at no less than a three-to-one basis.
 - (2) New or expanded structures or lot coverage shall be located the greatest possible distance from mean high water, the landward edge of tidal wetlands, tributary streams, nontidal wetlands, or steep slopes.
- G. Commission notification. Within 10 working days after a written decision regarding a variance application is issued, a copy of the decision will be sent to the Critical Area Commission. The Town may not issue a permit for the activity that was the subject of the application until the applicable thirty-day appeal period has elapsed.

§ 128-40. Lot consolidation and reconfiguration.

- A. Applicability. The provisions of this section apply to a consolidation or a reconfiguration of any nonconforming legal grandfathered parcel or lot in the Limited Development Area (LDA) and Resource Conservation Area (RCA). These provisions do not apply to the reconfiguration or consolidation of parcels or lots which are conforming or meet all Critical Area requirements. Nonconforming parcels or lots include:
- (1) Those for which a Critical Area variance is sought or has been issued; and
 - (2) Those located in the Resource Conservation Area and are less than 20 acres in size.
- B. Procedure. An applicant seeking a parcel or lot consolidation or reconfiguration shall provide the information required in COMAR 27.01.02.08.E, as amended from time to time, to the Town.
- (1) The Town may not approve a proposed parcel or lot consolidation or reconfiguration without making written findings in accordance with COMAR 27.01.02.08.F, as amended from time to time.
 - (2) The Town shall issue a final written decision or order granting or denying an application for a consolidation or reconfiguration.
 - (a) After a final written decision or order is issued, the Town shall send a copy of the decision or order and a copy of any approved development plan within 10 business days, by U.S. mail, to the Critical Area Commission's business address.

§ 128-41. Amendments.

- A. Amendments. The Denton Town Council may from time to time amend the Critical Area provisions of this article. Changes may include, but are not limited to, amendments, revisions, and modifications to the Critical Area regulations, Critical Area Maps, implementation procedures, and local policies that affect the Town's Critical Area. All such amendments, revisions, and modifications shall also be approved by the Critical Area Commission as established in § 8-1809 of the Natural Resources Article of the Annotated Code of Maryland. No such amendment shall be implemented without approval of the Critical Area Commission. Standards and procedures for Critical Area Commission approval of proposed amendments are as set forth in the Critical Area Law § 8-1809(i) and § 8-1809(d) of the Natural Resources Article of the Annotated Code of Maryland, respectively.
- B. Zoning Map amendments. Except for ordinance amendments or ordinance refinements developed during a

six-year comprehensive review, a Zoning Map amendment may only be granted by the Town Council upon proof of a mistake in the existing zoning. This requirement does not apply to proposed changes to a Zoning Map that meet the following criteria:

- (1) Are wholly consistent with the Critical Area land classifications (IDA, LDA, RCA, and BMA) as shown on the adopted Critical Area Overlay Map; or
- (2) The use of growth allocation in accordance with the growth allocation provisions of this article is proposed.

C. Process.

- (1) When an amendment is requested, the applicant shall submit the amendment to the Planning Commission for review and recommendation. Upon completing findings of fact, these documents shall be forwarded to the Town Council.
- (2) The Town Council shall hold a public hearing at which parties of interest and citizens shall have an opportunity to be heard. At least 14 days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the Town of Denton.
- (3) After the Town Council has approved an amendment, it shall forward its decision and applicable resolutions along with the amendment request to the Critical Area Commission for final approval.

§ 128-42. Enforcement; violations and penalties.

A. Consistency. The Critical Area provisions of this article, in accordance with the Critical Area Act and criteria, supersede any inconsistent law, chapter or plan of the Town of Denton. In the case of conflicting provisions, the stricter provisions shall apply.

B. Violations.

- (1) No person shall violate any provision of this article. Each violation that occurs and each calendar day that a violation continues shall be a separate offense.
- (2) Each person who violates a provision of this article shall be subject to separate administrative civil penalties, abatement and restoration orders, and mitigation for each offense.
- (3) Noncompliance with any permit or order issued by the Town related to the Critical Area shall be a violation of this article and shall be enforced as provided herein.

C. Responsible persons. The following persons may each be held jointly or severally responsible for a violation:

- (1) Persons who apply for or obtain any permit or approval;
- (2) Contractors;
- (3) Subcontractors;
- (4) Property owners;
- (5) Managing agents; or
- (6) Any person who has committed, assisted, or participated in the violation(s).

- D. Required enforcement action. In the case of violations of this article, the Town shall take enforcement action, including:
- (1) Assess administrative civil penalties as necessary to cover the costs associated with performing inspections, supervising or rendering assistance with identifying and citing the violation, issuing abatement and restoration orders, and reviewing mitigation plans and ensuring compliance with these plans;
 - (2) Issue abatement, restoration, and mitigation orders as necessary to:
 - (a) Stop unauthorized activity;
 - (b) Restore and stabilize the site, as appropriate, to its condition prior to the violation or to a condition that provides the same water quality and habitat benefits; and
 - (c) Require the implementation of mitigation measures, in addition to restoration activities, to offset the environmental damage and degradation or loss of environmental benefit resulting from the violation.
- E. Right to enter property. Except as otherwise authorized and in accordance with the procedures specified herein, the Town Council or its designee may obtain access to and enter a property in order to identify or verify a suspected violation, restrain a development activity, or issue a citation if the Town has probable cause to believe that a violation of this article has occurred, is occurring, or will occur. The Town shall make a reasonable effort to contact a property owner before obtaining access to or entering the property. If entry is denied, the Town may seek an injunction to enter the property to pursue an enforcement action.
- F. Administrative civil penalties. In addition to any other penalty applicable under state or town law, every violation of a provision of the Natural Resources Article of the Annotated Code of Maryland, § 8-1801, and/or the Critical Area provisions of this article shall be punishable by a civil penalty as established by the Town of Denton penalty schedule adopted by resolution of the Town Council, and may be amended from time to time, with a maximum penalty of up to \$10,000 per calendar day. In addition to the standards as set forth herein, prosecution of violations and penalties shall be in accordance with Chapter **94**, Section 106, of the Denton Property Maintenance Code and Chapter **38**, Section 114, of the Denton Building Code.
- (1) Before imposing any civil penalty, the person(s) believed to have violated this article shall receive written notice of the alleged violation(s) by certified mail, regular mail, property posting, etc., including which, if any, are continuing violations, and an opportunity to be heard. The amount of the civil penalty for each violation, including each continuing violation, shall be determined separately and in accordance with this section. For each continuing violation, the amount of the civil penalty shall be determined per day and deemed a separate offense. In determining the amount of the civil penalty, the Town shall consider:
 - (a) The gravity of the violation;
 - (b) The presence or absence of good faith of the violator;
 - (c) Any willfulness or negligence involved in the violation, including a history of prior violations;
 - (d) The environmental impact of the violation; and
 - (e) The cost of restoration of the resource affected by the violation and mitigation for damage to that resource, including the cost to the Town for performing, supervising, or rendering assistance to the restoration and mitigation.

- (2) Administrative civil penalties for continuing violations shall accrue for each violation, every day each violation continues, with no requirements for additional assessments, notice, or hearings for each separate offense. The total amount payable for continuing violations shall be the amount assessed per day for each violation multiplied by the number of days that each violation has continued.
 - (3) The person responsible for any continuing violation shall promptly provide the Town with written notice of the date(s) the violation has been or will be brought into compliance and the date(s) for the Town's inspection to verify compliance. Administrative civil penalties for continuing violations continue to accrue as set forth herein until the Town receives such written notice and verifies compliance by inspection or otherwise.
 - (4) Assessment and payment of administrative civil penalties shall be in addition to and not in substitution for recovery by the Town of all damages, costs, and other expenses caused by the violation.
 - (5) Payment of all administrative civil penalties assessed shall be a condition precedent to the issuance of any permit or other approval required by this article.
 - (6) Unpaid expenses in the prosecution of a violation or violations shall be subject to a lien against the property.
- G. Cumulative remedies. The remedies available to the Town under this article are cumulative and not alternative or exclusive, and the decision to pursue one remedy does not preclude pursuit of others.
- H. Injunctive relief. The Town is authorized to institute injunctive or other appropriate actions or proceedings to bring about the discontinuance of any violation of this article, an administrative order, a permit, a decision, or other imposed condition.
- (1) The pendency of an appeal to the Board of Appeals or subsequent judicial review shall not prevent the Town from seeking injunctive relief to enforce an administrative order, permit, decisions, or other imposed condition, or to restrain a violation pending the outcome of the appeal or judicial review.
- I. Variances pursuant to a violation. The Town may accept an application for a variance regarding a parcel or lot that is subject to a current violation of this subsection or any provisions of an order, permit, plan, or this article in accordance with the variance provisions of this article. However, the application shall not be reviewed, nor shall a final decision be made, until all abatement, restoration, and mitigation measures have been implemented and inspected by the Town of Denton. The property may be required to post a bond equal to 125% of the value of the cost of all abatement, restoration, and mitigation measures.
- J. Permits pursuant to a violation. The Town may not issue any permit, approval, variance, or special exception, unless the person seeking the permit has:
- (1) Fully paid all administrative, civil, or criminal penalties as set forth in Subsection **F** above;
 - (2) Prepared a restoration or mitigation plan, approved by the Town, to abate impacts to water quality or natural resources as a result of the violation;
 - (3) Performed the abatement measures in the approved plan in accordance with the Town regulations; and
 - (4) Unless an extension of time is approved by the Town because of adverse planting conditions, within 90 days of the issuance of a permit, approval, variance, or special exception for the affected property, any additional mitigation required as a condition of approval for the permit, approval, variance, or special exception shall be completed.

- K. Appeals. An appeal in accordance with Chapter **94**, Section 111, Means of appeal, of the Denton Property Maintenance Code may be filed by any person aggrieved by any order, requirement, decision or determination by an officer or official of the Town of Denton in connection with the administration and enforcement of this article.
- (1) An appeal is taken by filing a written notice of appeal with the Board of Appeals in accordance with the provisions in the Denton Zoning Ordinance and accompanied by the appropriate filing fee.
 - (2) An appeal must be filed within 20 days after the date of the decision or order being appealed; and
 - (3) An appeal stays all actions by the Town seeking enforcement or compliance with the order or decisions being appealed, unless the Town certifies to the Board of Appeals that (because of facts stated in the certification) such stay will cause imminent peril to life or property. In such a case, action by the Town shall not be stayed except by order of the Board of Appeals or a court on application of the party seeking the stay.

§ 128-42.1. Buffer standards.

- A. Applicability and delineation. An applicant for development activity or a change in land use in accordance with § **128-35**, § **128-36**, or § 128-137 shall apply all of the required standards for a minimum one-hundred-foot buffer as described in this section. Governmental or public development activity shall comply with the provisions of the Code of Maryland ("COMAR") Title 27 Subtitle 02. The minimum one-hundred-foot buffer shall be delineated in the field and shall be shown on all applications as follows:
- (1) The minimum one-hundred-foot buffer is delineated landward from:
 - (a) The mean high water line of tidal water;
 - (b) The edge of each bank of a tributary stream; and
 - (c) The upland boundary of a tidal wetland.
 - (2) The buffer shall be expanded beyond the minimum one-hundred-foot buffer as described in Subsection **A(1)** above and the minimum two-hundred-foot buffer as described in Subsection **A(3)** below, to include the following contiguous land features:
 - (a) A steep slope at a rate of four feet for every 1% of slope or the entire steep slope to the top of the slope, whichever is greater;
 - (b) A nontidal wetland to the upland boundary of the nontidal wetland;
 - (c) The one-hundred-foot buffer that is associated with a nontidal wetland of special state concern as stated in COMAR 26.23.06.01, as amended from time to time;
 - (d) For an area of hydric soils or highly erodible soils, the lesser of:
 - [1] The landward edge of the hydric or highly erodible soils; or
 - [2] Three hundred feet where the expansion area includes the minimum one-hundred-foot buffer.
 - (3) Applications for a subdivision or for a development activity on land located within the RCA requiring site plan approval after July 1, 2008, shall include:

- (a) An expanded buffer in accordance with Subsection **A(2)** above; or
 - (b) A buffer of at least 200 feet from a tidal waterway or tidal wetlands; and a buffer of at least 100 feet from a tributary stream, whichever is greater.
- (4) The provisions of Subsection **A(3)** above do not apply if:
 - (a) The application for subdivision or site plan approval was submitted before July 1, 2008, and legally recorded (subdivisions) or received approval (site plans) by July 1, 2010;
 - (b) The application involves the use of growth allocation.
- B. Permitted activities. If approved by the Town, disturbance to the buffer is permitted for the following activities, provided mitigation is performed in accordance with an approved Buffer Management Plan as required per Subsection **F** of this section.
 - (1) A new development or redevelopment activity associated with a water-dependent facility or located in an approved Buffer Management Area;
 - (2) A shore erosion control activity constructed in accordance with COMAR 26.24.02, COMAR 27.01.04, as amended from time to time, and this article;
 - (3) A development or redevelopment activity approved in accordance with the variance provisions of this article;
 - (4) A new development or redevelopment activity on a lot or parcel that was created before January 1, 2010, where:
 - (a) The buffer is expanded for highly erodible soil on a slope less than 15% or is expanded for a hydric soil and the expanded buffer occupies at least 75% of the lot or parcel;
 - (b) The development or redevelopment is located in the expanded portion of the buffer and not within the one-hundred-foot buffer; and
 - (c) Mitigation occurs at a 2:1 ratio based on the lot coverage of the proposed development activity that is in the expanded buffer.
 - (5) A new or replacement septic system on a lot created before April 3, 1989, where:
 - (a) The Caroline County Health Department has determined the buffer is the only available location for the septic system; and
 - (b) Mitigation is provided at a one-to-one ratio for area of canopy cleared of any forest or developed woodland.
- C. Buffer establishment in vegetation. An applicant for a development activity, redevelopment activity, or a change in land use in accordance with § **128-35** that occurs outside the buffer, but is located on a riparian lot or parcel that includes the minimum one-hundred-foot buffer, shall establish the buffer in vegetation if the buffer is not fully forested or fully established in woody or wetland vegetation. The Town shall require a Buffer Management Plan in accordance with the standards of this Section.
 - (1) The provisions of this section apply to:
 - (a) A new subdivision or a new lot;

- (b) A lot or parcel that is converted from one land use to another;
 - (c) Development or redevelopment on a lot or parcel created before January 1, 2010.
- (2) The provisions of this section do not apply to the in-kind replacement of a structure.
- (3) If a buffer is not fully forested or fully established in woody or wetland vegetation, the buffer shall be established through planting in accordance with COMAR 27.01.09.01-1, as amended from time to time.
- D. Mitigation for impacts to the buffer. An applicant for a development activity that includes disturbance to the buffer shall mitigate for impacts to the buffer and shall provide a Buffer Management Plan in accordance with the standards set forth in this Section.
 - (1) Authorized development activities may include a variance, subdivision, site plan, shore erosion control permit, building permit, grading permit, septic system approved by the Caroline County Health Department on a lot created before April 3, 1989, and special exception.
 - (2) All authorized development activities shall be mitigated according to COMAR 27.01.09.01-2, as amended from time to time.
 - (3) All unauthorized development activities in the buffer shall be mitigated at a ratio of 4:1 for the limit of disturbance in the buffer.
 - (4) Planting for mitigation shall be planted on site within the buffer. If mitigation planting cannot be located within the buffer, then the Town may permit planting in the following order of priority:
 - (a) On site and adjacent to the buffer; and
 - (b) On site elsewhere in the Critical Area.
 - (c) A fee in lieu as referenced in Subsection **G** below.
- E. Buffer planting standards.
 - (1) An applicant that is required to plant the buffer for buffer establishment or buffer mitigation shall apply the planting standards set forth in COMAR 27.01.09.01-2, as amended from time to time.
 - (2) A variance to the planting and mitigation standards of this article is not permitted.
- F. Required submittal of Buffer Management Plans. An applicant that is required to plant the buffer to meet establishment or mitigation requirements shall submit a Buffer Management Plan as provided in COMAR 27.01.09.01-3, as amended from time to time, with the application for the specific activity. The provisions of this Section do not apply to maintaining an existing grass lawn or an existing garden in the buffer.
 - (1) A Buffer Management Plan that includes planting for establishment shall be submitted with all other application materials, clearly specify the area to be planted and state if the applicant is:
 - (a) Fully establishing the buffer;
 - (b) Partially establishing an area of the buffer equal to the net increase in lot coverage, or
 - (c) Partially establishing an area of the buffer equal to the total lot coverage.
 - (2) Any permit for development activity that requires buffer establishment or buffer mitigation will not be issued until a Buffer Management Plan is approved by the Town.

- (3) An applicant may not obtain final approval of a subdivision application until the Buffer Management Plan has been reviewed and approved by the Town.
 - (4) The Town may not approve a Buffer Management Plan unless:
 - (a) The plan clearly indicates that all planting standards under Subsection **E** of this Section will be met; and
 - (b) Appropriate measures are in place for the long-term protection and maintenance of all buffer areas.
 - (5) For a Buffer Management Plan that is the result of an authorized disturbance to the buffer, a permit authorizing final use and occupancy will not be issued until the applicant:
 - (a) Completes the implementation of a Buffer Management Plan; or
 - (b) Provides financial assurance to cover the costs for:
 - [1] Materials and installation; and
 - [2] If the mitigation or establishment requirement is at least 5,000 square feet, long-term survivability requirements as set forth in COMAR 27.01.09.01-2, as amended from time to time.
 - (6) Concurrent with recordation of a subdivision plat, an applicant shall record a protective easement for the buffer.
 - (7) If an applicant fails to implement a Buffer Management Plan, that failure shall constitute a violation of this article.
 - (a) A permit for development activity will not be issued for a property that has the violation.
 - (8) An applicant shall post a subdivision with permanent signs prior to final recordation in accordance with COMAR 27.01.09.01-2 as amended from time to time.
- G. Fees in lieu of buffer mitigation. A fee in lieu of mitigation will be collected if the planting requirements of the Buffer Management Plan cannot be fully met on site, in accordance with the following standards:
- (1) Fee-in-lieu monies shall be collected and held in a special fund, which may not revert to the Town's general fund;
 - (2) Fees-in-lieu shall be assessed at \$1.50 per square foot of required buffer mitigation;
 - (3) A portion of fee-in-lieu money can be used for management and administrative costs; however, this cannot exceed 20% of the fees collected; and
 - (4) Fee-in-lieu monies shall be used for the following projects:
 - (a) To establish the buffer on sites where planting is not a condition of development or redevelopment;
 - (b) For water quality and habitat enhancement projects as approved by the Critical Area Commission or by agreement between the Town and the Critical Area Commission.
- H. Shore erosion control projects. Shore erosion control measures are permitted activities within the buffer in accordance with the following requirements:

- (1) An applicant for a shore erosion control project that affects the buffer in any way, including, but not limited to, access, vegetation removal and pruning, or backfilling, shall submit a Buffer Management Plan in accordance with the requirements of this section; and
 - (2) Comply fully with all of the policies and criteria for a shore erosion control project stated in COMAR 27.01.04 and COMAR 26.24, as amended from time to time.
 - (3) The Town, in reviewing any application for a permit for structural erosion control devices, shall refer the application to the Soil Conservation District and to the Maryland Department of the Environment for field verification of the need for the structural erosion control as well as for recommendations on proposed erosion control mechanisms.
 - (a) Any application made to the Town for the installation of an erosion control device must, at a minimum, include the following information:
 - [1] Photograph of erosion problem;
 - [2] The specific location of the site on a USGS 7.5 minute topographic map;
 - [3] Soil type and erodibility;
 - [4] Proposed and existing land use.
 - (b) Applications must include appropriate authorization from the Maryland Department of the Environment and the U.S. Army Corps of Engineers. Mitigation is required for any disturbance above mean high water, including tree removal.
- I. Timber harvest in the buffer. The buffer shall be managed to achieve the water quality and habitat functions set forth in § ~~128-42.1~~ of this article. Cutting or clearing of trees within the buffer shall be prohibited except that:
- (1) Commercial harvesting of trees by selection or by the 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 tidal wetlands, provided that this cutting is conducted in conformity with § ~~128-37~~ of this article and in conformance with a Buffer Management Plan prepared by a registered professional forester and approved by the Maryland Department of Natural Resources.
 - (2) A Buffer Management Plan shall be required for all commercial harvests within the buffer, regardless of the size of the area to be cut, and shall comply with the following minimum requirements:
 - (a) Disturbance to stream banks and shorelines shall be avoided;
 - (b) Areas 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 re-establishes the wildlife corridor function of the buffer;
 - (c) The cutting may not involve the creation of logging roads and skid trails within the buffer; and
 - (d) Commercial harvesting practices shall be conducted to protect and conserve the Habitat Protection Areas in accordance with §§ ~~128-42.1~~ through ~~128-42.2~~ of this article.
 - (3) Commercial harvesting of trees, by any method, may be permitted to the edge of intermittent streams, provided that the cutting is conducted in accordance with a Buffer Management Plan and a Standard Erosion and Sediment Control Plan for Harvest Operations.

- (4) Forest and timbering operation within the Critical Area shall conform to all other requirements of this article.

§ 128-42.2. Buffer Management Area (BMA) provisions.

- A. Development and redevelopment standards. New development or redevelopment activities, including structures, roads, parking areas and other impervious surfaces, lot coverage or septic systems, will not be permitted in the buffer in a designated BMA unless the applicant can demonstrate that there is no feasible alternative and the Planning Commission finds that efforts have been made to minimize buffer impacts and the development shall comply with the following standards:
 - (1) Development and redevelopment activities have been located as far as possible from mean high tide, the landward edge of tidal wetlands, or the edge of tributary streams.
 - (2) Variances to other local setback requirements have been considered before additional intrusion into the buffer.
 - (3) Commercial, industrial, institutional, recreational and multifamily residential development and redevelopment shall meet the following standards:
 - (a) New development, including accessory structures, shall minimize the extent of intrusion into the buffer. New development shall not be located closer to the water (or edge of tidal wetlands) than the minimum required setback for the zoning district or 50 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line.
 - (b) Redevelopment, including accessory structures, shall minimize the extent of intrusion into the buffer. Redevelopment shall not be located closer to the water (or edge of tidal wetlands) than the local setback for the zoning district or 25 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line. A new structure may be constructed on the footprint of an existing structure.
 - (4) Single-family residential development and redevelopment shall meet the following standards:
 - (a) New development or redevelopment shall minimize the shoreward extent of intrusion into the buffer. New development and redevelopment shall not be located closer to the water (or the edge of tidal wetlands) than principal structures on adjacent properties or the local setback for the zoning district, whichever is greater. In no case shall new development be located less than 50 feet, or redevelopment be located less than 25 feet from the water (or the edge of tidal wetlands).
 - (b) Existing principal or accessory structures may be replaced in the same footprint.
 - (c) New accessory structures may be located closer to the water than the setback if the Town of Denton has determined there are no other locations for the structures. The area of new accessory structures shall not exceed 500 square feet within 25 feet of the water and 1,000 square feet total in the buffer.
 - (5) Variances to other local setback requirements shall be considered before additional intrusion into the buffer is permitted.
 - (6) Development and redevelopment may not impact any Habitat Protection Area (HPA) other than the

buffer, including nontidal wetlands, other state or federal permits notwithstanding.

- (7) Buffer Management Area (BMA) designation shall not be used to facilitate the filling of tidal wetlands that are contiguous to the buffer or to create additional buildable land for new development or redevelopment.
- (8) No natural vegetation may be removed in the buffer except that required by the proposed construction.
- (9) Mitigation for development or redevelopment in the BMA approved under the provisions of this subsection shall be implemented as follows:
 - (a) Natural forest vegetation of an area twice the extent of the footprint of the development activity within the one-hundred-foot buffer shall be planted on site in the buffer or at another location approved by the Planning Commission.
 - (b) Applicants who cannot fully comply with the planting requirement in Subsection **A(9)(a)** above may offset by removing an equivalent area of existing lot coverage in the buffer.
 - (c) Applicants who cannot comply with either the planting or offset requirements in Subsection **A(9)(a)** or **(b)** above shall pay \$1.50 per square foot of mitigation requirement into a fee-in-lieu program.
 - (d) Any fees-in-lieu collected under these provisions shall be placed in an account that will assure their use only for projects within the Critical Area to enhance wildlife habitat, improve water quality, or otherwise promote the goals of the Town's Critical Area Ordinance. The funds cannot be used to accomplish a project or measure that would have been required under existing local, state, or federal laws, regulations, statutes, or permits. The status of these funds must be reported to the Critical Area Commission on an annual basis.
 - (e) Any required mitigation or offset areas shall be protected from future development through an easement, development agreement, plat notes or other instrument and recorded among the land records of the County.

§ 128-42.3. Other Habitat Protection Areas.

- A. Identification. An applicant for a development activity, redevelopment activity or change in land use shall identify all applicable Habitat Protection Areas and follow the standards contained in this Section. Habitat Protection Areas include:
 - (1) Threatened or endangered species or species in need of conservation;
 - (2) Colonial water bird nesting sites;
 - (3) Historic waterfowl staging and concentration areas in tidal waters, tributary streams or tidal and non-tidal wetlands;
 - (4) Existing riparian forests;
 - (5) Forest areas utilized as breeding areas by future interior dwelling birds and other wildlife species;
 - (6) Other plant and wildlife habitats determined to be of local significance;

- (7) Natural Heritage Areas; and
- (8) Anadromous fish propagation waters.

B. Standards.

- (1) An applicant proposing a subdivision for a site plan for a site within the Critical Area that is in or near a Habitat Protection Area listed above shall request review by the Department of Natural Resources Wildlife and Heritage Service for comment and technical advice. Based on the Department's recommendations, additional research and site analysis may be required to identify the location of threatened and endangered species and species in need of conservation on a site.
- (2) If the presence of a Habitat Protection Area is confirmed by the Department of Natural Resources, the applicant shall develop a Habitat Protection Plan in coordination with the Department of Natural Resources.
- (3) The applicant shall obtain approval of the Habitat Protection Plan from the Planning Commission. The specific protection and conservation measures included in the Plan shall be considered conditions of approval of the project.
- (4) The applicant shall post a performance bond in an amount determined by the Town to assure satisfactory replacement of forest or developed woodland as required by this article.
- (5) Grading permits shall be required before forest or developed woodland is cleared.
- (6) In addition to any other penalty or enforcement provision that may apply, forests or developed woodlands, or both, which have been cleared before obtaining a grading permit or that exceed the maximum area allowed in this article shall be replanted at three times the areal extent of the cleared forest or developed woodland.

- C. State and local agency projects. For all development in the Critical Area resulting from state and local agency projects, the Town of Denton shall comply with the provisions of COMAR 27.01.01 and COMAR 27.02.04, as amended from time to time. If applicable, consistency reports shall be submitted to the Chesapeake Bay Critical Area Commission.

§ 128-42.4. Surface mining.

- A. See COMAR 27.01 and COMAR 27.02, as amended from time to time, for practices and limitations.
- B. Surface mining is not a permitted use in the Town of Denton.

Article IX. Special District: Historic Overlay Zone

§ 128-43. Purpose.

The purpose of the Historic Overlay Zone is to:

- A. Safeguard the heritage of the Town by preserving areas and structures which reflect elements of its cultural, social, economic, political, or architectural history or pre-history;

- B. Stabilize and improve property values in the area of historic districts and strengthen the local economy;
- C. Foster civic beauty;
- D. Promote the use and preservation of historic districts for the education, welfare, and pleasure of the residents of the Town, county, the State of Maryland, and the United States of America;
- E. Develop an awareness among property owners of the value of preserving, protecting, and restoring areas of historical significance; and
- F. Enable the Town government to identify and officially designate structures and sites of historical and cultural importance to the Town in order to protect, preserve, and promote the continued use and enhancement of the identified structures and sites, and in order to make such structures and sites eligible for specific benefits conferred by this and other Town ordinances and policies which may be adopted.

§ 128-44. Definitions.

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

APPURTENANCES and ENVIRONMENTAL SETTINGS

Includes paved or unpaved walkways or driveways, trees, landscaping, rocks, and open space located within the existing or proposed Historic Overlay Zone.

DAY

A business day when the Denton Town government is open for business.

DEMOLITION BY NEGLECT

Any willful neglect in the maintenance and repair of an individually designated landmark, site, or structure, or a site or structure within a designated preservation district, not including any appurtenances and environmental settings, that does not result from an owner's financial inability to maintain and repair such landmark, site, or structure, and which results in any of the following conditions:

- A. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, so as to create or permit a hazardous or unsafe condition to exist; or
- B. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, the lack of adequate waterproofing, or the deterioration of interior features which will or could result in permanent damage, injury, or loss of or loss to foundations, exterior walls, roofs, chimneys, doors, or windows.

HISTORIC COMMISSION

The Denton Historic and Architectural Review Commission.

HISTORIC COMMISSION GUIDELINES

The Denton Historic and Architectural Review Commission Guidelines.

[1]

HISTORIC DISTRICT

A significant concentration, linkage, or continuity of sites, structures, or objects united historically or aesthetically by plan or physical development.

HISTORIC OVERLAY ZONE

A historic district, designated by the Denton Town Council as provided herein, containing significant features, woodlands, vegetation, structures, sites, monuments, landmarks, farmland, and/or archaeological sites. The historic district shall be accurately posted on the Official Town Zoning Map. (A historic district may be comprised of a single lot or multiple lots.) The area shall include such property as is essential for historical protection. Additional area may be included or added as determined by the Historic Commission and Planning Commission and approved by the Town Council to benefit or enhance the Historic Overlay Zone.

HISTORIC RESOURCE

A term used to identify a historic site or any item interpreted as a structure, as defined in "structure."

MINIMUM MAINTENANCE

A required protective maintenance of historic-overlay-zoned structures and sites. Minimum maintenance shall be interpreted to be the minimum building codes currently enforced by the Town of Denton and shall include emergency repairs and ADA compliance items.

ORDINARY MAINTENANCE

Routine repairs which do not alter the exterior features of a historic site or historic resource within a Historic Overlay Zone. Exterior features include the architectural style, design, and general arrangement of the exterior; the color, nature, and texture of building materials; and the type and style of all windows, doors, light fixtures, signs, and similar items found on, or related to the exterior of, a historic site or historic resource within a Historic Overlay Zone. Basically, ordinary maintenance is that which will have no material effect on the historical, architectural, cultural, or archaeological value of the historic site or historic resource within a Historic Overlay Zone. This definition of "ordinary maintenance" applies, whenever appropriate, to the appurtenances and environmental setting of the property, as well as the building, structure or object itself. Specific items to be considered as ordinary maintenance include:

- A. Repair or replacement of roofs, gutters, siding, external doors and windows, shutters, trim, lights, decks or porches, fences, and other appurtenant fixtures with like materials of like design.
- B. Landscaping, except the removal of significant healthy trees.
- C. Paving repair using like materials of like design.
- D. Repainting of surfaces using the same or substantially the same color.

SITE

The location of an event of historic significance or a standing or ruined structure that possess historic archaeological, or cultural significance.

STRUCTURE

A combination of material to form a construction that is stable, including but not limited to buildings, stadiums, reviewing stands, platforms, staging, observation towers, trestles, bulkheads, piers, wharves, sheds, coal bins, shelter, fences, and display signs.

- A. The term "structure" shall include natural and man-made land formations and appurtenances and environmental settings.
- B. The term "structure" shall be interpreted as if followed by the words "or part thereof."

[1]: *Editor's Note: Ordinance No. 472, adopted 2-7-2005, adopted Historic and Architectural Review Commission Guidelines, which guidelines shall have the same force and effect of any other ordinance adopted by the Town. Said guidelines are on file in the Town offices.*

§ 128-45. Statutory authority.

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

§ 128-46. Structural and site standards specifications.

- A. The Historic Overlay Zone is a special district to be superimposed on other districts contained in these regulations and is to be so designated by a special symbol for its boundaries on the Official Zoning Map. The uses, housing types, minimum lot requirements, minimum yard requirements, maximum height, and accessory uses and accessory signs shall be determined by the regulations applicable to the underlying zone over which the Historic Overlay Zone is superimposed except as the underlying zone regulations may be modified by the applications in the Historic Overlay Zone.
- B. The Historic Commission Guidelines, adopted by Ordinance No. 472 on February 7, 2005, or as amended thereafter, shall apply to, and shall be considered during the review of, all plans, site plans, subdivision plans, work permits, or other applications for new development, new construction involving structural alterations, new structures, and all applications for special exceptions or variances on all land within the Historic Overlay Zone. Where these guidelines conflict with any provision of this chapter or the Subdivision Ordinance, Chapter 73, Land Subdivision, or any other ordinance of the Town of Denton, these guidelines shall control.

§ 128-47. Permitted uses.

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

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

§ 128-48. Historic and Architectural Review Commission.

- A. Creation of Historic Commission and membership. Pursuant to Article 66B, § 8.03, of the Annotated Code of Maryland, the Denton Town Council shall create and appoint members for a Historic Commission. The Historic Commission shall have a membership of five members, all of whom are qualified by special interest, knowledge, or training in such fields, but not limited to said fields, as history, architecture, archaeology, preservation, or urban design; and of which two of the five shall have professional qualifications which shall be determined according to the guidelines set forth in "Procedures for State Certification of Local Government Historic Preservation Programs," as established by the Maryland Historical Trust in February 1985, in one or more of the said fields. In addition, four of the five members shall be residents of the Town. All members of the Historic Commission shall, to the extent possible, be selected to represent the geographical, social, economic, and cultural concerns of the residents of the Town.
- B. Term of membership. The members shall be appointed for terms of three years each, except that, in making the initial appointments, some appointments shall be established for less than three years in order that, as these initial terms expire, all appointments shall be for three years and shall not expire at the same time. Specifically, the first Chairperson of the Historic Commission shall be appointed for a three-year term. Members of the Historic Commission are eligible for reappointment. Any vacancy on the Historic Commission shall be filled by the appointing authority for the unexpired term of the particular position. Town authorities may consult private societies or agencies to request the names of possible members to fill vacancies on the Historic Commission.
- C. Removal for cause. A member may be removed for cause from the Historic Commission by a majority vote of the Town Council.
- D. Chairperson. The Historic Commission shall elect, by the 31st of January each year, a Chairperson who shall serve for one year. If the Historic Commission fails to elect a Chairperson by the 31st of January each year, the Mayor will appoint a Chairperson.
- E. Compensation. The members of the Historic Commission shall serve without compensation, but they may be reimbursed for actual expenses incurred in performance of their duties, provided said expenses are permitted by the budget and approved by the Town Council.
- F. Gifts. The Historic Commission shall have the right to accept and use gifts for the exercise of its functions.
- G. Architectural easements. The Historic Commission may purchase or accept architectural easements in connection with structures located in or adjacent to the Historic Overlay Zone. Such easement shall grant to the Historic Commission, residents of the Historic Overlay Zones, and the general public the perpetual right to have the exterior appearance of any structure upon which it is applied retained in substantially the same character as when the easement took effect.
- H. Regulations, bylaws, and rules of procedure. The Historic Commission shall adopt its own rules and regulations for organization, conduct of meetings, and other transaction of business. The bylaws and rules of procedure adopted by the Historic Commission shall be available for public inspection.
- I. Guidelines. The Town Council shall adopt and amend Historic and Architectural Review Commission Guidelines which shall be considered by the Historic Commission when reviewing applications.
- J. Meetings. The Historic Commission shall hold such regular meetings which, in its discretion, are necessary to discharge its duties. At a minimum, the Historic Commission shall hold meetings every three months; however, if an application is filed, the Historic Commission shall hold a monthly public meeting to discuss

said application. Said meetings shall be open to the public whereby any interested person or his representative is entitled to appear and be heard by the Historic Commission before it reaches a decision on any matter; and all decisions by the Historic Commission shall be made in a public forum. The Historic Commission shall keep an open record of its resolutions, proceedings, and actions which shall be kept available for public inspection during reasonable business hours. Applicants shall be given written notification of the decision of the Historic Commission.

- K. Staff. There may be appointed and/or assigned to the Historic Commission such employees, including personnel to record minutes of all meetings, and the Town Administrator shall make available to the Historic Commission such services and facilities of the Town, as are necessary or appropriate for the proper performance of duties of the Historic Commission. The Town Attorney shall serve as counsel and the Town staff shall serve as staff to the Historic Commission.

§ 128-49. Designation of Historic Overlay Zones.

- A. Designating body. Historic Overlay Zones shall be designated by the Town Council in accordance with the procedures established by this chapter.
- B. Petition for designation or removal of designation. Petition for designation of a Historic Overlay Zone or removal of said designation may be initiated by the owner of the site or by that owner's agent, by the Historic Commission, or by any interested person, group, or organization.
- C. Criteria for designation. The following criteria are to be considered when making the determination to designate a resource eligible for classification as a Historic Overlay Zone or an area within a Historic Overlay Zone.
- (1) Historic and cultural significance. The historic resource:
 - (a) Has significant character, interest or value as part of the development, heritage, or cultural characteristics of the Town, county, state, or nation;
 - (b) Is the site of a historic event;
 - (c) Is a site that has yielded, or may be likely to yield, information important in prehistory or history;
 - (d) Is identified with a person or a group of persons who influenced society; or
 - (e) Exemplifies the cultural, economic, social, political, or historic heritage of the Town.
 - (2) Architectural and design significance. The historic resource:
 - (a) Embodies the distinctive characteristics of a type, period, style, or method of construction;
 - (b) Represents the work of a master craftsman, architect, or builder;
 - (c) Possesses high artistic values;
 - (d) Represents a significant and distinguishable entity whose components may lack individual distinction; or
 - (e) Represents an established and familiar visual feature of the Town, due to its singular physical characteristics or landscape.

- D. Should a Historic Overlay Zone or an area within a Historic Overlay Zone no longer meet the above criteria and the specific criteria for which it was originally designated, the Historic Overlay Zone designation may be removed by legislative action of the Town Council after receipt of a recommendation from the Historic Commission.
- E. Should a Historic Overlay Zone or an area within a Historic Overlay Zone have received Town-authorized or -administered preservation grants, loans, or special property tax incentives, the Town Council may require that those funds received through grants, loans, or tax incentives be reimbursed in full to the Town prior to the site being removed from the Historic Overlay Zone designation.

§ 128-50. Procedures for petition for designation or removal.

- A. Petitions for Historic Overlay Zone designation or removal of a Historic Overlay Zone designation shall be filed with the Department of Planning and Codes Administration. The petitions concerning Historic Overlay Zone designation shall include a completed Historic Overlay Zone application form and additional information as required by the Historic Commission to enable the Historic Commission to make a well-informed decision. The application and all attachments shall be forwarded to the Chairperson of the Historic Commission within three days of the application filing date. The Historic Commission shall have 20 days to review the application after it has been discussed at a public meeting held by the Historic Commission before forwarding the Historic Overlay Zone application, attachments (if applicable), and Historic Commission recommendations to the Town Council.
- B. If the Historic Commission feels that more than 20 days are needed in order to make an educated and informed decision, the Historic Commission shall inform the applicant of their request for an extension prior to the terminus of the twenty-day period. The applicant shall then send a written response to the Director of Planning within 10 days, and the official shall forward said response to the Historic Commission within three days of receipt of said response. If the applicant fails to send a written response within the designated time period, the petition is null and void and would need to be resubmitted if said applicant wishes to pursue the matter. If the Historic Commission receives a negative reply for an extension, the Historic Commission shall have five days to forward its recommendations to the Town Council. If the Historic Commission fails to act within the designated time period, the application shall be forwarded to the Town Council, which approves the petition.
- C. For petitions initiated by other than the owner, the applicant must abide by the following criteria:
 - (1) Notify the owner of the property at least 14 days prior to the Historic Commission's next scheduled meeting to discuss the application;
 - (2) Clearly identify the significance of the site with regard to the Town;
 - (3) State the need for the site to be designated a Historic Overlay Zone;
 - (4) Demonstrate how the public interest will be served by having the site designated a Historic Overlay Zone;
 - (5) Demonstrate that the designation will not create an undue burden or hardship for the property owner;
 - (6) Consider the property owners' comments and desires; and
 - (7) A unanimous vote of the Town Council will be required to designate the site as a Town Historic Overlay Zone.

§ 128-51. Outside consultation permitted.

- A. The Historic Commission may obtain comments from appropriate county, state, and federal agencies, and from appropriate private organizations, including, but not limited to, educational institutions and local historical societies, and shall forward its recommendation to the Town Council for action.
- B. The Maryland Historic Trust may be designated by the Historic Commission to make an analysis of and recommendation concerning the preservation of structures of historic and architectural value within the area served by the Historic Commission. Such report may include proposed boundaries of districts and the use recommended to be permitted in the districts as well as identify and designate particular structures recommended to be preserved.

§ 128-52. Duties of Town Council.

The Town Council, upon receipt of recommendations regarding a Historic Overlay Zone application from the Historic Commission, shall:

- A. Schedule a public hearing with relation to the case by publishing a notice of the time and place of such hearing in a newspaper of general circulation in the Town at least 14 days in advance of said hearing.
- B. Inform the affected property owner(s) via written notice to be postmarked at least 14 days in advance of the scheduled public hearing of the date, time, and place of said hearing.
- C. Hold a public hearing at which parties in interest and citizens shall have an opportunity to be heard.
- D. Prepare a finding of facts based upon the criteria for designation listed in this section of this chapter and upon the comments of owners of property within the proposed overlay district. It shall be the policy of the Town to carefully consider the impact of any proposed zoning, special exception use, permitted uses (such as, but not limited to, public utility buildings, and structures, including radio and television broadcasting stations), utility distribution lines, public buildings and structures, public (state, county, or Town) roads and rights-of-way, or development upon officially designated Historic Overlay Zones and, to the greatest degree practical, avoid or minimize any adverse effects.
- E. Upon finding that a proposed site meets the criteria of this chapter, and that such designation is in the general interest of the citizens of Denton, the Town Council may designate or remove the Historic Overlay Zone or an area within a Historic Overlay Zone and cause the site to be posted on or removed from the Official Zoning Map.
- F. In the event of a denial of an application, the applicant shall receive a written notification of the reasons for such denial to be postmarked within five days of the Town Council decision.

§ 128-53. Powers and duties of Historic and Architectural Review Commission.

The Historic Commission shall have the following powers and duties:

- A. To maintain and update an inventory of historic resources within the Town.
- B. To review applications for designation or removal of a Historic Overlay Zone or an area within a Historic Overlay Zone, and to forward recommendations to the Town Council, which will approve or disapprove the designation or removal of a Historic Overlay Zone or an area within a Historic Overlay Zone.
- C. To review and process applications for historic area work permits.
- D. To make recommendations to the Planning Commission on courses of action in the event of subdivision of land within a Historic Overlay Zone as it relates to the preservation of the historic resource, of the architectural setting, and of the environmental setting in which the resource is located.
- E. To recommend courses of action to the Planning Commission in the event of subdivision of land containing an identified historic resource as it relates to the preservation of the historic resource, of the architectural setting, and of the environmental setting in which the resource is located.
- F. To review any legislation and proposal affecting historic preservation and to make recommendation on said legislation and proposals to appropriate authorities.
- G. To research Town historic resources and recommend applicable sites, areas, and structures to the Town Council for designation as a Historic Overlay Zone.
- H. To serve as a clearinghouse for information on historic preservation for Town government, individuals, citizens' associations, historical societies, and local advisory committees; to provide information and educational materials for the public; and to undertake activities to advance the goals of historic preservation in the Town of Denton.
- I. To regularly inform the Maryland Historical Trust of addition or removal of a Historic Overlay Zone or an area within a Historic Overlay Zone and of new information or data found or researched regarding historic sites or structures in the Town.
- J. To employ consultants or other temporary personnel, consistent with Town contract provisions, as deemed necessary to assist the Historic Commission in the accomplishment of its functions. Said consultants or other personnel shall be compensated as may be provided for in the Town budget.
- K. To write or amend the Historic Commission guidelines for Town Council approval consideration.

§ 128-54. Historic area work certificates of approval.

- A. Before the construction, alteration, reconstruction, repair, moving, or demolition of any structure is made within a designated Historic Overlay Zone, for any proposed changes that would affect the exterior appearance of the structure, the individual(s), firm or corporation proposing to make the construction or change shall file with the Historic Commission a historic area certificate of approval application for permission to build, alter, repair, reconstruct, move, demolish, or make an addition. If the proposed changes require a Town building permit as determined by this chapter, a completed building permit shall accompany the historic area certificate of approval application to be filed with the Historic Commission. All proposed changes shall be consistent with the Historic Commission Guidelines.
- B. Emergency repair items and residential ADA items shall be approved by the Department of Planning and Codes Building Official.
- C. Every such certificate of approval application shall be referred to and considered by the Historic

Commission and accepted or rejected by the Historic Commission. No building permit for any such change may be granted until the Historic Commission has acted thereon as hereinafter provided.

- D. Application to the Historic Commission is not required for ordinary maintenance as defined in § **128-44**, Definitions.
- E. Specific items requiring historic area certificate of approval. A historic area certificate of approval shall be filed for the following specific items, whether or not a building permit is required.
 - (1) Repair or replacement of roofs, gutters, siding, external doors and windows, external trim, external lights, and other external appurtenant fixtures, with different materials of different design.
 - (2) Removal of a building, structure, or object, or a visible portion thereof, including outbuildings.
 - (3) New construction or any enlargement, modification, or alteration of the exterior of an existing building, structure or object which requires a building permit.
 - (4) Removal, replacement, or enclosure of porches.
 - (5) Basic alteration of materials, including installation of siding, shingles, or masonry facing.
 - (6) Removal of significant healthy trees.
 - (7) Installation or removal of fencing or fence-walls.
 - (8) Permanent installation or removal of shutters.
 - (9) New paving or modification of paving materials in front of building line.
 - (10) Removal, modification, or alteration of exterior architectural features.
 - (11) First time painting, removal of paint or substantially changing the color of paint.
 - (12) Exterior sandblasting.
 - (13) Performing any grading, excavating, construction, or substantially modifying, changing, or altering the environmental setting.
 - (14) Erecting or causing to be erected any sign or advertisement (with the exception of those signs which are erected temporarily for such purposes as advertising the sale of the property site or promoting a political viewpoint) on exterior structures or in the environmental setting.
 - (15) Any other act which does not constitute ordinary maintenance but which modifies, alters, or otherwise affects the exterior features of a historic resource within a Historic Overlay Zone.

§ 128-55. Criteria for review of application and permits for alterations to designated Historic Overlay Zones.

- A. In reviewing applications for certificates of approval and work permits filed under the provisions of § **128-54**, Historic area work certificates of approval, the Historic Commission shall review each application or permit for consistency with the Historic and Architectural Review Commission Guidelines. In addition to the Guidelines, the Historic Commission shall give consideration to:

- (1) The historic or architectural value and significance of the structure and its relationship to the historic value of the surrounding area;
 - (2) The relationship of the exterior architectural features of the structure to the remainder of the structure and to the surrounding area;
 - (3) The general compatibility of exterior design, arrangement, texture and materials proposed to be used;
 - (4) The extent to which the building or structure would be harmonious with, or incongruous to, the environmental setting of a designated Historic Overlay Zone. It is not the intent of this chapter to discourage contemporary architectural expression, or to encourage the emulation of existing buildings or structures of historical architectural interest in specific detail. Harmony or incompatibility will be evaluated in terms of the appropriateness of materials, scale, size, height, and placement of new buildings in their relationship with existing structures; and
 - (5) Any other factors, including aesthetic and environmental factors, which the Historic Commission deems pertinent.
- B. Limitation of considerations. The Historic Commission normally shall consider only exterior features of a structure, but in cases where the owner voluntarily subjects the interior arrangement and materials to review by the Historic Commission, those interior features shall also be considered. The Historic Commission shall not disapprove a certificate of approval application except with respect to factors specified above. Furthermore, the Historic Commission will not limit new construction, alteration or repairs to any one architectural style of a given chronological period.
- C. Strictness and leniency in judgement of plans. The Historic Commission shall be strict in its judgment of plans affecting those structures designated as having significant historic or architectural value. The Historic Commission may be lenient in its judgment of plans of structures of little historic value or for plans involving new construction, unless such plans would seriously impair the historic or architectural value of the surrounding area.

§ 128-56. Action on applications for historic area work permits.

- A. Applications for issuance of a historic area certificate of approval shall be filed with the Director of Planning. The historic area certificate of approval application, provided by the Department of Planning, shall have all pertinent information completed upon submittal of the application and, if a building permit is deemed required as per this chapter, a completed building permit application must be filed with said historic area certificate of approval permit application.
- B. Upon the filing of a completed application, within 10 days, the Director of Planning shall forward the application and all attachments to the Historic Commission.
- C. Upon receipt of the application, the Historic Commission shall consider at its next regularly scheduled public meeting.
- D. The Department of Planning shall notify the applicant of the public meeting scheduled with the Historic Commission for review of the application and shall provide a public notice to the applicant for posting by the applicant on the property for purposes of notifying citizens or organizations which may have an interest in the proceedings.
- E. At the public meeting, interested persons will be encouraged to comment, and written and/or taped

minutes of the proceedings shall be kept. Specific rules of procedure shall be determined by the Historic Commission.

F. Actions of the Historic Commission.

- (1) The failure of the Historic Commission to act upon a completed application within 45 days from the date the completed application was filed shall be deemed to constitute automatic approval of the proposed changes unless an extension of this forty-five-day period is agreed upon mutually by the applicant and the Historic Commission or the application has been withdrawn.
- (2) Within 14 days after an application is presented and reviewed at the Historic Commission's public meeting, the Historic Commission shall make its decision public. However, if Subsection **G** of this section is applicable, an extension shall be granted to the Historic Commission.
- (3) The Historic Commission shall instruct the Director of Planning to:
 - (a) Issue the certificate of approval; or
 - (b) Issue the certificate of approval subject to such conditions as are necessary to insure conformity with the provisions and purposes of this section; or
 - (c) Prohibit issuance of the certificate of approval.
- (4) The applicant shall receive a written notification of the Historic Commission's decision. In the event of a denial of a certificate of approval, reasons for such denial shall be included with the written notification.
- (5) If, after a public meeting, the Historic Commission finds that not issuing a certificate of approval applied for will result in the denial of reasonable use of the property, or impose undue hardship on the owner, and, within a period of 90 days after the public appearance, no economically feasible plan for the preservation of the structure has been demonstrated by those seeking preservation, the Historic Commission must then instruct the Director of Planning to issue a certificate of approval with, if applicable, such reasonable conditions which will further the intent and purposes of this section.

G. In the event that any party is aggrieved by a decision of the Historic Commission, then 30 days from the date on which the Historic Commission's decision is made public, said aggrieved party may appeal to the Board of Appeals which will review the Historic Commission's decision based on the record of the proceedings before the Historic Commission. Further appeal may be taken to the Circuit Court for Caroline County.

H. Miscellaneous provisions:

- (1) The applicant for a permit shall have the responsibility of providing information sufficient to support the application and the burden of persuasion on all questions of fact which are to be determined by the Historic Commission. Properties subject to deeds of easement held by other Historic Preservation organizations shall submit proof of approval of exterior architectural review by the organization holding the easement.
- (2) Any permit issued by the Department of Planning and Codes may be subject to such conditions imposed by the Historic Commission as are reasonably necessary to assure that work in accordance with the permit shall proceed and be performed in a manner not injurious to those characteristics and qualities of the historic resource which are of historical, architectural, archaeological, or cultural value.
- (3) In the event that there is a conflict between the permit and the requirements of the Building Code,

Chapter **38**, Building Construction, Article **II**, Building Code, the permit would control, provided that all health and safety requirements are met.

§ 128-57. Adaptive reuse of historic structures.

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

- A. The structure proposed for an adaptive reuse is located in the Historic Overlay Zone and approved as a historically significant structure by the Historic Commission;
- B. The application has been submitted to the Historic Commission and Planning Commission for any required approvals and for each of their recommendations on the special exception for an adaptive reuse;
- C. It is shown that exterior changes to the site structure will be minimized; extensions or enlargement of the principal structure and accessory structures may not exceed 25% of the gross floor area of each individual building above that which existed at the time of the adoption of these regulations. Enlargements shall be designed in keeping with the character of the building;
- D. Landscaping is in keeping with the character of the building;
- E. The site must have access to a public road;
- F. The use is complementary to the character of the structure; and
- G. The number of dwellings shall not exceed the density permitted in the district in which the structure is located.

§ 128-58. Applicability.

Section **128-48** of this article authorizing the establishment of the Historic Commission shall become effective immediately. The remainder of this article shall become effective upon the establishment of the Historic Commission.

§ 128-58.1. Demolition by neglect.

- A. In the event of demolition by neglect, the Historic Commission may request the Director of Planning to notify, in writing, the property owner of record, any person having a right, title, or interest therein, and the occupant or other person responsible for the maintenance of the property of the deterioration. The notice shall specify the minimum items of repair or maintenance necessary to correct the deterioration or prevent further deterioration.
- B. Prior to the issuance of a written notice, the Historic Commission may request the Director of Planning to establish a record of demolition by neglect. Such a record may include dated materials such as photographs and written reports of the condition of the property so as to record or measure the deterioration.
- C. The notice shall provide that corrective action shall commence within 30 days of the receipt of said notice and be completed within a reasonable time thereafter. The notice shall state that the owner of record of the property, or any person of record with any right, title, or interest therein, may, within 10 days after the

receipt of the notice, request a hearing on the necessity of the items and conditions contained in the notice. In the event a public hearing is requested, it shall be held by the Historic Commissioners upon 30 days' written notice being mailed to all persons of record with any right, title, or interest in the property and to all citizens and organizations which the Historic Commission determines may have an interest in the proceedings.

- D. If, after the public hearing, the Historic Commission determined that the corrective actions remain necessary, the Historic Commission may request the Director of Planning take corrective action to insure compliance with the final notice within 30 days of receipt of the final notice.
- E. Upon failure, neglect, or refusal of the property owner or other responsible person, duly notified, to take the corrective action specified in the final notice within the time required, the Historic Commission may request that the Director of Planning institute any of the remedies and penalties provided for in this chapter.

§ 128-58.2. Violations.

Any willful violation of the provisions of this article by willfully performing or allowing to be performed any work without first obtaining a historic area work permit, failing to comply with a final notice issued pursuant to this article, or disregarding a decision of the Historic Commission will be in violation of this article. A violation of this article shall be deemed a municipal infraction as provided in § 128-201. Each and every day that the violation continues shall be deemed a separate offense.

Article X. Official Table of Use Regulations

§ 128-59. Applicability of regulations.

Unless otherwise provided by law or in this chapter, no building or structure shall be constructed, erected, or extended, and no building, structure, or land shall be used or occupied, except for the purposes permitted in this article.

§ 128-60. Official Table of Use Regulations by General Zoning Districts.

The following table, **Appendix VII**, lists the permitted uses in each general zoning district, the type of review and approvals required, and additional regulations. Additional regulations pertaining to certain uses and activities are listed in Article **XI**, Supplementary Use Regulations.^[1]

[1]: *Editor's Note: The Table of Use Regulations is included at the end of this chapter.*

Article XI. Supplementary Use Regulations

§ 128-61. General lot requirements.

- A. Except as provided herein, no more than one principal building shall be erected on a single lot.
- B. Where a lot is used for a commercial or industrial purpose, more than one principal building may be located on the lot, provided that all minimum setback requirements are met for the zoning district in which the lot is located.
- C. Accessory structures, including but not limited to piers, docks, garages, and gazebos, may not be erected prior to the principal building.
- D. One additional single-family residence for the sole purpose of a farm caretaker home may be erected on a single lot used for agricultural uses in the Rural Agriculture (RA) district and meeting the definition of a "farm." No such structure shall be erected prior to the principal residence.

§ 128-62. Accessory uses.

- A. The Table of Official Use Regulations (§ **128-60**) classifies different principal uses according to their different impacts. Whenever an activity (which may or may not be separately listed as a principal use in this table) is conducted in conjunction with another principal use and the former use constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use. For example, a swimming pool/tennis court complex is customarily associated with and integrally related to a residential subdivision or multifamily development and would be regarded as accessory to such principal uses, even though such facilities, if developed apart from a residential development, would require a separate permit.
- B. For the purpose of interpreting Subsection **A**:
 - (1) A use may be regarded as incidental or insubstantial if it is incidental or insubstantial in and of itself or in relation to the principal use.
 - (2) To be commonly associated with a principal use, it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.
- C. Without limiting the generality of Subsections **A** and **B**, the following activities, so long as they satisfy the general criteria set forth above, are specifically regarded as accessory to residential principal uses:
 - (1) Offices or studios within an enclosed building and used by an occupant of a residence located on the same lot as such building to carry on administrative or artistic activities of a commercial nature, so long as such activities do not fall within the definition of a "home occupation."
 - (2) Hobbies or recreational activities of a noncommercial nature.
 - (3) Yard sales or garage sales, so long as such sales are not conducted on the same lot for more than three days (whether consecutive or not) during any ninety-day period.

- D. Without limiting the generality of Subsections **A** and **B**, the following activities shall not be regarded as accessory to a residential principal use and are prohibited in residential districts:
- (1) Storage outside of a substantially enclosed structure of any motor vehicle that is neither licensed nor operational.
 - (2) Parking outside a substantially enclosed structure of more than four motor vehicles between the front building line of the principal building and the street on any lot used for residential purposes.

§ 128-63. Special exceptions sometimes required.

Notwithstanding any other provisions of this article, whenever the Table of Use Regulations provides that a use in a nonresidential zone or a nonconforming use in a residential zone is permissible with a zoning permit, a special exception permit shall nevertheless be required if the Director of Planning finds that the proposed use would have an extraordinary impact on neighboring properties or the general public. In making this determination, the Director of Planning shall consider, among other factors, whether the use is proposed for an undeveloped or previously developed lot, whether the proposed use constitutes a change from one principal use classification to another, whether the use is proposed for a site that poses peculiar traffic or other hazards or difficulties, and whether the proposed use is substantially unique or is likely to have impacts that differ substantially from those presented by other uses that are permissible in the zoning district in question.

§ 128-64. Permissible uses and specific exclusions.

- A. The presumption established by this section is that all legitimate uses of land are permissible within at least one zoning district in the Town's planning jurisdiction. Therefore, because the list of permissible uses set forth in § **128-60**, Table of Use Regulations, cannot be all inclusive, those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed uses.
- B. Notwithstanding Subsection **A**, all uses that are not listed in § **128-60**, Table of Use Regulations, even given the liberal interpretation mandated by Subsection **A**, are prohibited, nor shall § **128-60**, Table of Use Regulations, be interpreted to allow a use in one zoning district when the use in question is more closely related to another specified use that is permissible in other zoning districts.
- C. Without limiting the generality of the foregoing provisions, the following uses are specifically prohibited in all districts unless otherwise specified:
- (1) Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials in violation of the Town's Fire Prevention Code. See Chapter **56**, Fire Prevention.
 - (2) Stockyards, slaughterhouses, rendering plants.
 - (3) Use of a recreational vehicle (RV) as a temporary or permanent residence.
 - (4) Use of a motor vehicle, or other portable storage container, including freight containers, in which, out of which, or from which any goods are sold or stored, any services are performed, or other business conducted. Notwithstanding anything to the contrary in this subsection, use of a portable container or other freight container is permitted for storage purposes in the Industrial (I) and Mixed Industrial (MI) Districts only for industrial uses. Use of these for residential purposes is not permitted.

- (5) Satellite simulcast betting, otherwise known as "off-track betting," as defined in § 11-815 of the Business and Regulations Article of the Maryland Annotated Code (1992) and any amendments thereto.
- (6) Manufactured homes, as defined in § **128-8** of this chapter, when placed or erected on an individual lot.
- (7) No person shall keep or permit to be kept on any property within the Town any wild, exotic or vicious animal as a pet in any zoning district. No farm animals shall be kept as pets, except horses as specifically permitted in § **128-77**.

§ 128-65. More specific use controls.

- A. Whenever a development could fall within more than one use classification in the Table of Use Regulations (§ **128-60**), the classification that most closely and most specifically describes the development controls. For example, a small doctor's office or clinic clearly falls within the office and service operations conducted entirely indoors and designed to attract customers or clients to the premises category. However, the classification "office or clinics of physicians or dentists with not more than 10,000 square feet of gross floor area" more specifically covers this use and therefore is controlling.
- B. All applicable federal, state, and county approvals and/or licenses must be obtained on all proposed uses prior to granting of approvals in accordance with the other provisions of this chapter.

§ 128-66. Change in use.

- A. A substantial change in use of property occurs whenever the essential character or nature of the activity conducted on a lot changes. This occurs whenever:
 - (1) The change involves a change from one principal use category to another.
 - (2) If the original use is a combination use or planned unit development, the relative proportion of space devoted to the individual principal uses that comprise the combination use or planned unit development use changes to such an extent that the parking requirements for the overall use are altered.
 - (3) If the original use is a combination use or planned unit development use, the mixture of types of individual principal uses that comprise the combination use or planned unit development use changes.
 - (4) If there is only one business or enterprise conducted on the lot (regardless of whether that business or enterprise consists of one individual principal use or a combination use), that business or enterprise moves out and a different type of enterprise moves in (even though the new business or enterprise may be classified under the same principal use or combination use category as the previous type of business). For example, if there is only one building on a lot and a florist shop that is the sole tenant of that building moves out and is replaced by a clothing store, that constitutes a change in use even though both tenants fall within the same principal use classification. However, if the florist shop were replaced by another florist shop, that would not constitute a change in use since the type of business or enterprise would not have changed. Moreover, if the florist shop moved out of a rented space in a shopping center and was replaced by a clothing store, that would not constitute a change in use since there is more than one business on the lot and the essential character of the activity conducted on that lot (shopping center combination use) has not changed.

- B. A mere change in the status of property from unoccupied to occupied, or vice versa, does not constitute a change in use. Whether a change in use occurs shall be determined by comparing the two active uses of the property without regard to any intervening period during which the property may have been unoccupied, unless the property has remained unoccupied for more than 180 consecutive days or has been abandoned.
- C. A mere change in ownership of a business or enterprise or a change in the name shall not be regarded as a change in use.

§ 128-67. Combination uses.

When a development proposal comprises two or more principal uses that require different types of zoning review, a special exception permit will be required.

§ 128-68. Home occupations.

Home occupations are the accessory use of a residence involving the conduct of an art or profession, the offering of a service, the conduct of a business, or the production of handicrafts on a residential site. The use is incidental and secondary to the use of the dwelling for residential purposes, and shall not change the character of the residential use or adversely affect the uses permitted in the residential district of which it is a part.

- A. All proposed home occupation uses, including the expansion or replacement of an existing use or structure, shall conform to the performance standards below, as well as all other applicable laws and regulations of the county, state, and federal government.
 - (1) The home occupation and its associated structures shall conform to all applicable standards for the zoning district.
 - (2) Home occupations shall be conducted entirely either within the residence or within an accessory structure, but not both. The area used for the home occupation shall not exceed 25% of the gross floor area of the residence. An accessory structure of more than 1,500 square feet shall not be used for a home occupation.
 - (3) The home occupation shall in no way cause the residential appearance or character of the premises to differ from the surrounding residential area. Home occupations shall not be conducted in such a manner as to produce noise, dust, vibration, glare, smoke, odor, electrical interference, fire hazard, traffic, or any other nuisance not typically experienced in the zoning district in which the property is located.
 - (4) No use shall require internal or external construction features or the use of electrical, mechanical, or other equipment that would change the fire rating of the structure or in any way significantly increase the fire danger to neighboring structures or residences.
 - (5) Signs shall be limited to one permanent, nonilluminated sign of not more than four square feet. Signs shall conform to the signage provisions of this chapter.
 - (6) No outside storage or material, goods, supplies, or equipment related to the operation of the home occupation shall be allowed.
 - (7) Merchandise shall be limited only to products manufactured or substantially altered on the premises

or to incidental supplies necessary for the conduct of the home occupation. Items shall not be purchased off site for resale.

- (8) To the extent that there is any sale of any item related to a home occupation, delivery of that item to the buyer should occur off the premises.
- (9) The home occupation shall not employ any nonresident employees.
- (10) Any need for parking generated by the home occupation shall be off street and in the side or rear yard of the structure. The Director of Planning shall determine the number of parking spaces required based on parking requirements for like uses contained in this chapter.
- (11) No commercial vehicle shall be used in connection with the home occupation for delivery of goods to or from the premises, or parked on the property. This provision does not preclude the delivery of mail or packages by the Postal Service or by private or public shipping and courier services. Home occupations shall not generate more than an average of one truck delivery per day.
- (12) No more than one home occupation per residence shall be allowed.
- (13) Home occupations that attract customers, clients, or students to the premises shall not be allowed in multifamily dwelling units.

B. The following uses are not appropriate as home occupations and shall not be permitted:

- (1) Vehicle or boat repair or painting;
- (2) Construction equipment or materials storage;
- (3) Equipment or vehicle rental;
- (4) Fish or bait sales;
- (5) Furniture sales;
- (6) Funeral director, mortuary, or undertaker;
- (7) Glazier's or painter's shop;
- (8) Heating, plumbing, or air-conditioning services;
- (9) Laboratory or taxidermy shop;
- (10) Medical or dental clinic;
- (11) Private clubs;
- (12) Restaurants;
- (13) Tourist homes;
- (14) Animal hospitals;
- (15) Kennels; or
- (16) Day-care centers.

C. The following is a nonexhaustive list of uses which may be conducted as home occupations within the limits

established in this section; however, uses not listed below require a specific letter of confirmation from the Director of Planning.

- (1) Art, handicraft, music, writing, photography, or similar studios;
- (2) Direct-sale product distribution (Amway, Avon, Tupperware, etc.);
- (3) Dressmaker, seamstress, tailor;
- (4) Hair cutting and styling;
- (5) Home typing or computer services;
- (6) Mail-order sales;
- (7) Nonprincipal offices of a physician, dentist, veterinarian, insurance agent, real estate, or similar profession which typically serves several clients on a daily basis;
- (8) Offices of an accountant, architect, engineer, surveyor, land planner, lawyer, income tax preparer, minister, priest, rabbi, member of a religious order, psychotherapist, counselor, personal consultant, or similar profession which typically does not serve several clients on a daily basis;
- (9) Repair of small appliances, small engines, and limited machining of small parts, office machines, cameras, and similar small items;
- (10) Telephone sales and order-taking; and
- (11) Tutor or teaching, limited to one or two pupils at a time.

§ 128-69. Accessory apartments.

Accessory apartments are permitted in certain districts, provided that:

- A. Only one accessory apartment is created on each lot.
- B. The accessory apartment is clearly subordinate to the principal dwelling or commercial use.
- C. Adequate off-street parking is provided.

§ 128-70. Industrial uses.

Production, processing, cleaning, testing, distribution of materials, goods, foodstuffs, and products are permitted in the I and MI Districts, provided that:

- A. Activities shall be carried on in completely enclosed buildings.
- B. Adequate measures are taken for the abatement of offensive odors, dust, smoke, noise, vibration, or similar nuisances.
- C. Design, construction, and operation of the facility meets requirements of appropriate state and federal regulatory agencies.

- D. Uses are subject to the outdoor storage regulations specified in § **128-75**.
- E. No uses in any district may discharge into the Town sewage treatment facilities any waste that cannot be adequately treated by biological means.

§ 128-70.1. Industrial parks.

- A. Industrial parks shall be located on a site that is at least one acre in size.
- B. The lot on which the industrial park is located must have a minimum frontage of 100 feet on a public street.
- C. The lot on which the industrial park is located must have a depth of at least 100 feet.
- D. The project shall have a unified arrangement of buildings, service areas, parking, and landscaped areas.
- E. Materials, massing, and facade design for the project shall be harmonious with the character of the neighborhood.
- F. The internal circulation system shall be designed to minimize through traffic and traffic conflicts within the project.
- G. The vehicular plan shall provide for safe pedestrian movement.
- H. The applicant shall design and site buildings to screen from public view unsightly site elements such as shipping and loading areas, equipment storage areas, dumpsters, etc.
- I. All operations (except for permitted outdoor storage) shall be located in a wholly enclosed building.
- J. The release, disposal, or storage of waste materials shall not be visible from off site. All trash and refuse shall be stored in self-enclosed storage areas.
- K. There shall be no outside storage of the finished product. Bulk storage of the finished product in a wholly enclosed building shall be considered an accessory use.
- L. An impact statement shall be submitted with the site plan which explains:
 - (1) The proposed architectural design (graphic or narrative) of all buildings and structures.
 - (2) The proposed hours of operation.
 - (3) The provisions to be made for control of noxious and offensive odors.
 - (4) The air pollution, water quality, and noise control measures to be taken.
 - (5) The type and amount of traffic expected to be generated.
- M. Landscaping shall be provided in accordance with Article **XVI** of this chapter.

§ 128-71. Temporary emergency, construction or repair residences.

- A. Temporary residences used on construction sites of nonresidential premises shall be removed immediately upon the completion of the project.
- B. Permits for temporary residences to be occupied pending the construction, repair, or renovation of the permanent residential building on a site shall expire within six months after the date of issuance, except that the Director of Planning may renew such permit for one additional period not to exceed three months if he determines that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the construction, repair, renovation, or restoration work necessary to make such building habitable.

§ 128-72. Manufactured home parks.

The following regulations shall apply to manufactured home parks in any district where manufactured home parks are permitted:

- A. Access to the manufactured home park shall be from a major collector street or arterial street; the number and location of access drives shall be controlled for traffic safety and protection of surrounding properties; no manufactured home space shall be designed for direct access to a street outside the boundaries of the manufactured home park; and the interior access drives shall be at least 25 feet in width surfaced and maintained at least 25 feet in width.
- B. The topography of the site is such as to facilitate proper drainage and that adequate stormwater facilities are provided.
- C. The minimum width and/or depth of the manufactured home park shall be 200 feet, and minimum total area of the manufactured home park shall be 10 acres.
- D. The minimum area for a manufactured home site for parking one manufactured home shall be 3,500 square feet with no dimension less than 40 feet, and with corners of each site visibly marked and numbered by a permanent marker.
- E. The manufactured home park shall contain at least 1,000 square feet per manufactured home for community facilities, including play space, utility rooms, parking and access roads. Any service or utility building shall be located on a minimum lot of 10,000 square feet.
- F. A minimum of 15% of the total manufactured home tract shall be left as open space recreational areas.
- G. Setbacks, buffer strips and screening.
 - (1) All manufactured homes shall be located at least 25 feet from any park property boundary line abutting upon a public street.
 - (2) All manufactured home parks shall be provided with screening such as fences or natural growth along the property line bounding the development.
 - (3) No manufactured home shall be parked closer than 25 feet to any other manufactured home or service building, and no part of a manufactured home shall extend closer than five feet to the boundaries of an individual manufactured home site.
- H. Off-street parking spaces for automobiles shall be provided in the ratio of two spaces per manufactured home in locations convenient to individual trailers or groups of trailers.

- I. Proper provision shall be made for public water supply, sanitary sewers, refuse collection, laundry, and other community facilities. Water and sewer systems shall be approved by the Maryland State Health Department.
- J. Service or utility buildings are permitted within the park for use as sanitary, postal, trailer supplies, manufactured home park office, convenience items or laundry; provided, however, that all use of the facilities shall be designed solely for occupants of the park.
- K. All access roads, parking areas and walkways shall be illuminated at night. Illumination shall not cast any glare beyond the perimeter of the development.
- L. Walks.
 - (1) All manufactured home parks shall be provided with safe, convenient all-season pedestrian access of adequate width for the intended use and which shall be durable and convenient to maintain.
 - (2) Common walk system. A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of four feet and shall be parallel to the streets.
 - (3) Individual walks. All manufactured home stands should be connected to common walks, to streets, to driveways or to parking spaces. Such individual walks shall have a minimum width of two feet.
- M. Manufactured home lots.
 - (1) Generally. The limits of each manufactured home lot should be marked on the ground by suitable means. The location of lot limits on the ground should be the same as shown on the final accepted site plans.
 - (2) Manufactured home stands. The manufactured home stand shall be improved to provide adequate support for the placement and tiedown of the home. The stand shall not heave, shift, or settle unevenly under the weight of the manufactured home due to frost action, inadequate drainage, vibration, or other forces acting on the structure.
 - (3) Driveways. Improved driveways should be provided on lots where necessary for convenient access to mobile homes. The minimum width shall be 10 feet.
 - (4) Parking spaces. The design criteria for automobile parking shall be based upon two parking spaces for each mobile home lot.
 - (5) Outdoor living area. Each manufactured home lot should be provided with an outdoor living and service area. Such area should be improved as necessary to ensure reasonable privacy and comfort. The minimum area should not be less than 300 square feet with a dimension of 15 feet.
 - (6) Accessory structures remain, as per the definition, dependent upon the manufactured home and shall not be used as complete independent living units with permanent provisions for sleeping, cooking, and sanitation. Such structures shall be erected, constructed, or occupied on a manufactured home lot as specified in this subsection:
 - (a) Accessory structures shall be designed so as to enhance the appearance of the manufactured home park.
 - (b) Accessory structures shall not obstruct required openings for light and ventilation of the manufactured home and shall not prevent the inspection of manufactured home equipment and

utility connections.

N. Manufactured home unit standards.

- (1) The unit should appear to have a permanent and continuous foundation of masonry or brick construction. The permanent masonry or brick foundation shall be left exposed or skirted with other masonry or brick.
- (2) The unit is at least 20 feet wide. For single-wide units, the width can be made up with a porch or carport addition at least $\frac{2}{3}$ the length of the unit.
- (3) The unit has a gabled roof with a minimum roof pitch of $\frac{4}{12}$.
- (4) The roofing material must be shingle or other conventional type of residential roof material.
- (5) The unit is constructed under the latest HUD Manufactured Home Construction and Safety Standard of 1976 and Public Safety Article, § 12-305, Annotated Code of Maryland, Industrialized Building and Manufactured Homes Act.
- (6) The unit must be manufactured after January 1, 2001, and be in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended.^[1]
[1]: *Editor's Note: See 42 U.S.C. § 5401 et seq.*
- (7) The exterior walls of the unit look like wood or masonry, regardless of their actual composition.
- (8) The tongue, axles, transporting lights, and removable towing apparatus must be removed prior to occupancy.
- (9) The unit must have a permanent landing and steps with handrails at each exterior doorway.

O. Community maintenance standards.

- (1) The owner or manager of the manufactured home park shall provide adequate supervision to maintain the park in compliance with this article and to keep its facilities and equipment in good repair and in a clean and sanitary condition.
- (2) The owner or management shall notify the park residents of all applicable provisions of this article and inform them of their duties and responsibilities under this article.
- (3) The owner or management shall supervise the placement of each manufactured home on its lot, which shall include securing its stability and installing all utility connections.
- (4) The owner or management shall maintain a register containing the names of all park residents, identified by lot number or street address. Such register shall be available to any authorized person inspecting the park.
- (5) The resident shall comply with all applicable requirements of this article and shall maintain his manufactured home, lot, and its facilities and equipment in good repair and in clean and sanitary condition.
- (6) The resident shall be responsible for the proper placement of each manufactured home on its lot, which shall include securing its stability and installing all utility connections in accordance with the instructions of the owner or management.

§ 128-73. Manufactured home subdivisions.

The following regulations shall apply to manufactured home subdivisions in any district where manufactured home subdivisions are permitted:

- A. Access to the manufactured home subdivision shall be from a major collector street or arterial street, and all access drives shall be controlled to facilitate traffic movement, to minimize traffic hazards, and to protect surrounding properties.
- B. Any interior access drives shall have a minimum right-of-way width of 40 feet, with a minimum paved surface of 30 feet in width.
- C. Site plan and design standards for manufactured home subdivisions.
 - (1) Minimum total area: 10 acres.
 - (2) Perimeter setbacks:
 - (a) Minimum setback of any structure from adjacent roads to subdivision: 25 feet.
 - (b) Minimum setbacks from adjoining property lines to subdivision: 25 feet.
- D. The minimum lot size for a manufactured home shall conform in all respects to the minimum lot size for a single-family dwelling for the zone in which the subdivision is located.
 - (1) Each individual home site shall be defined by landscape plantings and/or low-level decorative fencing.
 - (2) Site area (yard) setbacks:
 - (a) Front: 25 feet.
 - (b) Side: 10 feet.
 - (c) Rear: 10 feet.
- E. All interior access drives shall be privately owned and maintained by the owner/operator of the manufactured home subdivision. Minimum structure setback from internal access drives: 25 feet.
- F. Adequate sanitary facilities shall be required for the development. The water supply system shall also be designed to be adequate for fire protection needs.
- G. All utilities, including but not limited to electric, cable television, and telephone lines, shall be placed underground.
- H. A manufactured home subdivisions shall be enclosed on all sides with a permanently maintained natural or artificial barrier/buffer, such as a sight-obscuring wall or fence, or a continuous opaque buffer of trees or shrubs, at least six feet in height. The Planning Commission may also increase all or part of the perimeter buffer requirement if it is in the best interest of the surrounding neighborhood. Structures used to meet this standard may be located within the required perimeter structure setback.
- I. Open space.
 - (1) Not less than 10% of the total area of a manufactured home rental community, exclusive of perimeter setback areas, shall be devoted to accessible and usable open space and recreation areas.

- (2) At least 50% of the open space and recreational land shall be designed for active recreation. Upon a recommendation of the Planning Commission and approval by the Director of Planning, passive recreational activities may be substituted for active recreational activities if justified by the projected composition of the residents of the proposed development.
- J. All access roads, parking areas, and walkways shall be illuminated at night. Illumination shall not cast any glare beyond the perimeter of the development.
- K. Refuse collection areas shall be screened from public view.
- L. Pedestrian walkways shall be required to connect manufactured home sites with parking areas, park facilities and recreation, and open space areas.
- M. Walks.
- (1) All manufactured home subdivisions shall provide safe, convenient all-season pedestrian access of adequate width for the intended use and which shall be durable and convenient to maintain.
- (2) Common walk system. A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of four feet and shall be parallel to the streets.
- (3) Individual walks. All manufactured home lots should be connected to common walks, to streets, to driveways, or to parking spaces. Such individual walks shall have a minimum width of two feet.
- N. Pervious areas within the manufactured home subdivision shall be kept in grass lawn or covered by natural or planted landscaping treatment. The planting of trees to provide shade and screen objectionable views is encouraged.
- O. Pervious areas within the subdivision should be kept in grass lawn or covered by natural or planted landscaping treatment. The planting of trees to provide shade and screen objectionable views is encouraged.
- P. An approved stormwater management and sediment and erosion control plan is required.
- Q. Manufactured home unit standards.
- (1) The unit should appear to have a permanent and continuous foundation of masonry or brick construction. The permanent masonry or brick foundation shall be left exposed or skirted with other masonry or brick.
- (2) The unit is at least 20 feet wide. For single-wide units, the width can be made up with a porch or carport addition at least $\frac{2}{3}$ the length of the unit.
- (3) The unit has a gabled roof with a minimum roof pitch of $\frac{4}{12}$.
- (4) The roofing material must be shingle or other conventional type of residential roof material.
- (5) The unit is constructed under the latest HUD Manufactured Home Construction and Safety Standard of 1976 and Public Safety Article, § 12-305, Annotated Code of Maryland, Industrialized Building and Manufactured Homes Act.
- (6) The unit must be manufactured after January 1, 2001, and be in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended.^[1]
- [1]: *Editor's Note: See 42 U.S.C. § 5401 et seq.*

- (7) The exterior walls of the unit look like wood or masonry, regardless of their actual composition.
 - (8) The tongue, axles, transporting lights and removable towing apparatus must be removed prior to occupancy.
 - (9) The unit must have a permanent landing and steps with handrails at each exterior doorway.
 - (10) Minimum manufactured home gross floor area: 600 square feet.
- R. Every manufactured home, together with all enclosed extensions or structural additions, shall be installed upon an approved anchor tie-down system and shall be securely anchored thereto so as to prevent the home from shifting or overturning. The undercarriage of every manufactured home shall be suitably hidden by some form of opaque skirting.
- S. Manufactured homes may not be used exclusively for storage purposes.
- T. One accessory building is permitted for each manufactured home. Such building shall be located on the individual manufactured home site, and shall not exceed exterior dimensions of 12 feet by 12 feet and shall not exceed 10 feet in height.
- U. Retail manufactured home sales lots are prohibited within a manufactured home subdivision.
- V. Recreational vehicles shall not be occupied as living quarters within the subdivision.

§ 128-74. Townhouses.

The following regulations shall apply to townhouses in any district where townhouses are permitted:

- A. The townhouse building shall comply with minimum lot requirements contained in this chapter, but each dwelling unit of a townhouse need not be located on a lot complying with minimum lot area per family requirements in the Table of Density and Dimensional Regulations, § 128-117, provided the average for all dwelling units in the building equals or exceeds the minimum requirements and provided no lot is created with lot area less than 2,000 square feet, exclusive of a parking lot area. (Refer to Subsection **H** of this section.)
- B. Lot frontage, measured at a building line, for individual dwelling units of a townhouse may be reduced to not less than 18 feet. Lot width for end units shall be adequate to provide required front and side yards.
- C. For the purpose of the side yard regulations, a townhouse building shall be considered as one building on one lot with side yards required for end units only, in accordance with the Table of Density and Dimensional Regulations, § 128-117. Any side yard adjacent to the line of a lot occupied by a detached single-family dwelling or a lot in a single-family residential district shall not be less than 25 feet.
- D. No detached garage or carport or other detached accessory building over 120 square feet shall be permitted on a lot occupied by a townhouse; however, common space may be set aside on the site for a common storage facility for the use of individual complex residents not to exceed 120 square feet per unit. Townhome common storage facilities must be for residential storage only and be incorporated into the overall site design.
- E. Unless otherwise restricted by district regulations, not less than three and not more than four dwelling units shall be included in any one townhouse building.

- F. The front and rear facades of dwelling units in a townhouse shall be varied by changed yards of not less than three feet and variation in materials or design so that no more than three abutting units will have the same front yard depth and the same or essentially the same architectural treatment of facades and rooflines.
- G. Provision satisfactory to the Town and provided by the Town Attorney shall be made to assure that nonpublic areas for the common use and enjoyment of occupants of townhouses, but not in individual ownership by such occupants, shall be maintained in a satisfactory manner without expense to the general public.
- H. Required off-street parking shall be provided on the lot or within 100 feet of the lot.
- I. A site plan complying with the requirements of this chapter shall accompany an application for approval of a townhouse development.
- J. A minimum of 15% of the net land area to be developed as townhouses must be reserved as natural or landscaped open space or recreational area.
- K. In addition to the design standards set forth in this section, townhouses shall meet the standards set forth in the Denton Pattern Book, prepared by Urban Design Associates, which is attached to the Zoning Ordinance and copies of which are maintained in the Town office. The Pattern Book is intended to supplement existing applicable design guidelines. Persons proposing townhouses should consult the Denton Pattern Book and incorporate the design concepts and standards into the proposed townhouse design. Failure to adhere to the design principles set forth in the Pattern Book may be a basis for the denial of the site plan by the Town. The Town may approve townhouses that meet or exceed the goals and objectives of the Denton Pattern Book.

§ 128-75. Outdoor storage.

Outdoor storage (where permitted) in districts must meet the following requirements:

- A. Outdoor storage is limited to 10% of the existing lot, exclusive of the existing buildings. The Planning Commission may increase the total area for outdoor storage up to 25% of the total site area where it finds that the size of the lot and its location (e.g., a large lot located in an industrial park) warrant an increase.
- B. The outdoor storage area(s) must be surrounded by an opaque, uniformly finished fence or wall seven feet in height.
- C. Such wall or fence shall be maintained in good order; advertisements are not permitted thereon.
- D. The items being stored within the wall or fence shall not exceed, or be stacked to exceed, seven feet in height.
- E. In the GC and RHC Districts, storage of cars and trucks used in connection with the permitted trade or business is permitted within the walls, but not including storage of heavy equipment.
- F. In the I and MI Districts, storage of cars, trucks and heavy equipment used in the trade or business is permitted within the fences or walls.

§ 128-76. Places of worship.

Churches, synagogues, and temples shall have their principal means of access from a major or minor collector street.

§ 128-77. Horse stables.

- A. Horse stables for personal pleasure shall be permitted only when the property on which they are located has a minimum of three unconstrained acres (without steep slopes, wetlands or other environmental constraint) and a stable setback minimum of 250 feet from the front property line and all neighboring residences. One horse or pony is permitted per each three unconstrained acres.
- B. Commercial or private stables and riding stables shall be permitted, provided that the lot area is 20 unconstrained acres or more (without steep slopes, wetlands or other environmental constraint) and that any buildings for keeping of animals shall be located at least 200 feet from any side or rear lot lines, and that there shall be housed on the premises no more than one horse or pony for each unconstrained acre of land.

§ 128-78. Commercial greenhouses and nurseries.

Commercial greenhouses and nurseries shall be permitted, provided that any structure shall not be closer than 100 feet to all property lines and adequate on-site parking exists. Appropriate stormwater facilities shall be provided.

§ 128-79. Hospitals or clinics for large or small animals.

- A. Hospitals or clinics for animals shall be located on a tract of land of 10 acres or more, and all buildings or structures, pens, or open kennels shall be located at least 200 feet from any lot lines.
- B. Hospitals or clinics exclusively for small animals shall be located on tracts of land of at least three acres, and any treatment rooms, cages, pens, or kennels shall be maintained within a completely enclosed, soundproof building and shall be operated in such a way as to produce no objectionable odors or sounds outside the walls.

§ 128-80. Country club or private club.

Country clubs or private clubs are permitted, provided that:

- A. A minimum lot area of 20 unconstrained acres (without steep slopes, wetlands, or other environmental constraint) shall be provided.
- B. Main buildings and accessory buildings shall occupy no more than 10% of the total area of the lot.
- C. No dwelling units shall be provided on the premises except for a resident manager and a watchman or caretaker.
- D. No building, accessory building, or swimming pool shall be located closer than 200 feet from any side or

rear lot line or 100 feet from any street line.

- E. No off-street parking area shall be located in any required yard, and that all parking areas shall be suitably screened from any boundary of the lot by means of a fence, wall, or hedge, and that no lighting facilities for such parking areas extend above such screening. All lighting shall comply with Article **XXII** of this chapter.
- F. No area lighted for night recreational use shall be located closer than 200 feet from any side or rear lot line or 100 feet from any street line.
- G. No outdoor loudspeaker or call system shall be employed which would produce objectionable noise at the boundaries of the lot.
- H. Any land area not used for buildings, swimming pools, game courts, drives, parking areas, etc., shall be landscaped and well maintained in trees, grass, shrubs, pedestrian walks, or natural woods.
- I. Accessory or other boat docking facilities shall be approved as a marina under other provisions of this chapter.

§ 128-81. New or used car lots.

New or used car lots are permitted, provided that:

- A. The lot size is 0.5 acre or larger.
- B. The minimum lot width is 100 feet and minimum lot depth is 125 feet.
- C. No wrecking or dismantling of vehicles is allowed.
- D. Vehicles are for sale and there is no storage of vehicles not for immediate sale.

§ 128-82. Car wash facility.

Car wash facilities, self-service or automated, are permitted, provided that:

- A. The minimum lot area of usable space is 20,000 square feet.
- B. The minimum front setback is 50 feet, minimum rear setback is 50 feet, and minimum side setbacks are 20 feet.
- C. The stacking area provides space for a minimum of five cars per bay.
- D. Mandatory screening and landscaping is provided to the satisfaction of the Planning Commission.
- E. Site plan review and approval is required.

§ 128-83. Gas sales.

Facilities for gas sales are permitted in certain districts, provided that fuel storage tanks are located underground.

§ 128-84. Planned residential developments (PRD).

The planned residential development use classification permits multifamily residences in single-family zoning districts only in the context of a well-planned development containing both single-family and multifamily dwellings, with the single-family units acting as a buffer between the development and the preexisting single-family neighborhoods.

- A. Planned residential developments are permissible only on tracts of at least 30 acres located within an SR District; 10 acres in a TR District; and five acres within MR and MI Districts.
- B. The overall density of a tract developed as a planned residential development shall be determined as provided in Article **XIII**, § **128-110**.
- C. Permissible types of residential uses within a planned residential development include single-family detached dwellings, two-family residences, and multifamily residences. At least 75% of the total number of dwelling units must be single-family detached for a planned residential development in the SR District. At least 50% of the total number of dwelling units must be single-family detached for a planned residential development in the TR District. At least 25% of the total number of dwelling units must be single-family detached for a planned residential development in the MR and MI Districts. Manufactured home parks and subdivisions are not permitted.
- D. To the extent practical, the two-family and multifamily portions of a planned residential development shall be developed more toward the interior rather than the periphery of the tract so that the single-family detached residences border adjacent properties. To the extent this is not practical and two-family and multifamily development is located on the periphery of the tract, then these units shall be screened from adjacent single-family development in accordance with requirements established by the Planning Commission.
- E. Minimum common open space requirements: See Article **XVII**.

§ 128-85. Community appearance standards.

The purpose of community appearance standards is to promote public health, safety, and welfare. Economic objectives include enhancement and preservation of property values. These standards are not intended to restrict imagination or variety but rather to assist in focusing on design principals which can result in creative solutions that will develop a satisfactory visual appearance within the Town.

- A. Development subject to community appearance standards. All new development and/or redevelopment within the Town, except single-family detached housing, shall be subject to the performance standards designated in this section.
- B. Process for review. The Planning Commission and/or Board of Appeals shall review site plans as required to ensure the standards specified in this section are met. These standards are in addition to other regulations in this chapter.
- C. Relationship of buildings to site.
 - (1) The site shall be planned to accomplish a desirable transition with the streetscape and to provide for adequate planting, safe pedestrian movement, and parking areas.

- (2) Site planning in which setbacks and yards are in excess of zoning restrictions is encouraged to provide an interesting relationship between buildings.
- (3) Parking areas shall be treated with decorative elements, building wall extensions, plantings, berms, or other innovative means so as to screen parking areas from public ways.
- (4) Without restricting the permissible limits of the applicable zoning district, the height and scale of each building shall be compatible with its site and existing (or anticipated) adjoining buildings.
- (5) Newly installed utility services and service revisions necessitated by exterior alterations shall be underground.

D. Relationship of buildings and site to adjoining area.

- (1) Adjacent buildings of different architectural styles shall be made compatible by such means as screens, site breaks, and materials.
- (2) Attractive landscape transition to adjoining properties shall be provided.
- (3) Harmony in texture, lines, and masses is required. Monotony of design shall be avoided.

E. Landscape and site treatment.

- (1) Where natural or existing topographic patterns contribute to beauty and utility of a development they shall be preserved and developed. Modifications to topography will be permitted where they contribute to good appearance.
- (2) Grades of walks, parking spaces, terraces, and other paved areas shall provide an inviting and stable appearance for the pedestrian.
- (3) Landscape treatment shall be provided to enhance architectural features, strengthen vistas and important axes, and provide shade.
- (4) Unity of landscape design shall be achieved by repetition of certain plant varieties and other materials and by coordination with adjacent development.
- (5) Plant material shall be selected for interests in its structure, texture and color, and for its ultimate growth. Plants that are indigenous to the area and others that will be hearty, harmonious to design, and of good appearance shall be used.
- (6) In locations where plants will be susceptible to injury by pedestrian or motor traffic they shall be protected by appropriate curbs, tree guards, or other devices.
- (7) Parking areas and traffic ways shall be enhanced with landscaped spaces containing trees or tree groupings.
- (8) Where building sites limit planting, the placement of trees in parkways, or paved areas may be required.
- (9) Screening of service yards and other places that tend to be unsightly shall be accomplished by use of walls, fencing, plantings, or combinations of these. Screening shall be effective in winter and summer.
- (10) In areas where general planting will not prosper, other materials such as fences, walls, and pavings of wood, brick, stone gravel, and cobbles shall be used. Carefully selected plants shall be combined with such materials where possible.

- (11) Exterior lighting, when used, shall enhance the adjoining landscape. Lighting standards and building fixtures shall be of a design and size compatible with the building and adjacent areas. Lighting shall be restrained in design and excessive brightness avoided. Refer to Article **XXII**, Outdoor Lighting, in this chapter.

F. Building design.

- (1) Architectural style is not restricted, except townhouses shall meet the standards set forth in the Denton Pattern Book, prepared by Urban Design Associates, which is attached to the Zoning Ordinance and copies of which are maintained in the Town Office. The Pattern Book is intended to supplement existing applicable design guidelines. Persons proposing townhouses should consult the Denton Pattern Book and incorporate the design concepts and standards into the proposed townhouse design. Failure to adhere to the design principles set forth in the Pattern Book may be a basis for the denial of the site plan by the Town. The Town may approve townhouses that meet or exceed the goals and objectives of the Denton Pattern Book. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.
- (2) Buildings shall have good scale and be in harmonious conformance with permanent neighboring development.
- (3) Materials.
 - (a) Materials shall have good architectural character and shall be selected for harmony of the building with adjoining buildings.
 - (b) Materials shall be of durable quality.
 - (c) Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same material, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways.
 - (d) In any design in which the structural frame is exposed to view, the structural material shall be compatible within themselves and harmonious with their surroundings.
- (4) Building components, such as windows, eaves, doors, parapets, etc., shall have good proportions and relationships to one another.
- (5) Colors shall be harmonious and shall use only compatible accents.
- (6) Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be so located as not to be visible from public ways.
- (7) Exterior lighting shall be part of the architectural concept. Fixtures, standards, and all exposed accessories shall be harmonious with building design.
- (8) Refuse and waste removal areas, service yards, storage yards, and exterior work areas shall be screened from view of public ways using materials as stated in Subsection **E(9)**.
- (9) Monotony of design in single- or multiple-building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple-building projects, variable siting of individual projects shall be used to prevent a monotonous appearance.

G. Miscellaneous structures and street hardware.

- (1) Miscellaneous structures and street hardware shall be designed to be part of the architectural concept of design and landscape. Materials shall be compatible with buildings, scale shall be appropriate, colors shall be in harmony with buildings and surroundings, and proportions shall be attractive.
- (2) Lighting in connection with miscellaneous structures and street hardware shall adhere to standards set forth for site, landscape, buildings, and signs, and to Article **XXII**, Outdoor Lighting, in this chapter.

H. Maintenance planning and design factors.

- (1) Continued good appearance depends upon the extent and quality of maintenance. The choice of materials and their use, together with the types of finishes and other protective measures, shall be conducive to easy maintenance, upkeep, and longevity.
- (2) Materials and finishes shall be selected for their durability and wear as well as for their beauty. Proper measures and devices shall be incorporated for protection against the elements, neglect, damage, and abuse.
- (3) Provisions for washing and cleaning of buildings and structures, and control of dirt and refuse, shall be incorporated in the design. Configurations that tend to catch and accumulate debris, leaves, trash, dirt, and rubbish shall be avoided.

§ 128-86. Adult assisted living development.

Adult assisted living development (townhouses or multifamily units) is a permitted use in the Mixed Residential (MR) District, and a special exception use in the General Commercial (GC) and Central Business Commercial (CBC) Districts. Adult assisted living development is subject to the community appearance standards (§ **128-85**) and site plan review requirements (Article **XXIII**) contained in this chapter.

- A. Maximum permitted residential density is 12 dwelling units per acre.
- B. Dwelling units may be detached or attached. Attached units are permitted, provided that not more than six dwelling units shall be included in any one townhouse structure and not more than 12 dwelling units are included in any one multifamily structure (apartments). The Planning Commission may vary the maximum number of attached dwelling units in any one structure on the basis of review of the building design.
- C. The front and rear facades of dwelling units in a townhouse structure containing between three and six attached dwelling units shall be varied by changed yards of not less than three feet and variation in materials or design so that no abutting units will have the same front yard depth and the same, or essentially the same, architectural treatment of facades and rooflines.
- D. A minimum of 15% of the net site area shall be set aside as usable open space for the enjoyment and use of residents. Common open space shall be maintained in accordance with Article **XVII**, Common Open Space. A community building of suitable size for the development's population shall be provided in addition to the common open space required.
- E. The minimum floor area for individual dwelling units shall be 600 square feet.
- F. Parking requirements shall be one space per dwelling unit. Off-street parking areas shall be located in close proximity to dwelling units. Three spaces shall be provided for the community building.

- G. All adult assisted living developments, regardless of their location, shall be required to provide street and property line bufferyards. The Planning Commission shall determine which types of bufferyards are required based upon an evaluation of existing or planned adjacent land uses.
- H. Provisions shall be incorporated as part of the adult assisted living development to accommodate disabled residents (e.g., rolled curbs at sidewalk and street or driveway intersections). The Planning Commission may require any special design provisions or improvements deemed necessary to accommodated disability needs.
- I. Adequate documentation shall be provided to the Town which ensures that the housing development will be exclusively for the occupation of adult assisted living tenants. The Town may request written verification from the lending agency (e.g., Farmers Home Administration) regarding any required conditions and standards regarding the construction, operation, and management of the development.
- J. The purpose of this section is to provide flexibility, consistent with the public health and safety, for the development of adult assisted living housing in accordance with a unified and coherent plan of development.

§ 128-87. Child-care centers within a business.

Child-care centers located in Industrial (I) or Regional Highway Commercial (RHC) Zones must show each of the following:

- A. Shall be operated in conjunction with an active business.
- B. Shall serve only the children of the employers/employees of the business with which it is associated.

§ 128-88. Child or adult day-care centers.

Child or adult day-care centers may be permitted as a special exception by the Board of Appeals in the SR, TR, MR and MI Districts; they are permitted with conditions and site plan approval by the Planning Commission in the GC, CBC, CM, RHC, and PN Districts.

- A. Applicants shall meet requirements of state (for child only, Maryland Daycare Center Requirements, Title 13A, Subtitle 14) and local health departments for family/group care. Adult day-care centers are regulated by the Maryland Department of Health and Mental Hygiene. Senior centers are monitored by Upper Shore Aging, Inc.
- B. A child day-care center shall not have more day-care children than the number which appears on the certificate of registration issued by the Office of Child Day Care Licensing and Regulation.
- C. A site plan must be submitted showing existing or proposed buildings, play/outdoor areas, fencing, parking, ingress and egress, and with the following:
 - (1) The Board may prescribe specific conditions determined necessary to minimize effects of use on neighboring properties given identification of concerns specific to a particular site.
 - (2) The applicant shall provide 100 square feet of usable outdoor recreation area for each child/adult that may use this space at any one time. Such usable outdoor recreation area shall be identified on the site

plan and shall be sufficiently buffered from adjacent residential areas. Usable outdoor recreation areas shall be limited to the side and rear yard of the property. Recreational areas shall not include the required front yard of the property or any off-street parking areas.

- (3) All such uses shall be located so as to permit the safe pickup and delivery of all people on this site.
 - (4) Such use shall not constitute a nuisance because of traffic, insufficient parking, number of individuals being cared for, noise, or type of physical activity.
- D. The requirements of this section shall not apply to child or adult day-care facilities or centers that are operated by a nonprofit organization in buildings, structures, or on premises owned or leased by a religious organization and which premises are regularly used as a place of worship or are located on premises owned or leased by a religious organization adjacent to premises regularly used as a place of worship, or are used for private parochial educational purposes that are exempted under the provisions of this section for private educational institutions or are located in publicly owned school buildings.

§ 128-88.1. Family child day care.

- A. Applicants shall meet the requirements of the Office of Child Care Licensing and Regulation in the Department of Human Resources of the State of Maryland (Title 13A, Subtitle 14, Child and Family Day Care), or its successor agency for family day care.
- B. A family child day care shall not have more day-care children than the number which appears on the certificate of registration issued by the Office of Child Day Care Licensing and Regulation to such family day-care home and family day-care provider.
- C. At any one time, a family day care shall have no more than eight children, including no more than two children under the age of two years.
- D. The applicant shall have 100 square feet of usable outdoor recreation area for each child that may use this space at any time. Such usable outdoor recreation area shall be identified on the site plan and shall be sufficiently buffered from adjacent residential areas. Usable outdoor recreation areas shall be limited to the side and rear yards of the property.
- E. All such uses shall be located so as to permit the safe pickup and delivery of all persons on this site.
- F. Such use shall not constitute a nuisance because of traffic, insufficient parking, number of individuals being cared for, noise, or type of physical activity.

§ 128-89. Clinics.

Medical clinics of less than 10,000 square feet of gross floor area may be permitted in the districts, subject to the following:

- A. Site requirements:
 - (1) Minimum lot area: 40,000 square feet.
 - (2) Minimum frontage: 200 feet.

- (3) Minimum setback: 40 feet from all property lines.
 - (4) Maximum building height: as specified in zone.
 - (5) Location of access on business district street, arterial, or major highways.
- B. Disposal of waste shall be through approved, safe means and shall be separate from regular trash disposal.
 - C. Accessory services, including laboratories and pharmacies for the use of patients visiting medical practitioners in the clinic, shall be permitted as part of the clinic facility, subject to the following specific conditions:
 - (1) All entrances to parts of the building in which these accessory services are provided shall be from within the building and any direct access from the street is prohibited.
 - (2) The hours during which these services are provided shall be the same as those during which medical practitioners are receiving patients.

§ 128-90. Group homes and halfway houses.

A group home or halfway house for nine to 16 individuals may be permitted as a special exception by the Board of Appeals in the districts, and a group home or halfway house for criminal offenders may be permitted as a special exception by the Board of Appeals in the districts, subject to the following:

- A. Such use will not constitute a nuisance because of noise, vehicle traffic or parking, number of residents, or any other type of physical activity.
- B. Such use will not, when considered in combination with other existing group homes in the neighborhood, result in an excessive concentration of similar uses in the same general neighborhood of the proposed use.
- C. That any property to be used for a group residential facility is of sufficient size to accommodate the proposed number of residents and staff.
- D. That the site to be used as a group residential facility for children provide ample outdoor play space, free from hazard and appropriately equipped for the ages and number of children to be cared for.
- E. In order to expedite decisions regarding proposed group residential facilities, the Board shall give priority consideration in scheduling public hearings and in deciding petitions for such facilities.
- F. Nonconforming use. Where any child-care residence for up to eight children or group home for developmentally disabled people has been lawfully established at the same location prior to the effective date of this chapter, such use shall not be required to obtain a special exception.
- G. Applicants shall meet requirements of the State Department of Health.
- H. The Planning Commission and/or Board of Appeals may prescribe specific conditions determined necessary to minimize effects of use on neighboring properties given identification of concerns specific to a particular site.
- I. Parking and loading shall be provided at the rear of the site.
- J. Adequate access to medical services, shopping areas, recreational, and other community services often desired by elderly and disabled people shall be available to residents or provided on the site for residents.

- K. Business uses that are permitted as accessory uses shall be integrated with the dwelling units and oriented towards the interior of the project. No exterior signs or other evidence of business facilities shall be visible from the periphery of the site.
- L. The project shall be designed to provide a transition near the periphery of the site, either with open space areas and landscaping or by designing the buildings near the periphery to be harmonious in density and type with the surrounding neighborhood.
- M. Open space areas, recreational facilities, and other accessory facilities shall be developed in each phase of development to meet the needs of the residents. The developer shall provide a schedule for the installation of facilities at the time the special exception is approved.

§ 128-91. Hospitals, clinics in excess of 10,000 square feet and other medical treatment facilities.

Hospitals, clinics in excess of 10,000 square feet, and other medical treatment facilities may be permitted as a special exception by the Board of Appeals in the districts subject to the following:

- A. A lot or parcel or tract of land to be used for a hospital or sanitarium building may be allowed upon a finding by the Board that such use will not constitute a nuisance because of noise, traffic, or number of people being cared for, that such use will not affect adversely the present character or future development of the surrounding residential community, and if the lot, parcel, or tract of land on which the buildings to be used by such institution are located conforms to the following minimum area, frontage, and setback requirements, off-street parking, green area requirements, and building height limit:
 - (1) Total area: five acres minimum.
 - (2) Frontage: 200 feet minimum.
 - (3) All structures shall be located at least 200 feet from any adjacent residential lot and 50 feet from any other use.
 - (4) All parking areas shall be located at least 50 feet from any adjacent residential lot and shall be limited to a minimum of parking in the front yard.
 - (5) Accessory uses may include recreational and educational services, therapy areas, retail stores, personal and professional services, and health services, provided that use of these facilities is limited to on-site patients and their guests.
 - (6) A minimum of 40% of the gross site area shall be open space. The open space shall be generally continuous, accessible to the patients, and protective of natural features.
 - (7) The Board or the applicant shall request a recommendation from the Planning Commission with respect to a site plan, submitted by the applicant, achieving and conforming to the objectives and requirements of this section for off-street parking and green area.
 - (8) Building height limit: as determined by the Board of Appeals but in no case more than 100 feet.
 - (9) A resolution approving the establishment by the Health Department shall be filed with the petition for a special exception.

- (10) The applicant shall locate amenities such as lighting (Lighting shall comply with Article **XXII.**), seating, shelter, and landscaping into attractive groupings that provide for safe and unobstructed pedestrian movement.

§ 128-92. Farm caretaker home.

A farm caretaker home shall comply with all of the following requirements.

- A. The house shall be located on a farm of at least 20 acres in the Rural Agriculture (RA) District.
- B. There may be no more than one farm caretaker house on each single-family farm, excluding farm worker dormitory-type use.

§ 128-93. Assisted living, nursing and care homes.

An assisted living, nursing or care home (regulated by the Maryland Department of Health and Mental Hygiene's Office of Health Care Quality) for more than eight people may be permitted as a special exception by the Board of Appeals in the SR, TR, MR, GC, RHC, and PN Districts and shall be permitted in the CM District, provided:

- A. Such use will not constitute a nuisance because of traffic, noise, or number of patients or people being cared for; that, except for buildings completed prior to the time of adoption of this section and additions thereto, such use will be housed in buildings architecturally compatible with other buildings in the surrounding neighborhood; that such use will not adversely affect the present character or future development of the surrounding residential community; and that such use can and will be developed in conformity with the following minimum area, density, coverage, frontage, setback, access, and screening requirements where specified.
- B. All care institutions hereafter established and all additions to existing homes where nine or more people are cared for:
 - (1) Minimum lot area: as stated in the applicable zone, but in no case less than one acre.
 - (2) Maximum density: one bed per 600 square feet of net lot area.
 - (3) Maximum coverage: 60%.
 - (4) Minimum lot frontage: 200 feet.
 - (5) Minimum setbacks:
 - (a) Front yards: 30 feet.
 - (b) Side yards: 20 feet.
 - (c) Rear yards: 30 feet.
 - (6) Minimum screening: as determined by the Board or Planning Commission with special attention given to off-street parking and loading areas in accordance with Article **XVI** and in no case less than Bufferyard C as shown in **Appendix II** at the end of this chapter.
 - (7) The Board shall increase the number of off-street parking spaces required for nursing or care homes

under Article **XII** where the operation or method of operation, or type of care to be provided, indicates such increase will be needed.

§ 128-94. Neighborhood centers.

The Board of Appeals may permit as a special exception a neighborhood center in an established neighborhood where it is compatible with existing uses. Neighborhood centers shall comply with the following design standards:

- A. Commercial uses in neighborhood centers shall be limited to businesses that primarily cater to neighborhood residents, such as small grocery stores, personal and professional services, dry cleaners, video shops, cafes, tea rooms, small bakeries, and other uses that are deemed appropriate by the Planning Commission or Board of Appeals.
- B. Residential units may be included in commercial structures, e.g., apartments over storefronts.
- C. The amount and scale of commercial development in neighborhood centers does not significantly diminish the economic viability of established commercial areas and does not detract from the character or livability of the neighborhood. The size of individual neighborhood center commercial building shall be limited to no more than 3,000 square feet gross floor area.
- D. Neighborhood centers containing commercial uses shall be separated by at least 1/4 mile, unless the neighborhoods have sufficient population to make both centers economically viable or comprise distinct trade areas.
- E. Neighborhood centers shall be located and oriented to avoid glare, noise, aesthetic, and traffic impacts for nearby residents.
- F. The scale, design, and exterior materials of commercial structures in neighborhood centers shall be compatible with surrounding residential structures.
- G. The primary entrance to commercial uses shall be oriented to the street and the secondary entrance to the parking lot, unless another arrangement would provide better access from the neighborhood.
- H. Commercial and service buildings in neighborhood centers shall be located at or very near the sidewalk edge, with direct access along the street frontage.
- I. Parking spaces for the businesses at neighborhood centers shall be provided both on-street and behind the buildings.
- J. The back side of neighborhood centers shall be designed so to be inviting to pedestrians and provide direct access from the neighborhood.

§ 128-95. Multifamily housing and apartments.

- A. The Board of Appeals may permit multifamily housing as a special exception in the Central Business Commercial Zone. Multifamily housing, at a minimum, shall comply with the following design standards:
 - (1) There must be adequate off-street parking.

- (2) Build-up and build-to lines apply to structure.
 - (3) It must meet minimum landscape requirements.
 - (4) In addition to the design standards set forth in this section, townhouses shall meet the standards set forth in the Denton Pattern Book, prepared by Urban Design Associates, which is attached to the Zoning Ordinance and copies of which are maintained in the Town office. The Pattern Book is intended to supplement existing applicable design guidelines. Persons proposing townhouses should consult the Denton Pattern Book and incorporate the design concepts and standards into the proposed townhouse design. Failure to adhere to the design principles set forth in the Pattern Book may be a basis for the denial of the site plan by the Town. The Town may approve townhouses that meet or exceed the goals and objectives of the Denton Pattern Book.
- B. Apartments. The following regulations shall apply to apartments (including condominiums) in any district where apartments are permitted:
- (1) Unless otherwise restricted by district regulations, no more than six units may be constructed in one building.
 - (2) Required off-street parking shall be provided on the lot or within 100 feet of the lot.
 - (3) A site plan complying with the requirements of this chapter shall accompany an application for approval of a townhouse development.
 - (4) A minimum of 15% of the gross land area must be reserved as natural and landscaped open space or recreational area.
 - (5) When more than one apartment building is built, no building shall be closer than 25 feet from any other apartment building.
 - (6) In addition to the design standards set forth in this section, townhouses shall meet the standards set forth in the Denton Pattern Book, prepared by Urban Design Associates, which is attached to the Zoning Ordinance and copies of which are maintained in the Town office. The Pattern Book is intended to supplement existing applicable design guidelines. Persons proposing townhouses should consult the Denton Pattern Book and incorporate the design concepts and standards into the proposed townhouse design. Failure to adhere to the design principles set forth in the Pattern Book may be a basis for the denial of the site plan by the Town. The Town may approve townhouses that meet or exceed the goals and objectives of the Denton Pattern Book.

§ 128-95.1. Adult-oriented businesses.

- A. Viewing booths and live viewing booths are prohibited in all zoning districts.
- B. In addition to any buffer, bufferyard, setback, or other design criteria generally applicable to permitted uses in the Industrial Zoning Districts, an adult-oriented business must meet the following setback criteria:
- (1) The closest portion of a building or structure in which an adult-oriented business is located shall not be within 1,000 feet of the boundary of any parcel of land that is zoned residentially.
 - (2) The closest portion of a building or structure in which an adult-oriented business is located shall not be within 1,000 feet from the boundary of any parcel of land containing a school, place of worship, park or recreation facility, day-care center, or day-care home.

- (3) For the purposes of this section, measurement shall be made in a straight line, without regard to intervening structures or objects.
 - (4) A lawfully operating adult-oriented business shall not be rendered a nonconforming use by the location, subsequent to the grant or renewal of an adult-oriented business license pursuant to Denton Town Code § ~~30-4~~, of a residential zoning district, school, place of worship, park or recreation facility, day-care center, or day-care home within buffer distances provided for above.
- C. An adult-oriented business shall provide or cause to be provided, for all exterior areas, including, but not limited to, parking lots or areas, loading docks, and sidewalks, sufficient lighting to illuminate the exterior areas of the business to an illumination level of not less than two footcandles and shall be equipped with video surveillance cameras that monitor the exterior portions of the premises from a management station located within the business.
 - D. An adult-oriented business may not erect a fence, wall, or other barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right-of-way.
 - E. An adult-oriented business must post appropriate signage prohibiting parking at the premises for persons other than patrons of the business and prohibiting the use of the exterior of the premises for other than ingress, egress, parking, and solid waste deposit/processing for bona fide employees and patrons of the business.
 - F. In the case of adult-oriented businesses other than adult book or video stores, and to the extent not regulated under Article 2B of the Annotated Code of Maryland (or successor provisions thereof), said businesses shall be constructed and maintained in such manner that the conduct, promotion, delivery, provision, or performance of adult entertainment or material is not visible in any way or manner, or to any degree, from outside the building.
 - G. No adult-oriented business may be conducted on the same parcel as, in the same building as, or in conjunction with any hotel, motel, motor court, motor hotel, lodge, inn, bed-and-breakfast facility, boardinghouse, or in any structure or portion thereof not generally open to the public and freely accessible to patrons at all times.
 - H. An adult-oriented business shall not have displayed on or about the exterior of any building in, or premises on, which an adult-oriented business is located any sign, advertisement, or depiction visible to the general public, wherever located, containing any adult-oriented entertainment or material.

§ 128-95.2. Farmers' markets.

- A. All farmers' markets and their vendors shall comply with all federal, state, and local laws relating to the operation, use and enjoyment of the market premises.
- B. All farmers' markets and their vendors shall obtain all required operating and health permits, and these permits (or copies) shall be in the possession of the farmers' market operator or the vendor, as applicable, on the site of the farmers' market during all hours of operation.
- C. All farmers' markets shall have a representative of the operator authorized to direct the operations of all vendors participating in the market on the site of the market during all hours of operation.
- D. All farmers' markets shall establish and maintain rules of operation governing the eligibility of vendors, products that may be sold, conduct of vendors, set up of the market, etc.

§ 128-95.3. Peddlers.

Peddlers' activities are allowed in the districts that permit such use. Peddlers shall be licensed by the Town and comply with all requirements.

Article XII. Parking, Loading and Unloading Area Requirements

§ 128-96. Definitions.

Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined below shall have the meanings indicated when used in this section.

CIRCULATION AREA

That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

DRIVEWAY

That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

GROSS FLOOR AREA

The total area of a building measured by calculating the floor area of each floor level intended for occupancy or storage by taking the outside dimensions of the building at each floor and summing all floor areas.

LOADING AND UNLOADING AREA

That portion of the vehicle accommodation area used to satisfy the requirements of § 128-107.

PARKING AREA AISLES

That portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

PARKING SPACE

A portion of the vehicle accommodation area set for the parking of one vehicle.

VEHICLE ACCOMMODATION AREA

That portion of a lot that is used by vehicles for access, circulation, parking, and loading and unloading. It comprises the total of circulation areas, loading and unloading areas, and parking areas (spaces and aisles).

§ 128-97. Number of parking spaces required.

- A. All developments in all zoning districts other than the Central Business Commercial (CBC) District shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are

likely to be attracted to the development in question. Except for projects that only require a simplified site plan pursuant to § 128-187 where the Director of Planning will determine the applicable parking standards, parking space requirements in the CBC District will be determined by the Planning Commission. When adequate off-street parking cannot practically be provided on site in the CBC District, the Planning Commission may require the developer to provide a fee in lieu of parking. Such fees collected shall be used by the Town to construct municipal parking elsewhere in the district.

- B. The presumptions established by this article are that a development must comply with the parking standards set forth in Subsection **E** to satisfy the requirement stated in Subsection **A**, and any development that does meet these standards is in compliance. However, the Table of Parking Requirements is only intended to establish a presumption and should be flexibly administered, as provided in § 128-98.
- C. When determination of the number of parking spaces required by the Table of Parking Requirements results in a requirement of a fractional space, any fraction of 1/2 or less may be disregarded, while a fraction in excess of 1/2 shall be counted as one parking space.
- D. The Town recognizes that the Table of Parking Requirements set forth in Subsection **E** cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the permit-issuing authority is authorized to determine the parking requirements using this table as a guide.
- E. Table of Parking Requirements.

Use	Parking Requirement
Single-family detached dwellings/two-family duplex dwellings	2 spaces per dwelling unit with 3 bedrooms or less
Multifamily dwellings and townhouses	1 space per efficiency unit; 1 1/2 spaces per each one-bedroom unit; 2 spaces per each two-bedroom unit; 2 1/2 spaces per three-bedroom unit, plus 1/2 space per each additional bedroom
Manufactured housing	2 spaces per dwelling unit
Hotel and motel efficiency unit	1 space per hotel guest room
Hotel and motel guest suite	1 1/2 spaces for the first 50 units; 1 space per each unit above 50 units
Rooming house, boardinghouse, lodging house	1 space per guest room
Church, synagogue or temple	1 space per 5 seats or bench seating capacity (for seats in the main auditorium only)
College or high school	1 space per 5 seats in the main auditorium or 8 spaces per classroom, whichever is greater
Elementary, junior high or nursery school	1 space per 10 seats in the main auditorium or 1 space per classroom, whichever is greater
Public libraries, museums, art galleries, community centers and public buildings	1 space per 300 square feet of floor area, minimum 5 spaces
Child or adult day-care centers	1 space per 5 persons rated capacity
Radio or television broadcasting station	1 space per 400 square feet gross floor area; an auditorium for a broadcasting station shall require one space per 5 persons rated capacity
Exposition centers or fairgrounds	1 space per 5 persons estimated attendance
Automobile filling station	1 space per 2 employees on the maximum working shift
Automobile service station	3 spaces per bay
Furniture or appliance store, machinery,	1 space per 300 square feet gross floor area, 5 spaces

equipment and automobile and boat sales and service	minimum
Private club, lodge, assembly hall and other recreational facilities	1 space per 5 persons rated capacity
Sanitarium, convalescent home, home for the aged or similar institution	1 space per 5 patient beds
Hospital	1 space per 2 patient beds
Offices for business, banking or professional use	1 space per 300 square feet of gross floor area, minimum 5 spaces
Restaurant, fast-food restaurant, cocktail lounge, tavern, nightclub, and other establishments for the consumption of food or beverages on or off premises	1 space per 100 square feet of enclosed gross floor area, minimum 5 spaces, and 1 space per 200 square feet of unenclosed outdoor dining area in excess of the enclosed gross floor area
Retail store, convenience food store or personal service establishment, 5,000 square feet or less gross floor area	1 space per 200 square feet of gross floor area, minimum 5 spaces
Shopping centers, shopping plazas, retail stores, personal service establishments and convenience food stores greater than 5,000 square feet	a. 1 space per 225 square feet gross floor area, except movie theaters
	b. When restaurants, fast-food establishments, cocktail lounges, taverns, nightclubs or other establishments for the consumption of food or beverages on or off premises are located in a shopping center and comprise less than 25% of the gross floor area of the shopping center, the parking requirement shall be that for the shopping center.
	c. When restaurants, fast-food establishments, cocktail lounges, taverns, nightclubs or other establishments for the consumption of food or beverages on or off premises are located in a shopping center and comprise greater than 25% of the gross floor area of the shopping center, the parking requirement shall be provided for those uses in accordance with the separate requirements. The parking calculation shall be computed separately for the retail and eating and drinking establishments, then combined.
Funeral homes	8 spaces per parlor or 1 space per 50 square feet of floor area, whichever is greater
Manufacturing, wholesale establishment, warehouse, industrial plant or similar establishment	1 space per 400 square feet gross floor area
General service or repair establishment, printing, publishing, plumbing or heating business	1 space per 400 square feet gross floor area
Auditorium, theater, gymnasium, stadium, arena, convention center, ballroom or similar establishment	1 space per 5 persons rated capacity
Bowling alley	6 spaces per lane
Game room, dance hall, skating rink, swimming	1 space per 5 persons rated capacity

pool, auditorium or exhibition center (without fixed seats), indoor racquet court, indoor athletic and exercise facility and similar uses

Movie theaters	1 space per 4 seats
Food storage lockers	1 space per 200 square feet of customer service area
General service or repair establishments	1 space per 3 employees on premises
Animal hospital	1 space per 400 square feet of gross floor area
Physician's or dentist's office	4 spaces per physician or dentist
Hospital	1 space per 2 patient beds
Hospitals, clinics in excess of 10,000 square feet and other medical treatment facilities	1.5 spaces per bed or 1 space per 400 square feet gross floor area, whichever is less
Clinics less than 10,000 square feet	1 space per 250 square feet of gross floor area
Group home, halfway house	1 space per each employee, plus 1 space per 2 occupants
Housing for the elderly or disabled	1 space per 2 beds, plus 1 space per each employee of the largest shift

§ 128-98. Flexibility in administration required.

- A. The Town recognizes that, due to the particularities of any given development, the inflexible application of the parking standards set forth in § **128-97E** may result in a development either with inadequate parking space or parking space far in excess of its needs. The former situation may lead to traffic congestion or parking violations in adjacent streets as well as unauthorized parking in nearby private lots. The latter situation wastes money as well as space that could more desirably be used for valuable development or environmentally useful open space. Therefore, as suggested in § **128-97**, the approving authority may permit deviations from the presumptive requirements of § **128-97E** and may require more parking or allow less parking whenever it finds that such deviations are more likely to satisfy the standard set forth in § **128-97**.
- B. Without limiting the generality of the foregoing, the permit-issuing authority may allow deviations from the parking requirements set forth in § **128-97E** when it finds that:
 - (1) A residential development is irrevocably oriented toward the senior citizens, 62 years or older;
 - (2) A business is primarily oriented to walk-in trade.
- C. Whenever the permit-issuing authority allows or requires a deviation from the presumptive parking requirements set forth in § **128-97E**, it shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation.
- D. If the permit-issuing authority concludes, based upon information it receives in the consideration of a specific development proposal, that the presumption established by § **128-97E** for a particular use classification is erroneous, it shall initiate a request for an amendment to the Table of Parking Requirements in accordance with the procedures set forth in this chapter, Article **XX**, Amendments.

§ 128-99. Parking space dimensions.

- A. Subject to Subsections **B** and **C**, each parking space shall contain a rectangular area at least 20 feet long and

9 feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section.

- B. In parking areas containing 10 or more parking spaces, up to 20% of the parking spaces need contain a rectangular area of only 7 1/2 feet in width by 15 feet in length. If such spaces are provided, they shall be conspicuously designated as reserved for small or compact cars only.
- C. Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than 22 feet long by 9 feet wide.

§ 128-100. Required widths of parking area aisles and driveways.

- A. Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking.

Aisle Width (feet)	Parking Angle				
	0°	30°	45°	60°	90°
One-way traffic	13	11	13	18	24
Two-way traffic	19	20	21	23	24

- B. Driveways shall be not less than 10 feet in width for one-way traffic and 18 feet in width for two-way traffic, except that ten-foot-wide driveways are permissible for two-way traffic when the driveway is not longer than 50 feet, it provides access to not more than six spaces, and sufficient turning space is provided so that vehicles need not back into a public street.

§ 128-101. General design requirements.

- A. Unless no other practicable alternative is available, vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one or two dwelling units, although backing onto arterial and major collector streets is discouraged.
- B. Vehicle accommodation areas of all development shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.
- C. Every vehicle accommodation area shall be designed so that vehicles are separated from walkways, sidewalks, streets, or alleys by a wall, fence, curbing or other protective device and cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to impact damage any wall, vegetation, or other obstruction
- D. Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.
- E. Off-street parking facilities shall be drained to prevent standing water and prevent damage or flooding to abutting property and public streets and alleys, surfaced with erosion-resistant material, and incorporate the best management practices of Chapter **106**, Stormwater Management. Off-street parking areas shall be

maintained in a clean, orderly, and dust-free condition at the expense of the owner or lessee and not used for the sale, repair, or dismantling or servicing of any vehicles, equipment, or materials.

§ 128-102. Vehicle accommodation area surfaces.

- A. Vehicle accommodation areas that include lanes for drive-in windows or contain parking areas that are required to have more than 10 parking spaces and that are used regularly at least five days per week shall be graded and surfaced with asphalt, concrete or other material that will provide equivalent protection against potholes, erosion, and dust, in accordance with Town specifications.
- B. Vehicle accommodation area surfaces shall match the specifications of the Town. Porous pavers may be allowed if consistent with the Town specifications and approved by the Town.
- C. Vehicle accommodation areas that are not provided with the type of surface specified in Subsection **A** shall be graded and surfaced with crushed stone, gravel, or other suitable material to provide a surface that is stable and will help to reduce dust and erosion. The perimeter of such parking areas shall be defined by bricks, stones, railroad ties, or other similar measures. In addition, whenever such a vehicle accommodation area abuts a paved street, the driveway leading from such street to such area (or, if there is no driveway, the portion of the vehicle accommodation area that opens onto such streets) shall be paved as provided in Subsection **A** for a distance of 15 feet back from the edge of the paved street. Single-family or two-family residences or other uses that are required to have only one or two parking spaces and abut a paved street without a sidewalk shall be paved as provided in Subsection **A** for a distance of five feet back from the edge of a paved street.
- D. Parking spaces in areas surfaced in accordance with Subsection **A** shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with Subsection **B** shall be demarcated whenever practical.
- E. Vehicle accommodation areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, vehicle accommodation area surfaces shall be kept in good condition (free from potholes, etc.), and parking space lines or markings shall be kept clearly visible and distinct.

§ 128-103. Joint use of required parking spaces.

- A. One parking area may contain required spaces for several different uses, but except as otherwise provided in this section, the required space assigned to one use may not be credited to any other use.
- B. To the extent that developments apply to make joint use of the same parking spaces to operate at different times, the same spaces may be credited to both uses. For example, if a parking lot is used in connection with an office building on Monday through Friday but is generally 90% vacant on weekends, another development that operates only on weekends may be credited with 90% of the spaces on that lot. Or, if a church parking lot is generally occupied only to 50% of capacity on days other than Sunday, another development may make use of 50% of the church lot's spaces on those other days.
- C. If the joint use of the same parking spaces by two or more principal uses involves satellite parking spaces, then the provisions of § **128-104** are also applicable.

§ 128-104. Satellite parking.

- A. If the number of off-street parking spaces required by this section cannot reasonably be provided on the same lot where the principal use associated with these parking spaces is located, then spaces may be provided on adjacent or nearby lots under separate ownership in accordance with the provisions of this section. These off-site spaces are referred to in this section as "satellite parking spaces."
- B. All such satellite parking spaces (except spaces intended for employee use) must be located within 400 feet of a public entrance of a principal building housing the use associated with such parking, or within 400 feet of the lot on which the use associated with such parking is located if the use is not housed within any principal building. Satellite parking spaces intended for employee use may be located within any reasonable distance on adjacent or nearby lots under separate ownership. Public street parking spaces shall not be permitted as accommodation for retail and office employee use.
- C. The developer wishing to take advantage of the provisions of this section must present satisfactory written evidence that he has the permission of the owner or other authorized person in charge of the satellite parking spaces to use such spaces. The developer must also sign an acknowledgment that the continuing validity of his permit depends upon his continuing ability to provide the requisite number of parking spaces.
- D. The developer who obtains satellite parking spaces in accordance with this section shall not be held accountable for ensuring that the satellite parking areas from which they obtain their spaces satisfy the design requirements of this article except as a requirement to fulfill the number of parking spaces.

§ 128-105. Special provisions for lots with existing buildings.

Notwithstanding any other provisions of this chapter, whenever there exists a lot with one or more structures on it constructed before the effective date of this chapter, and a change in use that does not involve any enlargement of a structure is proposed for such lot, and the parking requirements of § 128-97 that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking, then the developer need only comply with the requirements of § 128-97 to the extent the parking space is practicably available on the lot where the development is located, and satellite parking space is reasonably available as provided in § 128-104. However, if satellite parking subsequently becomes reasonably available, then it shall be a continuing condition of the permit authorizing development on such lot that the developer obtain satellite parking when it does become available.

§ 128-106. Parking area screening and landscaping.

- A. Parking areas of more than five vehicles which adjoin or are faced by a residential district shall be effectively screened on each side by an ornamental wall, fence, or compact evergreen hedge. Such screen shall be not less than four feet or more than six feet in height and shall be maintained in good condition without any advertising thereon. No part of any parking space shall be closer than five feet to any street line. Any lighting used to illuminate any parking area shall be so arranged as to direct the light away from adjoining premises in any residential district and from public roads, and comply with lighting standards set forth in Article XXII.
- B. Parking facilities with more than 10 parking spaces shall comply with the requirements below:

- (1) Interior landscaping. For surface parking facilities, at least 10% of the parking facility shall be permanently landscaped.
- (2) Interpretation; computation of interior landscaping requirement. The interior landscaping requirement shall be computed on the basis of the net parking facility. For the purposes of this section, "net parking facility" shall include parking stalls, access drives, aisles, walkways, dead spaces, and required separations from structures, but shall not include required street setbacks or access driveways or walkways within such setbacks.
- (3) Planting beds. All landscaping shall be contained in planting beds. Each planting bed shall have a minimum area of 25 square feet and shall be enclosed by appropriate curbing or similar device at least six inches wide and six inches in height above the paving surface.
- (4) Plant materials. Surface parking facilities shall contain at least one tree for each 1,500 square feet of required parking area. In addition to required trees, each planting bed shall contain appropriate ground cover or shrubbery. Nonplant material such as statuary or fountains may be used in landscaped areas, provided it does not dominate the planting bed.
- (5) Installation/maintenance. Landscaping shall be installed and continuously maintained by the owner.
- (6) Site plan requirements. All required site plans for parking facilities shall contain detailed landscaping and maintenance plans. The landscaping plan shall be drawn to an accurate scale and shall include:
 - (a) The location and size of planting beds.
 - (b) The location and variety of all plant materials to be used and long-term maintenance plans.
 Failure to meet all of the landscaping requirements shall be cause for rejection of the site plan.

§ 128-107. Loading and unloading areas.

- A. Subject to Subsection **E**, whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this section to accommodate the delivery or shipment operations in a safe and convenient manner.
- B. The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the development in question. The following table indicates the number and size of spaces that, presumptively, satisfy the standard set forth in this subsection. However, the permit-issuing authority may require more or less loading and unloading area if reasonably necessary to satisfy the foregoing standard.

Gross Floor Area of Building (square feet)	Number of Spaces¹
1,000 to 19,000	1
20,000 to 79,999	2
80,000 to 127,999	3
128,000 to 191,000	4
192,000 to 255,999	5
256,000 to 319,999	6
320,000 to 391,999	7

For each additional 72,000 square feet or fraction thereof

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NOTES:

¹ Minimum dimensions of 12 feet by 35 feet and overhead clearance of 14 feet from street grade are required.

- C. Loading and unloading areas shall be so located and designed that the vehicles intended to use them can maneuver safely and conveniently to and from a public right-of-way, and complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.
- D. No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.
- E. Whenever there exists a lot with one or more structures on it constructed before the effective date of this chapter, and a change in use that does not involve any enlargement of a structure is proposed for such lot, and the loading area requirements of this section cannot be satisfied because there is not sufficient area available on the lot that can practicably be used for loading and unloading, then the developer need only comply with this section to the extent reasonably possible.

§ 128-108. Bicycle parking facilities.

New commercial, institutional, office, industrial and recreation uses shall provide bicycle parking facilities.

Article XIII. Density and Dimensional Regulations

§ 128-109. Minimum lot size.

- A. The Planning Commission may reduce the minimum lot area and dimensions required for a lot or lots proposed for detached single-family residential dwellings in the SR and MR Zoning Districts upon a finding that:
 - (1) The proposed reduction shall result in residential development that is compatible and harmonious with existing and planned land uses in the area and no lot will be created that is so narrow or otherwise so irregularly shaped that it would be impractical to construct a residence thereon; or
 - (2) The proposed reduction shall result in residential development that is compatible and harmonious with existing and planned land uses in the area and reasonable development of a proposed development site is limited by existing natural site features such as nontidal wetlands, floodplain, or other sensitive area. Reasonable development, for the purpose of this section, does not guarantee maximum possible development under this chapter. Achieving the maximum possible density is not sufficient justification alone to permit a reduction in the minimum lot area and dimensions.
- B. The reduction in lot size and dimensions allowed shall be the minimum required in all cases and shall not result in any lot for a detached single-family residential dwelling that has an area of less than 5,000 square feet. In no case shall this provision be construed as permitting a density in excess of the maximum permitted residential density set forth in § 128-117.

- C. All lot size or dimension reductions shall be noted on any recorded subdivision plat.

§ 128-110. Residential density.

- A. Subject to §§ **128-109** and **128-116**, and Subsection **B** below, every lot developed for residential purposes shall have the number of square feet per dwelling unit indicated in the Table of Density and Dimensional Regulations (§ **128-117**). The column entitled "Residential Density: Maximum Dwelling Units Per Acre" shall be used to determine the number of dwelling units permissible on a tract of land.
- B. Two-family conversions and primary residences with an accessory apartment shall be allowed only on lots having at least 150% of the minimum square footage required for one dwelling unit on a lot in such district.

§ 128-111. Minimum lot widths.

- A. No lot shall be created that is so narrow or otherwise so irregularly shaped that it would be impracticable to construct on it a building that:
- (1) Could be used for purposes that are permissible in that zoning district; and
 - (2) Could satisfy any applicable setback requirements for that district.
- B. Without limiting the generality of the foregoing standard, the Table of Density and Dimensional Regulations (§ **128-117**) indicates minimum lot widths that are recommended and are deemed presumptively to satisfy the standard set forth in Subsection **A**. The lot width shall be measured along a straight line connecting the points at which a line that demarcates the required setback from the street intersects with lot boundary lines at opposite sides of the lot.

§ 128-112. Building setback requirements.

- A. Subject to §§ **128-113** and **128-116** and the other provisions of this section, no portion of any building shall be located on any lot closer to any lot line or to the street right-of-way line than is authorized in the Table of Density and Dimensional Regulations (§ **128-117**).
- (1) If the street right-of-way line is readily determinable (by reference to a recorded map, set markers, or other means), the setback shall be measured from such right-of-way line. If the right-of-way line is not so determinable, the setback shall be measured from the street center line, and 15 feet shall be added to the setback depth indicated in the table.
 - (2) As used in this section, the term "lot boundary line" refers to lot boundaries other than those that abut streets.
 - (3) As used in this section, the term "building" includes any substantial structure which by nature of its size, scale, dimensions, bulk, or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Without limiting the generality of the foregoing, the following structures shall be deemed to fall within this description:
 - (a) Gas pumps and overhead canopies or roofs.

- (b) Fences running along lot boundaries adjacent to public street rights-of-way if such fences exceed six feet in height and are substantially opaque.
- (4) Notwithstanding any other provision of this chapter, a sign may be erected on or affixed to a structure that has a principal function that is something other than the support of the sign (e.g., a fence), but does not constitute a building as defined in this chapter, only if such sign is located so as to comply with the setback requirement applicable to freestanding signs in the district where such sign is located.
- (5) Setbacks for freestanding signs shall be 1/2 the distance required for building setbacks.
- B. Whenever a lot in a nonresidential district has a common boundary line with a lot in a residential district, and the property line setback requirement applicable to the residential lot is greater than that applicable to the nonresidential lot, then the lot in the nonresidential district shall be required to observe the property line setback requirement applicable to the adjoining residential lot.
- C. Setback distances shall be measured from the property line or street right-of-way line to a point on the lot that is directly below the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it (such as a flagpole, etc.).
- D. Whenever a private road that serves more than three lots or more than three dwelling units or that serves any nonresidential use tending to generate traffic equivalent to more than three dwelling units is located along a lot boundary, then:
 - (1) If the lot is not also bordered by a public street, buildings and freestanding signs shall be set back from the center line of the private road just as if such road were a public street.
 - (2) If the lot is also bordered by a public street, then the setback distance on lots used for residential purposes shall be measured from the inside boundary of the traveled portion of the private road.

§ 128-113. Accessory building setback requirements.

All accessory buildings in residential districts must comply with the street right-of-way and side lot boundary setbacks set forth in § 128-112 but (subject to the remaining provisions of this section) shall be required to observe only a five-foot setback from rear lot boundary lines.

- A. Where the high point of the roof or any appurtenance of any accessory building exceeds 12 feet in height, the accessory building shall be set back from rear lot boundary lines an additional two feet for every foot of height exceeding 12 feet.
- B. Maximum lot coverage of principal and accessory buildings shall not exceed 40% of the lot.

§ 128-114. Building height limitations.

- A. For purposes of this section:
 - (1) The height of a building shall be the vertical distance measured from the mean elevation of the finished grade at the front of the building to the highest point of the building.
 - (2) A point of access to a roof shall be the top of any parapet wall or the lowest point of a roof's surface, whichever is greater. Roofs with slopes greater than 75% are regarded as walls.

- B. Subject to the remaining provisions of this section, building height limitations in the various zoning districts shall be as indicated in the Table of Density and Dimensional Regulations (§ 128-117).
- C. Subject to Subsection **D**, the following features are exempt from the district height limitations set forth in Subsection **B**:
 - (1) Chimneys, church spires, elevator shafts, and similar structural appendages not intended as places of occupancy or storage.
 - (2) Flagpoles and similar devices.
 - (3) Heating and air-conditioning equipment, solar collectors, and similar equipment, fixtures, and devices.
- D. The features listed in Subsection **C** are exempt from the height limitations set forth in Subsection **B** if they conform to the following requirements:
 - (1) Not more than 1/3 of the total roof area may be consumed by such features.
 - (2) The features described in Subsection **C(3)** above must be set back from the edge of the roof a minimum distance of one foot for every foot by which such features extend above the roof surface of the principal building to which they are attached.
 - (3) The Planning Commission authority may authorize or require that parapet walls be constructed (up to a height not exceeding that of the features screened) to shield the features listed in Subsections **C(1)** and **(2)** from view.
- E. Notwithstanding Subsection **B**, in any zoning district, the vertical distance from the ground to a point of access to a roof surface of any nonresidential building or any multifamily residential building containing four or more dwelling units may not exceed 50 feet unless the Fire Chief certifies to the permit-issuing authority that such building is designed to provide adequate access for fire-fighting personnel or the Building Inspector certifies that the building is otherwise designed or equipped to provide adequate protection against the dangers of fire.
- F. Towers and antennas are allowed in all zoning districts to the extent authorized elsewhere in this chapter.

§ 128-115. (Reserved)

§ 128-116. Density on lots where portion dedicated to Town.

- A. Subject to the other provisions of this section, if any portion of a tract lies within an area designated on any officially adopted Town plan as part of a proposed public park, greenway, or bikeway, and before the tract is developed, the owner of the tract, with the concurrence of the Town, dedicates to the Town that portion of the tract so designated, then when the remainder of the tract is developed for residential purposes, the permissible density at which the remainder may be developed shall be calculated in accordance with the provisions of this section.
- B. If the proposed use of the remainder is a single-family detached residential subdivision, then the lots in such subdivision may be reduced in accordance with the provisions of §§ 128-115 and 128-116, except that the developer need not set aside usable open space to the extent that an equivalent amount of land has previously been dedicated to the Town in accordance with Subsection **A**.

- C. If the proposed use of the remainder is a two-family or multifamily project, then the permissible density at which the remainder may be developed shall be calculated by regarding the dedicated portion of the original lot as if it were still part of the lot proposed for development.
- D. If the portion of the tract that remains after dedication as provided in Subsection **A** is divided in such a way that the resultant parcels are intended for future subdivision or development, then each of the resultant parcels shall be entitled to its pro rata share of the density bonus provided for in Subsections **B** and **C**.

§ 128-117. Table of Density and Dimensional Regulations.

The Table of Density and Dimensional Regulations, **Appendix VIII**, is included at the end of this chapter.

§ 128-118. Notes to Table.

The notes to the table may be found with the table, **Appendix VIII**, at the end of this chapter.

Article XIV. Supplementary Height, Area and Bulk Requirements

§ 128-119. Purpose.

The regulations set forth in this article qualify or supplement the district regulations appearing elsewhere in this chapter.

§ 128-120. Modifications of height regulations.

- A. The height regulations as prescribed in this chapter shall not apply to:
 - (1) Belfries.
 - (2) Chimneys.
 - (3) Church spires.
 - (4) Cooling towers.
 - (5) Elevator bulkheads.
 - (6) Fire towers.
 - (7) Flag poles.
 - (8) Grain elevators.

- (9) Public monuments.
 - (10) Public and semipublic ornamental towers and spires.
 - (11) Radio and television broadcasting antennas and towers.
 - (12) Silos.
 - (13) Smoke stacks.
 - (14) Stage towers or scenery lofts.
 - (15) Tanks.
 - (16) Public water towers and standpipes.
 - (17) Public windmills (wind turbines) or public solar arrays.
- B. Public or semipublic buildings, hospitals, institutions, or schools, when permitted in a district, may be erected to a height not exceeding 60 feet, and churches and temples may be erected to a height not exceeding 75 feet, when the required side and rear yards are each increased by at least one foot for each one foot of additional building above the height regulations for the district in which the building is located.

§ 128-121. Modification of area regulations.

- A. Yards, generally.
- (1) Every part of a required yard shall be open to the sky, except as authorized by this article, and except ordinary projections of sills, belt courses, window air-conditioning units, chimneys, cornices, and ornamental features which may project to a distance not to exceed 24 inches into a required yard, and at a height not creating an obstruction along any public way, street, or thoroughfare.
 - (2) In the event that a lot is to be occupied by a group of two or more related buildings to be used for residential, institutional, hotel, or motel purposes, there may be more than one main building on the lot when such buildings are arranged around a court having a direct street access; provided, however, that said court between buildings that are parallel or within 45° of being parallel, shall have a minimum width of 20 feet for one-story buildings, 40 feet for two-story buildings, and 50 feet for three-story buildings, and, in no case may such buildings be closer to each other than 15 feet; where a court having direct street access is more than 50% surrounded by a building, the minimum width of the court shall be at least 30 feet for one-story buildings, 40 feet for two-story buildings, 50 feet for three-story buildings, and 60 feet for buildings four or more stories in height.
 - (3) Ornamental walls, fences, or hedges not more than four feet in height may project into or enclose any required front or side yard to a depth from the street line equal to the required depth of the front yard. Ornamental fences or walls may project into or enclose other required yards, provided such fences and walls do not exceed a height of seven feet. Walls, fences or hedges shall not create an obstruction of vision for oncoming traffic along roads as specified in § 128-122 or create an obstruction or hinder access to stormwater management systems or other similar devices required to be maintained.
 - (4) Permanently fixed, accessory, open, and uncovered home barbecue grills may occupy a rear yard, provided that the rear setback shall not be located closer than five feet to the rear lot line and three

feet to a side lot line.

- (5) Accessory buildings which are not a part of the main building, although they may be connected by an open breezeway, may be constructed in a rear yard, provided that such accessory building does not occupy more than 30% of the area of the required rear yard and provided that it is not located closer than five feet to the rear lot line and not closer than three feet to a side yard lot line.
- (6) Accessory swimming pools, open and uncovered, may occupy a rear or side yard, provided they are not located closer than six feet to a rear lot line or 10 feet to a side lot line.
- (7) A satellite antenna larger than 24 inches in diameter may be erected in a rear yard only as an accessory use subject to the following restrictions:
 - (a) May only be erected after construction of principal structure and after obtaining a building permit. Satellite antennae are encouraged to be located as close as reasonably possible to the principal structure for screening and concealment from view.
 - (b) Normally, only one antenna shall be erected per principal building. Where more than one satellite antenna is necessary, the Planning Commission shall require screening to the maximum extent possible.
 - (c) May be erected as a freestanding structure mounted on the ground and thoroughly stabilized and tied down in accordance with best building practices and conformance with the latest code regulating installation.
 - [1] A satellite antenna may be mounted on the roof of a building if used for educational purposes relating to a public or private school or a public service operation. Satellite antennas shall be screened or located to minimize view from any public way, street, or thoroughfare.
 - [2] For purposes of this section, a private school shall be a private educational facility which meets state accreditation for education.
 - [3] For purposes of this section, a public service operation shall be determined by the Town but may include such agencies as police, fire, governmental, and health services.
 - [4] Must be constructed by a recognized manufacturer in the trade and be professionally installed, meeting all safety standards of the Federal Communications Commission and be U.L. approved.
 - [5] Shall be reasonably screened or located to minimize view from the public thoroughfare and the ground level of adjacent properties. All screening shall be maintained as originally approved and, if not so maintained, any permit granted for the satellite is subject to revocation.
 - [6] Height, area, and bulk requirements shall be:
 - [a] Maximum height: 10 feet from ground to highest point of installed antenna.
 - [b] Maximum diameter: eight feet.
 - [c] Minimum rear setback: distance equal to the height of the satellite (maximum 10 feet).
 - [d] Minimum side setback: distance equal to the height of the satellite or the required side setback for the principal structure, whichever is greater.

- (d) Antennas less than 24 inches in diameter may be mounted on the roof of a building of a noneducational or public and semipublic services nature. Satellite antennas shall be screened or located to minimize view from any public way, street, or thoroughfare.
- (e) Properties within the Historic District require review and approval as to placement and screening of antenna.

B. Front yards.

- (1) Where an official line has been established for the future widening or opening of a street or major thoroughfare upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line to the nearest line of the building.
- (2) On through lots, the required front yard shall be provided on each street.
- (3) There shall be a front yard of 25 feet on the side street of a corner lot; provided, however, that the buildable width of a lot of record shall not be so reduced so as to render it unusable. The Director of Planning shall be guided by the pattern of development in the vicinity of the lot in question in determining which is the side street, and the appropriate setback for such lots of record.
- (4) Where 25% or more of the street frontage, or where 25% or more of the street frontage within 400 feet of the property in question, is improved with buildings that have a front yard (with a variation of six feet or less) that is greater or less than the required front yard in the district, no building shall project beyond the average front yard so established; provided, however, that a depth of front yard of more than 50% in excess of the depth of the required front yard in the district in which the lot is located shall not be required. Where 40% or more of the street frontage is improved with buildings that have no front yard, no front yard shall be required for the remainder of the street frontage.
- (5) The Planning Commission may establish a build-to line in existing residential neighborhoods where the majority of existing residences are located close to the street. Where established, the build-to line shall dictate the placement of a building or structure from the street right-of-way line on which the building fronts. On a corner lot, the build-to line applies to both sides of the lot which have street frontage. The front porch shall be placed on the build-to line. Variations of 25% of the distance from the street right-of-way to the build-to line may be permitted to create variety in streetscape. Whenever a building does not front on a right-of-way, the build-to line shall be measured from the edge of the pavement of an accessway in front of or on the side of the building.

C. Side yards.

- (1) Where dwelling units are erected above business structures in business districts, no side yards are required except such side yards as may be required in the district regulations for a business or industrial building.
- (2) For the purpose of the side yard regulations, a group of business or industrial buildings separated by common or party walls shall be considered as one building occupying one lot.
- (3) The minimum depth of side yards for schools, libraries, churches, community houses, and other public and semipublic buildings in residential districts shall be 25 feet, except where a side yard is adjacent to a business or industrial district, in which case the depth of that yard shall be as required in the chart of Article XIII for the district in which the building is located.

D. Rear yards. Open or partially or semienclosed fire escapes, outside stairways and balconies opening upon fire towers and the ordinary projections of chimneys and flues may project into the required rear yards for

a distance of not more than five feet, but only where the same are so placed as not to obstruct light and ventilation.

- E. Authority to vary setbacks. For all infill and redevelopment applications in the TR, MR, MI, RA, and SR Districts, the Planning Commission may vary the front yard, side yard or rear yard setbacks set forth in this chapter if it finds that:
- (1) The property owner complies with the Town's Residential Infill and Redevelopment Guidelines. See **Appendix IV** at the end of this chapter; and
 - (2) The proposed setbacks do not affect the privacy, sunlight or views of the adjacent property, nor restrain the potential of the adjacent property for future development.

§ 128-122. Corner visibility.

No sign, fence, wall hedge, planting, or other obstruction to vision, extending to a height in excess of three feet above the established street grade, shall be erected, planted, or maintained within the area of a corner lot that is included between the lines of the intersecting streets and a straight line connecting them at points 20 feet distant from the intersection of the street unless otherwise approved by Planning Commission or the Director of Planning.

§ 128-123. Lot area.

If the owner of a lot in any district can show that the deed or instrument under which such owner acquired title to such lot was of record prior to the application of any zoning regulations and restrictions to the premises, and if such lot does not conform to the requirements of such regulations and restrictions as to width of lots and lot area per family, the provisions of such lot area per family and lot width regulations and restrictions shall not prevent the owner of such lot from erecting a single-family dwelling or making other improvements on the lot, provided that such improvements conform in all other respects to applicable zoning regulations and restrictions.

§ 128-124. Building conversion.

- A. Conversion of any nonresidential building existing at the time of passage of this chapter, so as to permit the housing of any number of families, is permitted, provided there is substantial compliance with the yard requirements for the district and compliance with:
- (1) The use regulations of the zoning district in which the building is located;
 - (2) The lot area per unit requirement; and
 - (3) The off-street parking requirement.
- B. Where the above conditions are not met but there is compliance with the use regulations of the district, the conversion may be permitted only if a variance is granted by the Board of Appeals in accordance with the standards of this chapter.

§ 128-125. Fencing/screening.

A. Fences, walls, and hedges.

- (1) Corner visibility: Any sign, fence, wall, hedge, planting or other obstruction to vision located at a corner of two streets shall be limited in height to three feet from road grade.
- (2) Front yard: Any fence or wall located in the front yard shall be limited in height to four feet from road grade, except in I/MI Districts where a fence seven feet high from road grade may be erected 20 feet from the front property line.
- (3) Side yard: Any fence or wall located in the side yard shall be limited in height as follows:
 - (a) For the first 30 feet from the front property line, height shall not exceed four feet from grade, except that in the RHC, I and MI Districts height shall not exceed four feet from grade for the first 20 feet from the front property line.
 - (b) For the balance of the side yard, height shall not exceed seven feet from grade.
- (4) Swimming pools shall be regulated by the Town of Denton Building Code, Chapter **38**, Building Construction, Art. **II**, Building Code.
- (5) Chain link fencing is only allowed in the Industrial District.

Article XV. Signs

[Amended 6-6-2011 by Ord. No. 631, effective 6-16-2011; 10-4-2012 by Ord. No. 649, effective 10-14-2012; 3-7-2013 by Ord. No. 652, effective 3-17-2013; 5-1-2014 by Ord. No. 658, effective 5-8-2014]

§ 128-126. General sign regulations.

- A. For the purpose of this article, signs are recognized to present unique problems and conditions, and therefore the following regulations and restrictions are intended to ensure that signs which because of their nature, size, structure, design, color, lighting, or location will not create an adverse effect on surrounding properties and the community in general.
- B. After the effective date of this article and unless herein excepted, no sign shall be erected, constructed, posted, painted, altered, maintained, or relocated except as provided in this section and in these regulations, until a permit has been issued by the Director of the Department of Planning and Codes, henceforth known as "the Director," or his/her designee. The Director or his/her designee shall be responsible for providing an application. Before any permit is issued, an application shall be filed, together with a sketch, drawing, or specification as may be necessary to fully advise and acquaint with the location, construction, materials, manner of illuminating, securing, or fastening, and number of signs for which approval is sought.
- C. For the purposes of this article, signage area, height, and location shall be in accordance with the following:
 - (1) Signage area shall be based on the entire area of the sign with a single continuous perimeter enclosing

the extreme limits of the sign surface. Signage area for individual letters and logos shall be measured individually, and the total area of all letters and logo shall constitute the signage area. Signage support and framework shall not be included in the signage area calculation. Signs with two faces no more than two feet apart shall be considered as one signage area.

- (2) Sign height shall be measured from the adjacent grade, paved walk, or vehicular surface to the lowest and/or highest point of the sign.
 - (3) Freestanding signs shall be located 1/2 the distance required for the building setback, except in the Industrial Zoning District where a freestanding sign shall be located a minimum of 10 feet from the property line.
 - (4) No sign shall be installed or constructed extending over or above the roof or parapet of a building or into a public right-of-way or street.
- D. The Director or his/her designee shall remove or cause to be removed any sign erected or maintained in conflict with these regulations if the owner or lessee or responsible party of either the site or the sign fails to correct the violation within 30 days after receiving a written notice of violation from the Director or his/her designee. Removal of a sign shall not affect any proceedings instituted prior to removal of such sign, including but not limited to, formal enforcement activities and/or imposition of fines.
- E. Any unpaid expenses associated with enforcement activities, including the imposition of fines and the cost of correcting violation(s), shall be subject to lien against the property. The procedure for an appeal of violation(s) is established in accordance with Chapter **94**, Property Maintenance.
- F. Nonconforming signs may not be enlarged, substantially altered, moved, or replaced except to bring the sign into conformity with these regulations. For the purposes of this article, a nonconforming sign may be repaired and renovated to the original sign specifications.
- G. The Board of Appeals, pursuant to the authority and procedures set forth in Article **XIX**, Citizen Boards, may grant variances to these regulations as established in § **128-126H**.
- H. Restrictions.
- (1) No signs, banners, pennants, streamers, spinners, or similar devices constructed of cloth, fabric, cardboard, metal, or other like material, displayed for purposes shall be erected except where the Director or his/her designee has authorized such use or is otherwise permitted by these regulations.
 - (2) No sign shall be constructed, erected, or otherwise installed within a required buffer area, forested, or similar conservation easements or area, or create a hazard or unsafe condition, including but not limited to, the safety of vehicular and pedestrian traffic.
 - (3) All signs and supporting structures shall be maintained in good condition and appearance. After due notice has been given, the Director or his/her designee may cause to be removed any sign which shows gross neglect or becomes dilapidated.
 - (4) Where permitted by these regulations, illumination shall meet the standards and regulations as provided for in Article **XXII**, Outdoor Lighting.
 - (5) All signs shall comply with the yard setback requirements of the district in which they are located except that freestanding signs may be located within the front yard setback.
 - (6) The owner and/or tenant of the premises shall be held responsible for any violation of these regulations. Where a sign has been erected in accordance with these regulations, the sign company

shall be relieved of further responsibility under these regulations.

- (7) Except in the Historic Overlay Zone, where Historic and Architectural Review Commission review and approval is required, repainting and changing the message of a sign shall not, in and of itself, be considered a substantial alteration.
- (8) For the purposes of enhancing visibility of a sign, no person may damage, trim, destroy, or remove trees, shrubs, or vegetation located within:
 - (a) The right-of-way of any public street or road without express written authorization of the owner of the right-of-way;
 - (b) On any other property other than under direct ownership or control of where the sign is located; or
 - (c) In any area where such vegetation is required as part of the critical area regulations.
- (9) Off-site signage. "Off-site signage" shall mean signage of any material or vehicle advertising a business, event, or activity that is not physically and permanently located on the lot or parcel where signage is displayed. No off-site signage is allowed except as permitted in § **128-127**, Sign types and dimensional regulations, and § **128-126I** of this Code.
- (10) Temporary signage. Unless permitted by the regulations under § **128-126I** of this Code, temporary signage shall be defined as any signage, temporary in nature, including vehicles or signage constructed or fabricated of posters, paper, plastic, cardboard, fabric or similar types of materials, installed for 30 days or less. Any signage installed and in use for greater than 30 days shall be determined as permanent and shall comply with this Code.
- (11) Vehicle signage. No vehicle shall be used as permanent signage, on-site or off-site except as permitted in § **128-127**, Sign types and dimensional regulations, and the following:
 - (a) For the purposes of this Code, vehicle signage permitted by § **128-127** is considered permanent if located on a parcel or lot more than the time as established in § **128-126H(10)** of this Code.
 - (b) All vehicle signage, whether the use is temporary or permanent in nature, shall be properly licensed and registered, operable, maintained in clean and good condition, and parked or stored on a fully stabilized surface intended for vehicles. "Stabilized surface" shall mean any surface such as asphalt, concrete, gravel, grass-pave, or similar construction for the purpose of the parking, storage, or driving of vehicles.
- I. Use regulations. The following sign uses, and no other, are permitted, provided the regulations as set forth in Subsections **C** and **H** are met:
 - (1) Professional, accessory use, or name signs indicating the profession or activity of a dwelling, or signs indicating the private nature of a driveway or property, providing that no more than two such signs shall be located along one road frontage and that the combined area on one side of such sign or signs shall not exceed two square feet.
 - (2) Identification signs, announcement signs, or bulletin boards, relating to a religious institution, educational facility, hospital, municipal or government facility, charitable or civic institution or facility, providing that not more than one sign shall be placed on any street frontage of any one property.
 - (3) Official signs, erected by a public authority or public utility, such as, but not limited to, highway signs, railroad crossing, hazard and other signs that may be required by a governmental or public utility

authority or agency in connection with the identification, operation or protection of property, persons, or activity.

- (4) Warning signs may be placed by property owners to warn of dangers, such as, but not limited to, hidden driveways and traffic directions on private drives.
- (5) Real estate signs relating to advertisement of individual properties for sale or rent may be placed on the property, provided no more than one sign is installed per street frontage on a property by any one real estate organization. The sign shall be removed promptly when the properties are sold or rented.
- (6) Directional signs relating to a use located in the Town may be erected off site. These signs shall not include more than the name, direction and nature of the business activity referred to. Each sign shall have not more than two square feet on each side and not more than two shall be erected for any one use. Directional signs for activities outside the Town will not be allowed within the Town.
- (7) Legal notices, such as, but not limited to, signs used to post a property to prevent trespassing, hunting, trapping, etc.
- (8) Temporary public announcements to advertise public benefits of religious institutions, fire companies, other public charitable religious events, and public sales events of an individual's household goods, stock, or property are permitted, providing that:
 - (a) The event is held in Town;
 - (b) The notices are not more than 16 square feet in area, and removed within 14 days; or 48 hours following the event, whichever is the lesser time.
- (9) Special event, sale, and grand opening signs shall be erected in accordance with the following:
 - (a) A carnival, fair, circus, festival, or similar event may locate banners, flags, pennants, streamers, and similar signs, provided these signs are displayed four weeks prior to the event and removed no more than three days after the event. Signs advertising such events may be erected and located off site, provided no more than four signs are erected per lot or parcel, not exceeding 32 square feet in signage area, per sign, and written property owner permission is obtained.
 - (b) Banners, flags, pennants, streamers and similar signs may be erected and installed for special sales and grand openings, provided signage does not indicate prices and is removed no more than three days after the event and is no more than 24 square feet in signage area. Signs advertising such events may be erected and located off site, provided no more than a total of four signs are erected or installed, one sign per any given parcel, not exceeding 32 square feet in signage area per sign, and written property owner permission is obtained.
- (10) Temporary nonilluminated, political signs 16 square feet in area or less are permitted in any zoning district and shall be removed within seven days after the election. Removal shall be the responsibility of the candidate or erector of the sign.
- (11) Flag and pennant signs shall be in accordance with the following standards:
 - (a) Shall not exceed eight square feet for each 10 linear feet of street frontage;
 - (b) In connection with a commercial promotion or as an advertising device, providing only such information to identify the business located on the property;
 - (c) Shall be maintained in accordance with the safety and maintenance standards of these

regulations.

- J. Variances. Pursuant to the authority and procedures set forth in Article **XIX**, Citizen Boards, § **128-163**, Board of Appeals, the Board of Appeals may grant variances to the limitations set forth in these regulations as follows:
- (1) An adjustment of up to 20% of the limitations set forth in these regulations with respect to the following dimensional criteria:
 - (a) Sign area;
 - (b) Height;
 - (c) Distance of permitted projection;
 - (d) Setback;
 - (e) Distance from other zoning lots;
 - (f) Height of lettering.
 - (2) An increase of one sign in addition to the maximum number of signs permitted per lot, building, or street frontage where special or unusual conditions of the lot or parcel justify increasing the number of signs.
 - (3) The Board of Appeals may reasonably modify the provisions of Subsection **J(1)(a)** through **(f)** of these regulations based on special or unusual conditions of the site or building.
 - (4) In addition to the review criteria and findings set forth in § **128-163** for variances, the Board of Appeals shall only approve an application in accordance with the standards as set forth in this article for signage.
- K. Shopping centers, big-box stores, commercial medical centers, and industrial centers. The Planning Commission may grant approval as part of the site plan approval process. The Official Tables of Sign Types and Dimensional Regulations is hereby included as Exhibit A, § **128-127**,^[1] and the following standards shall apply:
- (1) A plan shall be required showing the overall design and treatment of signs throughout the center or big-box store, which shall be submitted to and approved by the Planning Commission as part of the comprehensive development plan and site plan approval process. All signs within the center or big-box store shall be controlled by written agreement between the owners and tenants of the center or big-box store to ensure an attractive and harmonious appearance throughout the center or big-box store.
 - (2) Sign lighting may be indirect, internally illuminated, direct downlight, and shall be in conformance with Article **XXII**, Outdoor Lighting, and the provisions of Chapter **38**, Building Construction, the International Energy Conservation Code ("IECC").
 - (3) No signage shall be flashing or otherwise create a vehicular or pedestrian hazard.
 - (4) The Planning Commission shall approve signage as established in the Official Tables of Sign Types and Dimensional Regulations, included as Exhibit A, § **128-127**, (5A) and (6A),^[2] or exceed the sizes and number of signage, or otherwise modify the standards of the Official Tables based on the proposed plan or other conditions of the site.
- [2]: *Editor's Note: Exhibit A is included as an attachment to this chapter.*

- (5) Existing signage. Individual signage in existing shopping centers, big-box stores, commercial medical centers, and industrial centers shall comply with the signs dimensions as established in the Official Tables of Sign Types and Dimensional Regulations, included as Exhibit A, § 128-127, (5) and (6), unless determined as comprehensive sign redevelopment defined in this section. "Comprehensive sign redevelopment" shall be defined as any design change of all signage in the center.
- (6) Sign redevelopment. For the purposes of this section, "sign redevelopment" shall mean the comprehensive design and replacement of all existing signs in shopping center, big-box store, industrial center, and commercial center.
- (7) Fees. For the purposes of establishment and payment of fees, any signage review by the Planning Commission shall be based on the fee as established for a minor site plan review. Signage permit fees shall be considered a separate fee from this review.

[1]: *Editor's Note: Exhibit A is included as an attachment to this chapter.*

§ 128-127. Sign types and dimensional regulations.

The Official Tables of Sign Types and Dimensional Regulations is hereby included as Exhibit A.^[1]

[1]: *Editor's Note: Exhibit A is included as an attachment to this chapter.*

§ 128-128. through § 128-142. (Reserved)

Article XVI. Environmental Standards, Landscaping, Shading and Buffers

§ 128-143. General requirements for landscaping and site treatment.

The provisions of this section shall apply to all development in the Town exclusive of single-family dwellings.

- A. Where natural or existing topographic patterns contribute to beauty and utility of development, they shall be preserved and developed. Modification to topography will be permitted where it contributes to good appearance.
- B. Grades of walks, parking spaces, terraces, and other paved areas shall provide an inviting and stable appearance for walking and, if seating is provided, for sitting.
- C. Landscape treatment shall be provided to enhance architectural features, strengthen vistas and important nodes, and provide shade. Spectator effects shall be reserved for special locations only.
- D. Utility of design shall be achieved by repetition of certain plant varieties and other materials by correlation with adjacent developments.
- E. Plant material shall be selected for interests in its structure, texture, and color, and ultimate growth. Plants

that are indigenous to the area and others that will be hardy, harmonious to design, and of good appearance shall be used.

- F. In locations where plants will be susceptible to injury by pedestrian or motor traffic, they shall be protected by appropriate tree guards, curbs, or other devices.
- G. Parking areas and traffic ways shall be enhanced with landscaped spaces containing trees and bushes, or tree and bush groupings.
- H. Where building sites limit planting, the placement of plant material in parkways or around paved areas is encouraged.
- I. Screening of service yards or other places that tend to be unsightly shall be accomplished by use of walls, fencing and planting, or a combination of these. Screening shall be equally effective in winter and summer.
- J. In areas where general plant material will not prosper, other materials such as fences, walls, and paving of wood, brick, stone, gravel, and cobbles shall be used. Carefully selected plants shall be combined with such materials where possible.
- K. Exterior lighting, when used, shall enhance the building design and the adjoining landscape. Lighting standards and building fixtures shall be of a design and size compatible with the building and adjacent areas. Lighting shall be restrained in design and excessive brightness avoided. Article **XXII** of this chapter further defines the lighting requirements.

§ 128-144. Shading.

- A. The Town finds that:
 - (1) Trees are proven producers of oxygen, a necessary element for human survival;
 - (2) Trees appreciably reduce the ever increasing environmentally dangerous carbon dioxide content of the air and play a vital role in purifying the air we breathe;
 - (3) Trees transpire considerable amounts of water each day and thereby purify the air much like the air-washer devices used on commercial air conditioning systems;
 - (4) Trees have an important role in neutralizing wastewater passing through the ground from the surface to groundwater tables and lower aquifers;
 - (5) Trees, through their root systems, stabilize the groundwater tables and play an important and effective part in soil conservation, erosion control, and flood control;
 - (6) Trees are an invaluable physical, aesthetic, and psychological counterpoint to the urban setting, making urban life more comfortable by providing shade and cooling the air and land, reducing noise levels and glare, and breaking the monotony of human developments on the land, particularly parking areas; and
 - (7) For the reasons indicated in Subsection **A(6)**, trees have an important impact on the desirability of land and therefore on property values.
- B. Based upon the findings set forth in Subsection **A**, the Town Council declares that it is not only desirable but essential to the health, safety, and welfare of all persons living or working within the Town's planning jurisdiction to protect certain existing trees and, under the circumstances set forth in this article, to require

the planting of new trees in certain types of developments.

§ 128-145. Required trees along dedicated streets.

Along both sides of all newly created streets that are constructed in accordance with Chapter **73**, Land Subdivision, the developer shall either plant or retain sufficient trees so that between the paved portion of the street and a line running parallel to and 50 feet from the center line of the street, there is for every 30 feet of street frontage at least an average of one deciduous tree that has, or will have when fully mature, a trunk at least 12 inches in diameter. Trees, when planted, shall have a caliper of at least 2.5 inches measured at 4.5 feet from ground level, and shall have no branches below six feet. All trees shall be properly staked at time of planting.

§ 128-146. Retention and protection of large trees.

- A. Every development shall retain all existing trees 18 inches in diameter or more unless the retention of such trees would unreasonably burden the development.
- B. No excavation or other subsurface disturbance may be undertaken within the dripline of any tree 18 inches in diameter or more, and no lot coverage surface (including, but not limited to, paving or buildings) may be located within 12 1/2 feet (measured from the center of the trunk) of any tree 18 inches in diameter or more unless compliance with this subsection would unreasonably burden the development. For purposes of this subsection, a "dripline" is defined as a perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground.
- C. The retention or protection of trees 18 inches in diameter or more as provided in Subsections **A** and **B** unreasonably burdens a development if, to accomplish such retention or protection, the desired location of improvements on a lot or the proposed activities on a lot would have to be substantially altered and such alteration would work an unreasonable hardship upon the developer.
- D. If space that would otherwise be devoted to parking cannot be so used because of the requirements of Subsections **A** or **B**, and, as a result, the parking requirements set forth in this chapter cannot be satisfied, the number of required spaces may be reduced by the number of spaces lost because of the provisions of Subsections **A** and **B**, up to a maximum of 15% of the required spaces.

§ 128-147. Shade trees in parking areas.

- A. Vehicle accommodation areas that are required to be paved by Article **XII** must be shaded by deciduous trees (either retained or planted by the developer) that have, or will have when fully mature, a trunk at least 12 inches in diameter when trees are planted by the developer to satisfy the requirements of this subsection.
- B. Each tree of the type described in Subsection **A** shall be presumed to shade a circular area having a radius of 15 feet, with the trunk of the tree as the center, and there must be sufficient trees so that, using this standard, 20% of the vehicle accommodation area will be shaded.
- C. No paving may be placed within 12 1/2 feet (measured from the center of the trunk) of any tree retained to comply with Subsection **A**, and new trees planted to comply with Subsection **A** shall be located so that they

are surrounded by at least 200 square feet of unpaved area.

- D. Vehicle accommodation areas shall be laid out and detailed to prevent vehicles from striking trees. Vehicles will be presumed to have a body overhang of 3 1/2 feet.

§ 128-148. Bufferyards.

A. Purpose.

- (1) One of zoning's most important functions is the division of land uses into districts which have similar character and contain compatible uses. All uses permitted in any district have generally similar nuisance characteristics. Bufferyards will operate to minimize the negative impact of any future use on neighboring uses.
- (2) The bufferyard is a combination of setback depth and landscaped screening. The width of the bufferyard in combination with the type and amount of plantings required are designed to effectively "separate" incompatible land uses at adjoining zoning district boundaries. Street bufferyards are required to preserve open space and landscaping along public streets and roads.

- B. Location of bufferyards. Bufferyards shall be located on the outer perimeter of a lot or parcel which also forms a zoning district boundary, and along public roads and streets. However, bufferyards shall not be located on any portion of an existing or dedicated public or private street or right-of-way.

- C. Determination of required bufferyard. To determine the type of bufferyard required on a lot or parcel, the following procedure shall be used:

- (1) Identify whether any portion or property line of the site constitutes a zoning district boundary. If it does, determine the zoning on both sides of the property.
- (2) Determine whether the land on the adjoining property is vacant or developed or whether a subdivision plat or site plan has been approved.
- (3) Classify any street adjacent to the proposed use as a local access, collector, or arterial street.
- (4) Determine the bufferyard required on each boundary (or segment thereof) of the subject parcel by referring to the tables of required bufferyards (Subsection **E**) and responsibilities for bufferyards (Subsection **D**).

D. Responsibility for bufferyards.

- (1) Preexisting development is exempt from bufferyard requirements.
- (2) When a new development is constructed along a public street or right-of-way, the developer shall install the required bufferyard as specified in the tables of Subsection **E**.
- (3) When a new development, redevelopment or expansion of a development is constructed on a lot adjoining a zoning district boundary, the developer shall install 1/2 of the total required bufferyard if the land in the adjoining district is vacant. When the vacant parcel is subsequently developed, the developer of that parcel shall install the second half of the total required bufferyard.
- (4) When a new development is constructed on a lot adjoining a zoning district boundary, the developer shall install the total required bufferyard if the land in the adjoining district has been previously

developed without a bufferyard.

- (5) Existing plant materials and/or land located on the preexisting development lot perimeter may be counted as contributing to the total bufferyard required between that lot and the adjoining developing lot.

E. Tables of required bufferyards.

Bufferyards Between Adjacent Districts

	SR	TR	MR	GC	CBC	CM	RHC	I	MI	RA	RP	PN
SR		na	C ¹	na	na	C	E	E	na	E	A	C
TR			B ¹	D	C	C	E	E	na	E	A	na
MR				C	B	B	D	E	E	E	A	C
GC					na	C	na	C	na	na	B	na
CBC						na	na	na	na	na	A	na
CM							na	na	na	na	C	na
RHC								na	na	na	D	D
I									na	na	C	na
MI										na	C	na
RA											na	E
RP												C
PN												

NOTES:

- ¹ Bufferyards only required between single-family attached and multifamily/single-family detached homes.
- na Bufferyards either not required or not applicable (districts not contiguous or streets between).

Street Buffers

Street Functional Class

Zoning District	Major Arterial	Minor Arterial	Major Collector	Minor Collector	Local Access
SR	A	B	A	B	na
TR	A	B	A	B	na
MR	C		B		A
GC	na	na	na	na	na
CBC	na	na	na	na	na
CM	na	A	B	A	na
RHC	E	D	C	C	B
I	E	D	C	C	B
MI	na	na	na	na	B
RA	C	C	C	C	C
RP	E	E	D	D	A
PN	E	E	D	D	A

- F. Bufferyard requirements. Illustrations in **Appendix II** at the end of this chapter graphically indicate the specification of each bufferyard.

- G. Flexibility in administration required.

- (1) The Planning Commission may allow substitution or reduction of the bufferyard if it finds that the required bufferyard will obstruct the view of a driver; the bufferyard is incompatible with the existing streetscape; or the bufferyard is unnecessary because the adjoining land uses are compatible without a, or with a smaller, bufferyard.
 - (2) The Planning Commission may require a greater bufferyard than stipulated in this chapter if it determines a larger bufferyard is required due to the extensiveness of the incompatibility between land uses. The Planning Commission may also require a bufferyard between incompatible land uses within the same zoning district if it is determined one is needed.
 - (3) Bufferyard requirements will be determined as part of the site plan and/or subdivision review process.
- H. Ownership of bufferyards. Bufferyards may remain in the ownership of the original developer (and assigns) of a land use, or they may be subjected to deed restrictions and subsequently be freely conveyed, or they may be transferred to any consenting grantees, such as adjoining landowners, the Town of Denton, or a homeowners' association, provided that any such conveyance adequately guarantees the protection of the bufferyards for the purposes of this chapter.
- I. Excess bufferyard. Where the bufferyard required between a land use and vacant land turns out to be greater than that bufferyard which is required between the first use and the subsequently developed use, the following options apply:
- (1) The subsequent use may provide 1/2 of the buffer required by this section. The existing use may expand its use into the original buffer area, provided that the resulting total bufferyard between the two uses meets the bufferyard requirements of the section.
 - (2) The existing use may enter into agreements with abutting landowners to use the existing buffer to provide some or all of the required bufferyard of both land uses. The total buffer shall equal the requirements of this section. Provided that such an agreement can be negotiated, the initial use may provide the second use some or all of its required bufferyard and/or extra land on which it might develop. The existing use may reduce its excess buffer by transferring part or the entire excess buffer to the adjoining landowner to serve as its buffer. Any remaining excess buffer area may be used by the existing use for expansion of that use or for transfer by it to the adjoining landowner to expand that adjoining use.
- J. Contractual reduction of bufferyards. When a land use is proposed adjacent to vacant land, and the owner of that vacant land enters into a contractual relationship with the owner of the land that is to be developed first, a reduced buffer may be provided by that first use, provided that the contract contains a statement by the owner of the vacant land of an intent to develop at no greater than a specified land use intensity class and an agreement by that vacant landowner to assume all responsibility for additional buffer, if needed by the subsequent development of a less intense use than had been agreed upon, is transferred to the owner of the vacant (second in time to be developed) land.

§ 128-149. Environmental standards for all subdivisions and development requiring site plan approval.

- A. Perennial stream no-disturbance buffer.
- (1) A one-hundred-foot natural buffer from all perennial streams shall be required for all development. Permanent or temporary stormwater and/or sediment control devices shall not be permitted in this

buffer.

- (2) This buffer requirement may be reduced to no less than 50 feet by the Planning Commission for the following:
 - (a) If evidence is provided that the design, construction and use of the site shall provide the same or better protection of water quality as the one-hundred-foot buffer, and if evidence is provided that said development will meet all other applicable requirements, as required.
 - (b) Road crossings, if disturbance is minimized.
 - (c) Other public or community facilities, provided disturbance is minimized in so far as possible.

B. Intermittent stream no-disturbance buffer.

- (1) A fifty-foot buffer from all intermittent streams shall be required for all development. Permanent or temporary stormwater management and sediment control devices shall not be permitted in this buffer.
- (2) This buffer requirement may be waived by the Planning Commission for the following:
 - (a) Road crossings, if disturbance is minimized.
 - (b) Other public or community facilities, provided disturbance is minimized in so far as possible.

C. Sensitive soil no-disturbance buffer. The one-hundred-foot perennial stream buffer shall be expanded to include contiguous one-hundred-year floodplains and nontidal wetlands. In addition, the one-hundred-foot perennial stream buffer shall be expanded to include hydric soils, highly erodible soils and soils on slopes greater than 15% that are contiguous with the perennial stream, any one-hundred-year floodplain adjacent to the stream, or any nontidal wetlands adjacent to the stream to a maximum distance of 300 feet.

D. Nontidal wetland buffer. A fifty-foot setback from all nontidal wetlands shall be required for all development around the extent of the delineated nontidal wetland except as permitted by the U.S. Army Corps of Engineers and the State of Maryland, Department of Natural Resources, Nontidal Wetlands Division.

E. Steep slopes.

- (1) No structure or impervious surface shall occur on any slope with a grade of 15% or more.
- (2) On slopes between 15% and 25%, good engineering practices shall be used to insure sediment and erosion control and slope stabilization before, during and after disturbance activities and to minimize cut and fill.
- (3) A minimum fifty-foot buffer shall be established between development and the crest of slopes in excess of 15%. Five additional feet of buffer shall be required for each percentage point of slope in excess of 15%.

F. Habitats of rare, threatened and endangered species. Development shall avoid these areas as described by the Maryland DNR, Natural Heritage Program. Proposed development projects shall be reviewed by the Maryland DNR. When a project is within a wildlife habitat (project review area), the developer is required to contact the Maryland Department of Natural Resource's Heritage and Biodiversity Conservation Program (HBCP).

G. Critical Area. Critical Area conservation standards shall be implemented according to Article **VIII**, Critical Area District, of this chapter and Chapter A129, Critical Area Program.

- H. Forested areas: Forests shall be protected according to the requirements in Chapter **60**, Forest Conservation, and in the Critical Area District (Article **VIII** of this chapter), § **128-41**, Woodland reforestation and afforestation standards.

Article XVII. Common Open Space

§ 128-150. Purpose and intent; applicability.

- A. It is the intent of this section to establish minimum common open space requirements for all residential developments and standards and requirements which shall constitute prerequisites for approval of common open space and use areas and/or facilities. These provisions shall apply to all such proposed areas and facilities, including but not limited to conventional subdivisions, planned unit developments, planned residential developments, and multifamily developments.
- B. These provisions are designed to ensure that all common open space and use areas and/or facilities are planned, constructed, managed, and maintained in a suitable manner. They are necessary to ensure that such areas become integral parts of various developments as proposed at the time of approval. Where a proposed greenway shown in the Comprehensive Plan of the Town or Caroline County crosses a proposed subdivision, a greenway public use easement of at least 25 feet shall be provided.

§ 128-151. Requirements for approval.

The following requirements governing the approval of common open space and use areas and/or facilities shall apply to all residential developments:

- A. Minimum common open space requirements for residential developments are as follows:
- (1) Convention subdivision: a minimum of 15% of the net site area.
 - (2) Cluster subdivision: a minimum of 15% of the net site area.
 - (3) Planned residential development: a minimum of 20% of the net site area.
 - (4) Planned unit development: a minimum of 25% of the net site area.
- B. Not less than 50% of the minimum required common open space shall be in a form usable to and accessible by the residents, such as community greens or commons, tot-lots, neighborhood parks, recreational playing fields, woodland walking trails, other kinds of footpaths, a community park, or any combination of the above.
- C. Common open spaces may contain such complementary structures and improvements as are necessary and appropriate for the use, benefit, and enjoyment of residents of the development. Common open space provided for the purpose of protection of existing site features may include areas in agricultural use if permanently conserved by easement.
- D. The Planning Commission may permit a fee in lieu of dedication of common open space when the applicant cannot adequately meet the common open space requirements outlined herein or if the proposed development is for less than 20 lots or units. The fee in lieu shall be on a per-dwelling-unit basis as

established by the Town of Denton. The fee shall be listed with the annual schedule of fees for the Town and may change from time to time. Fees will be collected upon application for a building permit. The fee shall be deposited only in a designated account with funds expended only for planned park and recreation facilities.

- E. Open space requirement, ownership.
 - (1) Private ownership. If common open space and recreation facilities are not dedicated to public use, they shall be protected by legal arrangements, satisfactory to the Planning Commission, sufficient to assure their maintenance and preservation for whatever purpose they are intended. Covenants or other legal arrangements shall specify ownership of the open space, method of maintenance, maintenance taxes and insurance, compulsory membership and compulsory assessment provisions and guarantees that any association formed to own and maintain open space will not be dissolved without the consent of the Planning Commission.
 - (2) Common open space. Unless the Planning Commission finds that the size, location, type of development, cost of development, maintenance of such common open space or the availability of public open space would make public use desirable and necessary, common open space shall not be made available for the use of all residents of the Town. The Planning Commission generally will require dedication of all areas indicated for acquisition in the adopted Caroline County Open Space and Recreation Plan or Town Comprehensive Plan.
- F. Management of common open space property. The developer shall insure that the common open space and improvements not dedicated and accepted for public ownership are maintained and cared for, and the developer shall provide for and establish an organization for the ownership, maintenance, and preservation of common open space which shall conform to the following standards and procedures:
 - (1) The organization shall be established by the developer before sale or rental of dwelling units in the development and prior to final approval of the development plan by the Planning Commission.
 - (2) The financial and organizational structures, rules of membership, and methods of cost assessment of the organization shall be devised to insure the successful fulfillment of the maintenance, preservation, and improvement responsibilities of the organization.
 - (3) The organization will be responsible for maintenance, preservation, and improvement of common open space lands, and all property owners within the development shall participate in such organization.
 - (4) Areas set aside to meet the common open space requirements hereof shall be adequately described. Instruments in the form of deed restrictions and/or covenants shall be provided to insure the purpose for which the common open space is provided will be achieved. Said instruments shall be approved by the Town Council prior to recordation among the land records.
- G. Bond for improvements. Prior to the issuance of a building permit, there shall be delivered by the owner or developer some form of surety acceptable to the Town in an amount as specified by the Town, which shall be submitted with the final subdivision plat, which surety shall secure an agreement to construct required physical improvements required as a condition of final approvals.
- H. Homeowners' associations. Homeowners' associations or similar legal entities that, pursuant to the requirements of Subsection **F**, are responsible for the maintenance and control of common areas, including stormwater management facilities, recreational facilities and open space, shall be established in such a manner that:

- (1) Provision for the establishment of the association or similar entity is made before any lot in the development is sold or any building occupied;
- (2) The association or similar legal entity has clear legal authority to maintain and exercise control over such common areas and facilities;
- (3) The association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas and facilities; and
- (4) Each purchaser of a lot or unit is given adequate and specific notice of the homeowners' association requirements and the association's authority to compel compliance.

I. Flexibility in administration authorized.

- (1) The requirements set forth in this article concerning the amount, size, location, and nature of recreational facilities and common open space to be provided in connection with residential developments are established by the Town as standards that presumptively will result in the provision of that amount of recreational facilities and common open space that is consistent with the Town Comprehensive Plan. The Town recognizes, however, that due to the particular nature of a tract of land, or the nature of the facilities proposed for installation, or other factors, the underlying objectives of this article may be achieved even though the standards are not adhered to with mathematical precision. Therefore, the Planning Commission is authorized to permit minor deviations from these standards whenever it determines that:
 - (a) The objectives underlying these standards can be met without strict adherence to them; and
 - (b) Because of peculiarities in the developer's tract of land or the facilities proposed, it would be unreasonable to require strict adherence to these standards.
- (2) Whenever the Planning Commission authorizes some deviation from the standards set forth in this article, pursuant to Subsection **I(1)**, the official record of action taken on the development shall contain a statement of reasons for allowing the deviation.

§ 128-152. (Reserved)

§ 128-153. (Reserved)

Article XVIII. Nonconforming Uses and Buildings

§ 128-154. Purpose.

- A. Within the zones established by this chapter or amendments that may later be adopted, there exist lots, structures, and uses of land and structures which were lawful before this chapter was adopted or amended, but which would be prohibited, regulated, or restricted under the terms of this chapter, or future amendments.

- B. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the zones involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zone.
- C. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited in the zone involved.
- D. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter, and upon which actual building construction has been diligently carried on. Actual construction is hereby defined as the placing of materials in permanent position and fastened in a permanent manner, except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

§ 128-155. Nonconforming lots of record.

Notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record of this chapter, or amendment thereto, except in the RHC, I, and RP Districts. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the zone, provided that yard dimensions shall conform to the following requirements:

- A. A minimum of nine feet is maintained for each side yard.
- B. The rear yard need not exceed 20% of the depth of the lot, but in no case shall be less than 10 feet.
- C. The front yard (setback) need not exceed that established by buildings on lots in the block in which the nonconforming lot is located.

§ 128-156. Nonconforming uses of unimproved land.

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

- A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.
- B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.
- C. If any such nonconforming use of land ceases for any reason for a period of more than 90 days, any subsequent use of such land shall conform to the regulations specified by this chapter for the zone in which

such land is located.

§ 128-157. Nonconforming structures.

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

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

§ 128-158. Nonconforming uses of land and structures.

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

- A. No existing structure devoted to a use not permitted by this chapter in the zone in which it is located, except single-family dwellings, shall be expanded, enlarged, extended, constructed, reconstructed, moved, or structurally altered unless approved by the Board of Appeals and shall be subject to the following restrictions and criteria:
 - (1) Applications shall be subject to the procedures, requirements, and findings for a special exception from the Board of Appeals as set forth in § **128-163**, except that with respect to the required finding that the proposed use be in accord with the Town's Comprehensive Plan, the Board of Appeals need not consider a conflict with any maps indicating zoning or use of the property.
 - (2) Expansion or construction of a new structure used or to be used for a nonconforming use or uses shall be limited to no more than 20% of the gross floor area of the nonconforming use existing on the date the use became nonconforming, or 1,000 square feet of additional gross floor area, whichever is less.
 - (3) Expansion of areas of a nonconforming use not involving structures, such as outdoor parking and storage, shall be limited to no more than 10% of the site area existing on the date the use became nonconforming.
- B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for use at the time of adoption or amendment of this chapter, but any additional expansion of the nonconforming use shall comply with Subsection **A** above.
- C. Any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use, provided that the Board of Appeals, either by general rule or by making findings in the

specific case, shall find that the proposed use is equally appropriate or more appropriate to the zone than the existing nonconforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the provisions of this chapter.

- D. Any structure, or structure and land in combination, in which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the zone in which such structure is located, and the nonconforming use may not thereafter be resumed.
- E. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for 12 consecutive months or for 18 months during any three-year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the zone in which it is located. However, the Board of Appeals may grant a special exception to allow for the continuance of a nonconforming use that has been discontinued or abandoned so long as the application for such special exception is filed prior to the nonconforming use's lapsing under the terms of this subsection. The Board shall not allow the nonconforming use to be discontinued or abandoned for longer than three years.
- F. Where nonconforming use/status applies to a structure and premises in combination, removal or destruction of the structure, not related to fire or natural cause, shall eliminate the nonconforming status of the land. A nonconforming use that is destroyed by fire or natural cause may be restored or reconstructed at the same location, provided that:
 - (1) Restoration must be started within one year of the destruction and completed in accordance with the building permit.
 - (2) The Director of Planning may grant a single extension of this time limit, for a period not to exceed one year, only to the same property owner or his or her heirs.
 - (3) The restored use shall not increase the extent of the nonconformity.
 - (4) A restored or rebuilt structure that is to be occupied by the nonconforming use must be an in-kind replacement of the destroyed structure.
 - (5) If the use is not replaced or restored within the required time period, any future use on the site shall comply with the current zoning requirements.

§ 128-159. Nonconforming development in Critical Area District.

- A. Continuation of existing uses. Continuation, but not necessarily the intensification or expansion, of any use in existence by March 1989 will be permitted, unless the use has been abandoned for more than one year or is otherwise restricted by existing ordinances or regulations. If any existing use does not conform with the provisions of the Critical Area Program, its intensification or expansion may be permitted only in accordance with the variance procedures outlined in **§ 128-163**.
- B. Residential density. Except as otherwise provided, the types of land use described in the following subsections will be permitted in accordance with the density requirements in effect prior to the adoption of the Denton Critical Area Program (March 1989), notwithstanding the density provisions of the program. A single-family lot or parcel of land that was legally recorded as of March 1989 can be improved with a single-family dwelling if a dwelling is not already placed there (notwithstanding that such development may be inconsistent with the density provisions of this chapter), provided that:

- (1) It is on land where the development activity has progressed to the point of pouring of foundation footings or the installation of structural members;
 - (2) It is a legal parcel of land, not being part of a recorded or approved subdivision, that was recorded as of December 1, 1985, and land that was subdivided into recorded, legally buildable lots, where the subdivision received final subdivision plat approval prior to June 1, 1984, if:
 - (a) At the time of development, the land is brought into conformance with the Critical Area Program and meets the requirements of § 128-159.1, including the consolidation or reconfiguration of lots not individually owned; or
 - (b) The land received a building permit subsequent to December 1, 1985, but prior to March 1989.
 - (3) It is on land that was subdivided into legally recorded buildable lots where the subdivision received final subdivision plat approval between June 1, 1984, and December 1, 1985; and
 - (4) It is on land that was subdivided into recorded, legally buildable lots, where the subdivision received final subdivision plat approval after December 1, 1985, and provided that either the development of any such land conforms to the IDA, LDA or RCA requirements in this chapter or the area of the land is counted against the growth allocation permitted under this chapter, or was approved by the Critical Area Commission at the time of approval of the Denton Critical Area Program.
- C. Nothing in this section may be interpreted as altering any requirement for development activities set out in the water-dependent facilities section or the habitat protection section of the Denton Critical Area Program and any related implementation requirements contained in this chapter. See §§ A129-11 and A129-4 of Chapter A129, Critical Area Program.

§ 128-159.1. Consolidation or reconfiguration of existing lots of record in Critical Area.

- A. An application for development activity that involves the consolidation or reconfiguration or adjustment of parcel boundaries of existing lots of record in the critical area shall design and implement the project to bring the lands into conformance with the Denton Critical Area Program to the maximum extent possible and to minimize adverse impacts to water quality and fish, wildlife, and plant habitat.
- B. The following performance standards for these projects shall be used to assess the project relative to the goals of the Critical Area Program. At a minimum, all applications must fully address all of the following standards, which shall be reduced to written findings by the Director of Planning:
 - (1) Except for an approved minor boundary line adjustment, as defined by § 128-8 of this chapter, the proposed consolidation or reconfiguration of existing lots, parcels, or dwelling units in the critical area will result in no greater number of lots, parcels, or dwelling units in the Critical Area and that all of the existing lots were considered legally buildable at the time of recordation.
 - (2) In the Limited Development Area or Resource Conservation Area, the proposed consolidation or reconfiguration of existing lots:
 - (a) Will result in no greater lot coverage than development activities within the configuration in existence at the time of application would allow; and
 - (b) Will result in no greater impact to a steep slope than development activities within the lot

configuration in existence at the time of application would allow, if that steep slope is located outside the buffer or expanded buffer.

- (3) The proposed consolidation or reconfiguration does not:
 - (a) Create an additional riparian parcel or lot, waterfront lot, or any other parcel or deed with water access; or
 - (b) Intensify or increase impacts associated with riparian access.
- (4) The proposed consolidation or reconfiguration does not create:
 - (a) A parcel, lot or portion of a parcel or lot that will serve development activities outside the Critical Area; or
 - (b) A Resource Conservation Area parcel or lot that serves development activities in the Intensely Developed Area or Limited Development Area.
- (5) The proposed consolidation or reconfiguration of existing lots identifies proposed impacts to Habitat Protection Areas (HPAs). Where impacts to HPAs are proposed in conjunction with the reconfigured or consolidated lots, the impact must not result in any greater impact than would result from development activities within the configuration in existence at the time of application. The applicant must identify protective and restoration measures to mitigate the impacts to ensure that the development activities within the configuration will provide for the least possible adverse impact.
- (6) The proposed consolidation or reconfiguration of existing lots will meet or exceed the Town's stormwater management requirements.
- (7) The proposed consolidation or reconfiguration fully complies with the afforestation and reforestation requirements in COMAR 27.01.05 and 21.07.09, unless clearing is necessary to avoid a Habitat Protection Area.

C. Any application for lot consolidation or reconfiguration shall contain the following:

- (1) A plan drawn to scale in accordance with the procedures for subdivision under Chapter **73** of the Denton Town Code;
- (2) The date of recordation of each legal parcel of land or recorded, legally buildable lot to be consolidated or reconfigured;
- (3) A statement from the Denton Director of Planning certifying that the proposed lots or parcels for review are grandfathered;
- (4) A plan showing all existing and proposed lot or parcel boundaries;
- (5) A table indicating the number of existing lots or parcels and the number of proposed lots or parcels; and
- (6) A narrative addressing each of the required findings set forth in this section.

D. The Director of Planning shall issue a written decision granting or denying the application for consolidation or reconfiguration which addresses the standards set forth in § **128-159.1B**. After the Director of Planning issues a written decision, he shall send a copy of the decision and, if applicable, the approved development plan, within 10 business days by United States mail to the Critical Area Commission.

- E. The Critical Area Commission, the Town, or any department or commission thereof, or any person aggrieved by the decision of the Director of Planning may file an appeal of the decision of the Director of Planning to the Board of Appeals by filing a notice of appeal with the Director of Planning specifying the grounds thereof within 30 days. For an appeal by the Critical Area Commission, the thirty-day period shall commence on the date of the Commission's receipt of the final decision or order. For all other appellants, the thirty-day period shall commence on the date of the final written decision or order.
- F. No permit or approval of any type may be issued for the activity for a property that is affected by the final written decision or order until after the expiration of the time within which an appeal may be filed.
- G. In the event any provision of this section conflicts with any provision of state law, the stricter provision shall apply.

§ 128-160. Repair and maintenance.

- A. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or in repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding 10% of the current replacement value of the building, provided that the cubic content of the building, as it existed at the time of the passage or amendment of this chapter, shall not be increased.
- B. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

§ 128-161. Special exception uses considered conforming.

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

Article XIX. Citizen Boards

§ 128-162. Planning Commission.

- A. Composition and appointment. There is hereby created a Planning Commission (Commission) consisting of five regular members, appointed by the Town Council. All members shall be residents of Denton. One of the regular members may be a councilperson serving in an ex officio capacity concurrent with the regular member's official term. The Town Council may also designate one alternate member of the Commission who may sit on the Commission in the absence of any regular member of the Commission. The term of office of each member is five years or until the member's successor takes office. Vacancies shall be filled by the Town Council for the unexpired term of any member whose seat becomes vacant. After a public hearing before the Town Council, members may be removed for inefficiency, neglect of duty, or malfeasance in office. The Town Council shall file a written statement or reasons for the removal.
- B. Officers. The Commission shall elect at its first meeting in each calendar year a Chairperson and a Vice

Chairperson from among the appointed regular members, each to serve for one year or until his or her successor is elected. In the event of a vacancy in either of said offices, a successor shall be elected to serve for the unexpired term of the vacated office. In the absence of the Chairperson, the Vice Chairperson shall serve as Acting Chairperson. The Director of Planning shall serve as Executive Secretary to the Commission.

C. General powers and duties. The Commission shall have the following powers and duties:

- (1) To review, evaluate, and approve or disapprove plans for subdivisions, and mobile home subdivisions in accordance with this chapter and Chapter **73**, Land Subdivision.
- (2) To review and make recommendations to the Town Council regarding:
 - (a) Proposed changes or amendments to the Denton Comprehensive Plan.
 - (b) Proposed changes or amendments to this chapter.
 - (c) Proposed rezoning.
 - (d) Proposed changes or amendments to Chapter **73**, Land Subdivision.
 - (e) Proposed acquisition and development of lands for Town open space or recreation purposes.
 - (f) Proposed changes in land use or development arising from local, state, or federal programs or policies.
 - (g) Development site plans required by Article **XXIII** of this chapter.
 - (h) Proposed annexations and zoning thereupon.
- (3) To review and make recommendations to the Board of Appeals regarding:
 - (a) Special exception applications.

D. Meetings.

- (1) Meetings of the Commission shall be held once each month or at the call of the Chairperson and at such other times as the Commission may determine.
- (2) The presence of a majority of the members of the Commission shall constitute a quorum for the conduct of business. In the event of an absence or vacancy of one or more regular members, determination of a quorum shall include the alternate member, if in attendance.
- (3) An affirmative vote of the majority present shall be required to effect a decision or recommendation of the Commission.

E. Rules of procedure.

- (1) The meetings of the Commission shall be open to the public, but the Commission may limit active public participation by resolution. When appropriate, the Commission may adjourn to executive session, but only in accordance with the Open Meetings Act, § 10-501 et seq. of the State Government Article of the Annotated Code of Maryland.
- (2) For proceedings before the Commission which require a public hearing, see Article **XXIV** of this chapter.
- (3) At the meetings of the Commission, any interested person shall have the right to submit, in

accordance with the established rules, oral or written testimony and comment.

- (4) The Commission may adopt by resolution additional rules of procedure, provided such rules are consistent with this chapter and applicable state enabling legislation. Such rules shall be available to the public.
- (5) The Department of Planning shall be represented at all meetings of the Commission and shall answer questions and render advice and assistance, but the Department of Planning shall not participate in any decision of the Commission beyond the submission of a staff recommendation for each proposed action. The Commission shall have the authority to consult legal counsel, when necessary, before rendering any decision or making any recommendations.

F. Records.

- (1) The Commission shall keep minutes of all its proceedings which shall contain the names of the members present, a summary of all testimony, comment, or evidence presented, the exhibits presented, and the decision or recommendation of the Commission. The minutes shall also show the vote of each member upon each question, or, if absent or failing to vote, indicating that fact.
- (2) A permanent file of each proceeding, including applications and the minutes, shall be maintained in the office of the Department of Planning and shall be a public record.

§ 128-163. Board of Appeals.

- A. Organization. The Board of Appeals (Board) shall consist of three regular members, all of whom shall be residents of the Town of Denton. Regular members are to be appointed by the Mayor and confirmed by the Council, and shall serve without compensation. After a public hearing before the Town Council, members may be removed for inefficiency, neglect of duty, or malfeasance in office. The Town Council shall file a written statement or reasons for the removal. Of the members first appointed, one shall serve for one year, one for two years, and one for three years. Thereafter, members shall be appointed for terms of three years each. Vacancies shall be filled in a like manner and for the remainder of the unexpired term of the predecessor.
- B. Alternate members. The Town Council shall designate one alternate member for the Board who may sit in the absence of any regular member of the Board. When the alternate is absent, the Town Council may designate a temporary alternate.
- C. Officers. The Board shall elect a Chairperson and a Vice Chairperson from among its members, each to serve for one year or until his or her successor is elected. In the event of a vacancy in either of said offices, a successor shall be elected to serve for the unexpired term of the vacated office. In the absence of the Chairperson, the Vice Chairperson shall serve as Acting Chairperson. The Director of Planning shall serve as Executive Secretary to the Board of Appeals.
- D. General powers. The Board shall have the following general powers:
 - (1) To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the Planning Commission, Director of Planning, or other administrative officer in the enforcement of this chapter. Appeals to the Board of Appeals shall be by way of allegation of error. The party noting the appeal shall allege the error by the officer or agency from which the appeal is taken. The party noting the appeal shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion, by a preponderance of the evidence,

on all issues of fact. The party noting an appeal from a decision of the Planning Commission shall be responsible for the cost of producing the sound recording, video recording, or transcript of the proceeding before the Planning Commission.

- (2) To hear and decide special exceptions to the terms of this chapter upon which such Board is specifically authorized to pass under this chapter.
- (3) To authorize, upon appeal in specific cases, such variance from the specific terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, the enforcement of the provisions of this chapter will result in unwarranted hardship, and injustice, but which will most nearly accomplish the purpose and intent of this chapter.
- (4) To determine, in cases of uncertainty, the classifications as to district of any use not specifically named in this chapter; provided, however, such use shall be in keeping with uses specifically named in the district regulations.

E. Meetings.

- (1) Meetings of the Board shall be held at the call of the Chairperson, and at such other times as the Board may determine.
- (2) Two members of the Board shall constitute a quorum. In the event of an absence or vacancy of one regular member, determination of a quorum shall include the alternate member, if in attendance.

F. Rules of procedure.

- (1) The meetings of the Board shall be open to the public, but public participation may be limited to periods during which testimony is permitted.
- (2) The Chairperson or in his or her absence the Acting Chairperson may administer oaths and may compel the attendance of witnesses.
- (3) The Board may adopt by resolution additional rules of procedure, provided such rules are consistent with this chapter and with applicable state enabling legislation. Such rules shall be available to the public.

G. Decisions of the Board.

- (1) An affirmative vote of two members shall be required to effect any decision of the Board.
- (2) A member of the Board who did not attend the public hearing on an application shall not participate in the decision on said application.
- (3) The Board shall deliberate and render its decision in open session within 30 days following the close of the public hearing.
- (4) All decisions by the Board shall be recorded in the minutes and shall include findings of fact based directly on the particular evidence presented to the Board, the conclusions of the Board and the reasons therefor.
- (5) Each decision shall also include the names of the members of the Board who voted or who were present when a vote was taken, and shall indicate the manner in which each member voted.
- (6) A copy of each decision shall be furnished to the applicant(s), the Department of Planning, and any other party to the proceedings without charge.

H. Records.

- (1) The Board shall keep minutes of its proceedings. The minutes shall contain the exhibits presented at the hearing, a summary of all testimony or evidence presented, and the decision of the Board.
- (2) All applications for hearings and the minutes shall be a public record.

I. Applications.

- (1) Appeals to the Board may be taken by any person aggrieved, or by an officer, department, board, or bureau of the Town affected by any decisions of the Planning Commission, Director of Planning, or other administrative officer. Such an appeal shall be taken within two weeks following the action so appealed by filing with the Director of Planning and with the Board a notice of appeal, specifying the grounds thereof.
- (2) An appeal stays all proceedings in furtherance of the action appealed from, unless the Director of Planning certifies to the Board, after notice of appeal filed with him/her, that by reason of that fact in the case, a stay would in his opinion cause imminent peril to life and property.
- (3) All applications for hearings shall be made on forms approved by the Board and shall be available from the Director of Planning.
- (4) Each application shall be signed by the applicant(s), such as an owner, tenant, contract purchaser, or optionee of property involved, the protestant(s), or the agent or attorney of any of them.
- (5) Applications, together with all required information and fees shall be filed with the Director of Planning according to the predetermined meeting schedule, and the application shall be forwarded to the Board to be considered at the next scheduled meeting.

J. Special exception. In order to provide for adjustment in the relative location of uses and buildings of the same or of different classifications, to promote the usefulness of this chapter as an adjustment, and to supply the necessary elasticity to its efficient operation, special exceptions are permitted by the terms of this chapter. Under general requirements:

- (1) The Board shall have the power to approve special exceptions for any of the uses for which this chapter requires obtaining of such exceptions and for no other use or purpose. The Board shall not grant a special exception except in conformance with the conditions and standards of this chapter.
- (2) In granting a special exception, the Board shall make findings of fact consistent with the provisions of this chapter. The Board shall grant a special exception only if it finds adequate evidence that any proposed use submitted for a special exception will meet all of the standards listed for the proposed uses. The Board shall, among other things, require that any proposed use and location be:
 - (a) In accord with the Town's Comprehensive Plan and consistent with the spirit, purposes, and intent of this chapter.
 - (b) Suitable for the property in question and designed to be in harmony with and appropriate in appearance with the existing or intended character of the general vicinity.
 - (c) Suitable in terms of effects on street traffic and safety with adequate access arrangements to protect streets from undue congestion and hazard.
 - (d) Not detrimental to the property values of adjacent development, do not adversely affect the health, safety, and general welfare of residents of the area, and will not adversely affect the area

and surrounding property with adverse environmental effects such as undue smoke, odor, noise, improper drainage, or inadequate access.

- (3) The Board may impose whatever conditions regarding layout, circulation, and performance it deems necessary to insure that any proposed development will secure substantially the objectives of this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this chapter. The Board shall consider recommendations of the Planning Commission prior to rendering a decision. The Planning Commission shall review and comment on all applications for special exceptions prior to review and decision by the Board. The applicant for a special exception shall have the burden of proof on all points material to the application, which shall include the burden of presenting credible evidence as to each material issue and the burden of persuasion on each material issue. The Board of Appeals may disregard evidence, even if uncontroverted by an opposing party, if the Board finds such evidence not to be credible.

K. Variances. Subject to the provisions of § **128-163D**, the Board shall have the power to grant variances of the following types and in accordance with the following standards:

- (1) Types of variances.
 - (a) Yard, area or bulk requirements.
 - (b) Bulk, area or height of structures.
 - (c) Height or size of signs.
 - (d) Placement of earth satellite antennas.
- (2) Standards for granting a variance.
 - (a) Strict enforcement of this chapter would produce unnecessary and undue hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit or caprice.
 - (b) Such hardship is the result of special conditions and/or circumstances not generally shared by other properties in the same zoning district or vicinity, and which are peculiar to the land, structure or building involved. Such conditions and/or circumstances may include but are not limited to the following: exceptional narrowness or shallowness, or both, or irregular shape or topography of the property; unusual and limiting features of the building; or the effective frustration or prevention of reception of satellite programming due to the presence of a physical object or objects which obscure the line of sight when such object or objects cannot be easily removed.
 - (c) Such special conditions or circumstances must not be the result of any action or actions of the applicant.
 - (d) Granting of the variance must be in harmony with the general purpose and intent of this chapter and must not be injurious to adjacent property, the character of the neighborhood or the public welfare.
 - (e) Granting the variance shall not allow a use expressly or by implication prohibited in the zoning district involved.
 - (f) The condition, situation or intended use of the property concerned is not of so general or

recurring a nature as to make practicable a general amendment to this chapter.

- (g) The variance granted must be the minimum necessary to afford relief.
 - (h) In granting a variance, the Board of Appeals may prescribe appropriate conditions in conformity with this chapter. Violation of such conditions, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.
 - (i) The applicant for a variance shall have the burden of proof on all points material to the application, which shall include the burden of presenting credible evidence as to each material issue and the burden of persuasion on each material issue. The Board of Appeals may disregard evidence, even if uncontroverted by an opposing party, if the Board finds such evidence not to be credible.
- (3) Standards for granting a variance within the Critical Area District.
- (a) In addition to the findings in Subsection **K(2)** above, a variance may be granted by the Board in the Critical Area District, provided that:
 - [1] Special conditions or circumstances exist that are peculiar to the land or structure within Denton's Critical Area Program, which would result in an unwarranted hardship. For purposes of this section, "unwarranted hardship" means that without a variance, the applicant will be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.
 - [2] A literal interpretation of this subtitle (Article 66B of the Annotated Code of Maryland) or the Denton Critical Area Program and this chapter will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area.
 - [3] The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the Denton Critical Area Program to other lands or structures within the Critical Area.
 - [4] The variance request is not based upon conditions or circumstances which are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed, nor does the request arise from any condition conforming on any neighboring property.
 - [5] The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area Law, and the Denton Critical Area Program.
 - [6] The application for variance has been provided to the Critical Area Commission at least two weeks prior to the variance hearing.
 - [7] A decision has been provided to the Critical Area Commission, in writing, immediately after the variance approval or denial.
 - (b) In considering an application for a variance, the Town shall presume that the specific development activity in the Critical Area that is subject to the application and for which a variance is required does not conform with the general purpose and intent of Natural Resources Article, Title 8, Subtitle 18, COMAR Title 27, and the requirements of the Town's Critical Area Program. The applicant has the burden of proof and the burden of persuasion to overcome the

presumption of nonconformance set forth herein.

- (c) The Board shall make written findings reflecting analysis of each standard, including whether the applicant has overcome the presumption set forth in Subsection **K(3)(b)**. The Board's decision and written findings may be based upon any competent evidence or testimony introduced or presented by the applicant, the Town or other governmental agency, or other person or entity as deemed appropriate by the Board.

- (d) No permit may be issued for the activity that was the subject of the variance within the Critical Area District until the applicable thirty-day appeal period has elapsed.^[1]

[1]: *Editor's Note: Former Subsection K(4), regarding recommendations of the Planning Commission, which immediately followed, was repealed 7-11-2011 by Ord. No. 634, effective 7-18-2011.*

- L. Reasonable accommodations for the needs of disabled citizens. Notwithstanding any other provision of this section, the Board may make reasonable accommodations to avoid discrimination on the basis of a physical disability. Reasonable accommodations for the needs of disabled citizens may be permitted in accordance with the evidentiary requirements set forth in the following subsections.

- (1) An applicant shall have the burden of demonstrating the following:

- (a) The existence of a physical disability.

- (b) Literal enforcement of the provisions of this chapter would result in discrimination by virtue of such disability.

- (c) A reasonable accommodation would reduce or eliminate the discriminatory effect of the provisions of this chapter.

- (d) The accommodation requested will not substantially impair the purpose, intent, or effect of the provisions of this chapter as applied to the property.

- (e) Environmental impacts associated with the accommodation are the minimum necessary to address the needs resulting from the particular disability of the applicant.

- (2) The Board shall determine the nature and scope of any accommodation under this section and may award different or other relief than requested after giving due regard to the purpose, intent, or effect of the applicable provisions of this chapter. The Board may also consider the size, location, and type of accommodation proposed and whether alternatives exist which accommodate the need with less adverse effect.

- (3) The Board may require, as a condition of approval, that upon termination of the need for accommodation, that the property be restored to comply with all applicable provisions of this chapter. Appropriate bonds may be collected or liens placed in order to ensure the Town's ability to restore the property should the applicant fail to do so.

- M. General restrictions on the Board. Where in this chapter special exceptions are permitted, or where the Board is authorized to decide appeals or apply certain uses, and where the Board is authorized to approve variances, such approval, decision, or authorization is limited by such conditions as the case may require, including, if necessary, any of the following specifications.

- (1) No outside signs or advertising structures except professional or directional signs.

- (2) Limitations of signs as to size, type, color, location, or illumination.

- (3) Amount, direction, and location of outdoor lighting.
 - (4) Amount and location of off-street parking and loading space.
 - (5) Cleaning and painting and other aesthetic aspects.
 - (6) Gable roof or other conforming structural components.
 - (7) Construction and materials.
 - (8) Exits, entrances, doors, or windows.
 - (9) Paving, shrubbery, landscaping, or ornamental or screening fence, wall, or hedge.
 - (10) Time of day or night for operating.
 - (11) Storefront facade or design/renovation.
 - (12) Major structural changes to building exterior.
 - (13) Prohibition of smoke, dust, gas, noise, or vibration.
- N. Lapse of special exception or variance. After the Board has approved a special exception or granted a variance, the special exception or variance so approved or granted shall lapse after the expiration of one year if no substantial construction or change of use has taken place in accordance with the plans for which such special exception or variance was granted, and the provisions of this chapter shall then govern.
- O. If any application or request is disapproved on the merits by the Board, or after the public hearing is withdrawn by the applicant, thereafter the Board of Appeals shall not accept application for substantially the same proposal, on the same premises, until after one year from the date of such disapproval or withdrawal.
- P. Appeals from certain zoning decisions. Any person described in Maryland Annotated Code, Article 66B, § 4.08(a), may appeal any decision of the Board and any zoning decision of the Town Council to the Circuit Court for Caroline County in the manner and by the method set forth in the Maryland Rules. Nothing herein contained shall change the existing standards for review of any such appeal.
- Q. All costs incurred by the Town in transcribing records of meetings and hearings shall be borne by the appellants. All fees shall be paid to the Town before any record of the case is submitted to the appropriate court.

§ 128-164. Administrative variance.

- A. Intent. The purpose of this section is to authorize delegation of Board approval authority to the Planning Commission to apply the standards for variance as specified § **128-163K** herein for certain proposed construction activities.
- B. Applicability. This section applies only to new development or redevelopment within 100 feet of tidal waters, tidal wetlands and tributary streams on single-family lots of record as of March 1989.
- C. Criteria.
 - (1) New development or redevelopment shall minimize the disturbance in the buffer to the least intrusion

necessary.

- (2) Development may not impact any Habitat Protection Area (HPA) as defined in Article II, except the buffer.
- (3) Any development in the buffer approved under the provisions of this subsection shall be mitigated as follows:
 - (a) The extent or the lot or parcel shoreward of the new development or redevelopment shall be required to remain, or shall be established and maintained, in natural vegetation; and
 - (b) Natural vegetation of an area twice the extent of the impervious surface must be created on the property, preferably in the buffer. If on-site planting proves unfeasible, another similar location may be approved by the Planning Commission.
- (4) An applicant who cannot comply with the planting/offset requirements herein may elect to request a variance from the Board as per Subsection A above.
- (5) Any required reforestation or mitigation or offset areas shall be designated under a development agreement or other instrument and recorded among the land records of Caroline County.
- (6) The Critical Area Commission shall be notified of an administrative variance application by the Planning Commission two weeks prior to administrative action.

Article XX. Amendments

§ 128-165. Provisions for amendment.

The regulations, restrictions, classifications, and boundaries set forth in this chapter may from time to time be amended, supplanted, modified, or repealed by the Town Council. The reclassification of any property and the relocation of zone boundaries shall be deemed an amendment to this chapter and subject to the provisions of this article.

§ 128-166. Who may initiate amendments.

Proposals for amending this chapter's text may be made by any interested person or governmental agency. Proposals for amendment of the Official Town Zoning Maps may be filed by any governmental agency or by a person with a committed financial, contractual, or proprietary interest in the property to be affected by the proposed amendment.

§ 128-167. Procedure for amendment.

- A. Any officially filed amendment or other change shall first be referred by the Town Council to the Planning Commission for an investigation and recommendation. The Planning Commission or planning staff shall cause such investigation to be made as it deems necessary, and for the purpose may require submission of pertinent information by any person concerned, and may hold such informal public hearings as are

appropriate in its judgment.

- B. The Planning Commission submits its recommendation and pertinent supporting information to the Town Council within 60 days, unless an extension of time is granted by the Town Council.
- C. After receiving the recommendations of the Planning Commission concerning a proposal for amendment to this chapter's text, the Town Council shall determine whether or not said proposal is suitable to warrant the introduction of legislation, and to that end may conduct any informal hearings as in its sole discretion it deems appropriate.
- D. Upon introduction of legislation, the Town Council shall hold a public hearing in reference thereto and shall give public notice of such hearings in accordance with the provisions of Article **XXI** of this chapter.
- E. After receiving the recommendations of the Planning Commission concerning any proposal for amendment of the Official Zoning Maps and before adoption or denial of same, the Town Council shall introduce legislation for the proposed change and hold a public hearing in reference thereto in order that parties of interest and citizens shall have an opportunity to be heard. The Town Council shall give public notice of such hearing in accordance with the provisions of Article **XXI** hereof.
- F. Regardless of amendment type, a complete record of the hearing, and the votes of all members of the Town Council in deciding all questions relating to the proposed amendment, shall be kept.
- G. Upon passage of a text amendment to this chapter, the affected page(s) may be removed from the ordinance and page(s) containing the amended language inserted and footnoted. A list of amendments shall be maintained with appropriate dates at the end of this chapter.^[1]

[1]: *Editor's Note: Amendments are noted throughout this chapter where applicable.*

§ 128-168. Site visit.

The Town Council shall not approve or disapprove any application for the reclassification of land unless and until a visit to the site in question has been made by at least a majority of the Town Council members in order to inspect the physical features of the property and to determine the character of the surrounding area. However, notwithstanding the provisions of this section, application for a map amendment shall be decided upon the basis of the evidence of record. Such site visit shall not be required for sectional or comprehensive reclassification.

§ 128-169. Findings for reclassification.

- A. Where the purpose and effect of the proposed amendment is to change the zoning classification of property, the Town Council shall make findings of fact in each specific case, including but not limited to the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development, the recommendation of the Planning Commission and consistency with the Town's Comprehensive Plan. The Town Council may grant the reclassification based upon a finding that there was a substantial change in the character of the neighborhood where the property is located, or that there is a mistake in the existing zoning classification and that a change in zoning would be more desirable in terms of the objectives of the Town of Denton Comprehensive Plan.
- B. The fact that an application for reclassification complies with all of the specific requirements and purposes

set forth in this chapter shall not be deemed to create a presumption that the proposed reclassification and resulting development would in fact be compatible with surrounding land uses and is not, in itself, sufficient to require the granting of the application.

§ 128-170. Application for reclassification.

Every application for a reclassification shall be accompanied by a plat drawn to scale showing the existing and proposed boundaries and other information as the Planning Commission may need in order to locate and plot the amendment on the Official Zoning Map. Such plat shall not be required for sectional or comprehensive reclassification.

§ 128-171. Filing fee for reclassification.

A filing fee in an amount which shall be determined by the Town Council shall be charged for processing an application for reclassification.

§ 128-172. Repeated application for reclassification.

- A. No application for reclassification shall be accepted for filing by the Town Council if the application is for the reclassification of the whole or any part of land for which the Town Council has denied reclassification within 12 months from the date of the decision of the Town Council.
- B. However, the Town Council may allow an applicant to withdraw an application for a map amendment at any time, provided that, if the request for withdrawal is made after publication of the notice of hearing, no applications for reclassification of all or any part of the land which is subject of the application shall be allowed within 12 months following the date of the resolution of the Town Council approving such withdrawal, unless, by the resolution allowing withdrawal or subsequent resolution, the Council specifies that the time limitation shall not apply.

§ 128-173. Changing of Official Zoning Maps.

It shall be the duty of the Director of Planning to change the Official Zoning Maps forthwith upon the adoption of any amendments, in order that said maps shall always be an up-to-date public record of the zones in the Town. Official Zoning Maps require the signature of Town Council Members and the Town Administrator.

§ 128-174. Amendments in Critical Area District.

- A. Amending the Critical Area boundary, land use management classifications and program.
 - (1) The Town Council may from time to time amend the land use management area classification of properties in the Critical Area District.

- (2) In addition, the Town Council shall complete a comprehensive review and propose any necessary amendments, as required, to the Critical Area Program at least every four years. The Town Council Comprehensive Review Report to the Critical Area Commission shall be in accordance with Subtitle 18, § 8-1809(g) and (h) of the Critical Area Law.
 - (3) All such amendments shall also be approved by the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays (Critical Area Commission) subsequent to the Town Council approval as established in § 8-1803 of the Critical Area Law, Subtitle 18. Standards for Critical Area Commission approval of proposed amendments are as set forth in the Critical Area Law, Subtitle 18, § 8-1809(j), as revised July 1, 1990. The Critical Area Commission process for approval of proposed amendments are as set forth in the Critical Area Law, Subtitle 18, § 8-1809(d), as revised July 1, 1990.
- B. Application for land use management classification or Critical Area Program amendment shall be processed as any other proposed amendment to this chapter and are subject to the Critical Area Commission approval. Notification shall be made to the Critical Area Commission prior to Town Council public hearing.
- C. Requirements for amendments:
- (1) Land use management classification. When considering a proposed change of land use management classification, i.e., Intensely Developed Area (IDA), Limited Development Area (LDA), or Resource Conservation Area (RCA), the Town Council shall not approve amendments unless it is found that there was a mistake in the original classification, or the site will be granted the Growth Allocation (GA) Floating Zone District classification.
 - (2) Adding land to the Critical Area District.
 - (a) The Town Council may amend the Critical Area boundary to add land to the Critical Area District, including land areas for which property owners have requested such an amendment, provided that:
 - [1] It is documented that the benefits from the additional resource protection afforded the area exceed the negative impact of any additional development allowed and that provisions are proposed to ensure the continuance of these benefits.
 - [2] The proposal is supported by competent and material evidence on its benefits for resource protection.
 - [3] The proposal clearly improves resource protection on primarily undeveloped land.
 - [4] The extended area is added as a Resource Conservation Area (RCA), and any proposed development meets all RCA requirements.
 - (b) Any land or portion added to the Critical Area District under these provisions that has been combined with adjacent Critical Area lands for the purpose of increasing the number of dwelling units that may be placed on the adjacent Critical Area parcel may not be subsequently deleted from the Critical Area District.

§ 128-175. GA Growth Allocation Floating Zone.

- A. Designation of floating zone.
- (1) The Growth Allocation (GA) District shall be floating zones.

- (2) The Growth Allocation (GA) District provides for changing the land management classification of Resource Conservation Areas (RCAs) and Limited Development Areas (LDAs) in the Critical Area District. The GA District shall only be permitted on sites or portions of sites that have been awarded reclassification through the growth allocation process. These are approved land management classification changes, adopted by the Town Council as an amendment to the Denton Critical Area Program and Official Maps.
- B. The GA Growth Allocation Floating Zone shall be processed in accordance with the provision of § **128-173**.
- C. The following policies shall apply to the location and the extent of future Intensely Developed and Limited Development Areas in the Critical Area:
- (1) New IDAs should be located in existing LDAs or adjacent to existing IDAs;
 - (2) New LDAs should be located adjacent to existing LDAs or IDAs;
 - (3) No more than half of the allocated expansion may be located in RCAs;
 - (4) New IDAs and LDAs will be located in order to minimize impacts to habitat protection areas and in a manner that optimizes benefits to water quality;
 - (5) New IDAs should be located where they minimize impacts to the defined land use of any RCAs;
 - (6) New IDAs or LDAs located in the RCA will conform to all criteria of Denton's Critical Area Program for LDAs or IDAs;
 - (7) New Intensely Developed and Limited Development Areas in the Resource Conservation Area should be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters; and
 - (8) When a RCA is converted to a LDA or IDA or a LDA is converted to an IDA, the developer shall be required to cluster the development, as per the applicable performance standards of this chapter, and provide for resource enhancement in the design of such development.
- D. The following are the procedures for accounting for growth allocation acres:
- (1) Subdivision of any parcel of land that was recorded as of December 1, 1985, and classified as RCA or LDA, where all or part of the parcel is classified by Denton as a Growth Allocation Floating Zone, shall result in the acreage of the entire parcel, not in tidal wetlands, counting against the Denton growth allocation, unless the following conditions are met:
 - (a) On qualifying parcels as described below, on which a change in classifications is approved, a development envelope shall be specified, the acreage of which will be counted against the Town's growth allocation.
 - (b) The envelope shall include individually owned lots, any required buffers, impervious surfaces, utilities, stormwater management measures, on-site sewage disposal measures, any areas subject to human use such as active recreation areas, and any additional acreage needed to meet the development requirements of the criteria.
 - (2) The remainder of the parcel will not count against the Town's growth allocation if it is contiguous and at least 20 acres in size, retained its natural features or its use by resource utilization activities (agriculture, forestry, fisheries activities, or aquaculture) and is restricted from future subdivision and/or development through restrictive covenants, conservation easements, or other protective measures approved by the Critical Area Commission. A forest management plan is required for any

forested areas in the undeveloped portion of the parcel. Reforestation shall be accomplished on lands abandoned from agriculture. Parcels of land that qualify for application of the above guidelines are the following:

- (a) Those parcels designated as new IDAs which are located within a LDA or adjacent to an existing IDA, and where the development on the parcel is located at least 300 feet from the edge of tidal waters, tidal wetlands or tributary streams, provided that such designation:
 - [1] Minimizes adverse impacts to agriculture, forest lands, fisheries or aquaculture;
 - [2] Minimizes adverse impacts to habitat protection areas; and
 - [3] Optimizes benefits to water quality.
- (b) Those parcels designated as new LDAs which are located adjacent to existing LDAs or IDAs and where the development on the parcel is located at least 300 feet from the edge of tidal waters, tidal wetlands, or tributary streams, provided that such designation conforms to the requirements of Subsection **D(2)(a)[1]** through **[3]** above.

§ 128-176. Amendments for floating zones.

- A. Zoning amendment petitions for one of the floating zone classifications shall be subject to a different set of criteria than those outlined above. Floating zone requests shall be reviewed under the provisions relating to planned developments, §§ **128-84** and **128-30**. The provisions of this article regarding the procedures and requirements of public hearings shall apply except that it shall not be necessary to prove a change in the character of the neighborhood or mistake in the original zoning of the property in order to gain approval. In floating zones, the test for approval or denial shall be compatibility with the neighborhood and consistency with the Comprehensive Plan.
- B. Procedures to maintain a floating rezoning once granted.
 - (1) Within one year of the granting of the original floating rezoning or any amendment thereto, applications for building permits must be filed with requisite fees paid; otherwise, such zoning shall revert automatically to its prior district classification without notice and public hearing.
 - (2) Within one year of the issuance of a building permit, construction shall be commenced on the land so zoned; otherwise, such zoning shall revert automatically to its prior district classification without notice and public hearing.
 - (3) Within three years of the granting of a floating rezoning, 75% of the public improvements devoted to such use or uses as may be permitted in the zoning district shall be completed; otherwise, the zoning shall revert automatically to its prior district classification. The Town Council, at the request of the owner, may grant an extension of this requirement.

Article XXI. Requirements for Public Hearing and Public Notice

§ 128-177. Posting.

- A. Unless otherwise expressly provided by law, all notices to the general public required by § 128-179 shall be made by posting the property to be affected by the pending proceeding. Such posting shall be made at least 14 days prior to the hearing date by erection of a sign to be furnished by the Department of Planning. Such sign shall be continuously posted until the date of the hearing and shall not be removed until the time specified in Subsection E herein. Such sign shall be erected by the initiator of the proceeding within 10 feet of the boundary line of the property which abuts the most traveled public road and if no public road abuts thereon, then such sign shall face in such direction as designated by the Director of Planning, and shall bear the words:

PUBLIC HEARING NOTICE

Case Number: _____ **pending**
(nature of case)

For information, call: _____
(telephone number)

The blanks shall be filled in with the assigned case number, if any, a short description of the nature of the proceeding, and the telephone number of the appropriate government office to provide information regarding the proceeding.

- B. The sign shall be furnished by the Department of Planning to the initiator of the proceeding with payment by the initiator of a nonrefundable deposit of \$10. The sign shall be returned by the initiator as a condition of approval by the appropriate administrative board.
- C. At the hearing, it shall be the duty of the initiator of the proceeding to prove by affidavit or in person that he has fully complied with this section.
- D. Any sign to be posted pursuant to this section shall be maintained in a visible location and free from obstruction by brush, weeds, or other growth until after the public hearing is held. Such sign shall be removed within five days after the final decision is rendered by the appropriate administrative board.
- E. Posting of the property as stated herein shall not be required for sectional or comprehensive amendment procedures.

§ 128-178. Public hearing.

All proceedings under the terms of this chapter requiring a public hearing shall be advertised by the Town, once a week for two successive weeks in a newspaper of general circulation in the Town, with the first such advertisement at least 14 days prior to the public hearing, the cost for which publication shall be borne by the petitioner, prior to the date the proceeding is scheduled for hearing, which advertisement shall state the following:

- A. The date, time and place of such hearing.
- B. A summary of the purpose of the proceeding in sufficient detail to inform the public of the nature of the proceeding and the relief sought by the initiator of the proceeding.
- C. The location of the property involved, its area, name of owner, and file or case number of the proceeding, and the name of the governmental body before which such proceeding is to be conducted.
- D. Any other information deemed necessary by the Director of Planning to adequately inform the public of the proceeding.

§ 128-179. Public notice.

- A. Except in cases of a proposed amendment to the text of this chapter or as provided in Subsection **C** below, whenever the application of this chapter requires the holding of a public hearing, the petitioner requesting the public hearing shall give at least 14 days' notice of the time and place of such hearing by certified U.S. mail, first-class postage prepaid by petitioner, to the owners of property within 200 feet of the property with which the hearing is concerned. Proof of certified mailing shall be submitted to the Department of Planning prior to the date on which the proceeding is scheduled. Failure to provide proof of certified mailing to all property owners within 200 feet of the property on which the proceeding is scheduled shall delay the proceeding. Said mailed notice shall be directed to the address to which the real estate tax bill on the property is sent. Said notice shall contain the same information as the published notice required by § **128-178** of this article.
- B. The Department of Planning shall provide a complete, accurate and up-to-date list of all such property owners that require notice. Failure of a person to receive the notice or accept service prescribed in this section shall not impair the validity of the hearing. For any Planning Commission or Board of Appeals review that requires notification to contiguous property owners, the petitioner shall also post the subject property at least 14 days prior to the meeting.
- C. Simplified site plans, administrative approvals and concept plans shall not be required to provide any type of U.S. mail notice.

Article XXII. Outdoor Lighting

§ 128-180. Purpose and intent.

It is the purpose of this article to develop minimum standards for use in the design and installation of outdoor lighting that enhance visibility and public safety by preventing uncontrolled intrusion into adjacent properties and the natural environment and to promote energy conservation and preserve the Town's night sky, which is a valuable natural resource important to the Town's character. It is the intent to conserve energy without decreasing safety, utility, security, and productivity, while enhancing nighttime enjoyment of property within the Town and surrounding area. It is assumed that appropriate lighting is safer and more efficient than inappropriate lighting; therefore, use of lamp technologies with high efficacy is encouraged.

§ 128-181. Applicability and requirements.

This article shall apply to all outdoor lighting within the Town of Denton unless otherwise exempted herein.

- A. Applicability:
 - (1) All commercial site plans shall demonstrate that the proposed development shall comply with the requirements set forth in Subsection **B** below with respect to exterior lighting.
 - (2) This article does not apply to emergency lighting.
 - (3) This article does not apply to temporary lighting.

- (4) This article does not apply to vehicular lighting.
- (5) This article does not apply to lighting on wheeled farm machines.

B. Requirements:

- (1) Motion sensors shall be utilized to control flood and spot lights.
- (2) High-pressure sodium (HPS) lights shall be used to minimize energy consumption, maintenance costs, and sky glow where color recognition is not needed.
- (3) Nonsecurity parking lot lights shall be turned off after business hours to save energy and protect the night sky.
- (4) The minimum amount of light needed shall be used to achieve safe uniform lighting with lights that consume the lowest amount of power possible.
- (5) Fully shielded or horizontally flush mounts shall be used for all lights.
- (6) Signs and flags shall be lighted from above.
- (7) All sports lighting shall be shielded.
- (8) All lights greater than 1,800 lumens shall be shielded to direct all light toward the ground so that the lighting elements are not exposed to normal view by or do not create or constitute a hazard or nuisance (e.g., glare) to motorists, pedestrians or neighboring residents.
- (9) Lighting shall be designed so as not to throw glare onto surrounding properties.

§ 128-182. Definitions.

For purposes of this article, the following definitions apply:

ADJACENT PROPERTY

Property abutting the lot being developed as well as properties that are separated by a street, road or right-of-way.

CANDELA

The unit that describes the intensity of a light source in a specified direction, and is equal to one lumen per steradian (lm/sr).

CUTOFF

A luminaire light distribution where the candela per 1,000 lamp lumens does not numerically exceed 25 (2.5%) at an angle of 90° above nadir, and 100 (10%) at a vertical angle of 80° above nadir.

DARK SKY CUTOFF FIXTURE

Any light fixture that emits its light below 45° when measured from 0° to 180° vertical. Dark sky cutoff fixtures keep most of their light from reaching the night sky (i.e., emit no more than 2% of light above the horizontal plane) and also minimize ground reflection and reduce light scatter beyond the property line.

DARK SKY FIXTURE

Any light fixture that emits its light below 90° when measured from 0° to 180° vertical. Dark sky fixtures

keep most of their light from reaching the night sky (i.e., emit no more than 2% of light above the horizontal plane).

DARK SKY SHADE

Anything that is used to shade a light fixture so that it behaves as a dark sky fixture. These include, but are not limited to, fixtures outfitted with caps or housings or installed under canopies, building overhangs, and roof eaves or shaded by other structures, objects or devices.

DARK SKY SHIELD

Anything that is used to shield a light fixture so that it behaves as a dark sky cutoff fixture. These include, but are not limited to, fixtures outfitted with caps or housings or installed under canopies, building overhangs, and roof eaves or shielded by other structures, objects or devices

DIRECT LIGHT

Light emitted directly for the lamp, off the reflector or diffuser of a luminaire.

DISABILITY GLARE

Glare which reduces visual performance due to light scattered in the eye reducing the contrast of the image.

EFFICACY

A measurement of the ratio of light produced by a light source to the electrical power used to produce that light, expressed in lumens per watt.

EMERGENCY LIGHTING

Illumination as required by civil officers, agents and officials to perform their duties to maintain the public health, safety and welfare.

FIXTURE

The assembly that holds the lamp (bulb) in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

FLOOD OR SPOT LIGHT

A light designed to flood a well-defined area with light, with a reflector or optical assembly that concentrates the light output in a particular direction or spot.

FLUORESCENT LAMP

A lamp used for indoor retail and office uses and occasionally in outdoor area lighting. Fluorescent lamps are also available in the so-called "compact" styles. Advantages include low initial costs for lamps and fixtures compared with the lamp types below, low life cycle costs and high efficiency compared to incandescent, no warm-up period, good color rendition, and long lifetimes. Disadvantages include higher initial costs compared to incandescent lamps, large lamp size, low efficiency (compared to HID lamps) and poor output maintenance, attraction of insects, and potentially hazardous mercury waste.

FOOTCANDLE

The basic unit of luminance (the amount of light falling on a surface). Footcandle measurement is taken with a light meter. One footcandle is equivalent to the luminance produced on one square foot of surface area by a source of one standard candle at a distance of one foot. Horizontal footcandles measure the illumination striking a horizontal plane. Vertical footcandles measure the illumination striking a vertical plane.

FULL CUTOFF

A shielded fixture that directs all light towards the ground by preventing all transmission of light above a horizontal line as specified by the Illumination Engineering Society, i.e., distribution where zero candela intensity occurs at an angle of 90° above nadir and at all greater angles from nadir, and prevents the direct image of a bright source. Additionally, the candela per 1,000 lamp lumens does not numerically exceed 100 (10%) at a vertical angle of 80° above nadir.

GLARE

A bright source which causes the eye to be drawn continually toward the bright image or when the brightness of the source prevents the viewer from adequately viewing the intended target.

HID LIGHTING

High-intensity discharge lighting, a family of bulb type, including mercury vapor, metal halide, or high-pressure or low-pressure sodium, which glows when an electric current is passed through a gas mixture inside the bulb.

HIGH PRESSURE SODIUM (HPS) LAMP

Most widely used HID lamps for roadway and parking lot lighting. Advantages include a long lifetime, a wide variety of moderate to high luminous output lamps, high efficiency and good maintenance, moderate color rendition, and wide availability and moderate cost of lamps and luminaires. Disadvantages include poorer color rendition than metal halide, fluorescent and incandescent, poorer output efficiency than low-pressure sodium, and potentially hazardous mercury waste.

HOLIDAY LIGHTING

Festoon-type lights, limited to small, individual low-wattage bulbs on a string.

INCANDESCENT LAMP

Lamp commonly used for the majority of residential lighting, both indoor and outdoor. Incandescent lamps are widely available in a huge variety of lamp styles of low to moderate luminous output. They are commonly used in applications where such low outputs are needed and where the lighting is often switched off and on. Advantages include low capital cost for lamps and luminaires, wide availability, wide variety of both lamp and fixture types, lack of a warm-up period, and lack of hazardous wastes. Disadvantages include short lifetimes, low efficiency with resultant high per-lumen energy use and life cycle cost, attraction of insects, and high heat production.

INDIRECT LIGHT

Direct light that has been reflected or scattered.

INSTALLATION

The attachment or assembly of any outdoor lighting fixture, and its fixing in place, whether or not connected to a power source.

LIGHT POLLUTION

The upward emitting of stray light which may illuminate clouds, dust, and other airborne matter, and may obscure the night sky.

LIGHT SOURCE

The lamp or enclosing bulb or reflective enclosure.

LIGHT TRESPASS

Any artificial light greater than 0.10 footcandle falling outside the boundaries of the property upon which the outdoor luminaire is installed. Light trespass occurs when neighbors of an illuminated space are

affected by the lighting system's inability to contain its light within the area intended.

LOW-PRESSURE SODIUM (LPS) LAMP

A HID lamp popular in some American cities, the light produced by LPS lamps is nearly monochromatic at a wavelength near 589 nanometers. Though the eye is very sensitive to this wavelength (leading to the high efficiency of LPS), the eye cannot distinguish colors when LPS light is the only source available. Low-pressure sodium lighting is favored where energy consumption and costs are a major concern and where color discrimination is either not needed or is supplied by other lighting. Advantages include the highest luminous efficiency and lowest energy use, low glare associated with the large lamps, good visibility and low scattering, minimal effects on insects and other wildlife, and lack of hazardous mercury wastes. Disadvantages include the lack of color rendition, shorter lamp lifetime, higher lamp replacement costs compared to HPS, and large lamp size in the higher output lamps.

LUMEN

The unit of measurement of the quantity of light produced by a lamp or emitted from a luminaire. The lumen quantifies the amount of light energy produced by a lamp at the lamp, not by the energy input, which is indicated by the wattage. For example, a one-hundred-watt incandescent light produces 1,800 lumens, while a seventy-watt high-pressure sodium lamp produces 6,000 lumens. Lumen output is listed by the manufacturer on the packaging.

LUMINAIRE

A complete lighting unit often referred to as a "light fixture." A luminaire consists of the lamp or light source, optical reflector and housing, and electrical components for safely starting and operating the lamp or light source.

MERCURY VAPOR LAMPS

The first widely used HID lamps. Though highly efficient and long lived compared to the incandescent lighting technology they displaced, they have many disadvantages compared to other lighting sources available today, including low luminous efficiency, poor color rendition, and high ultraviolet output. Mercury vapor lamps have now been almost completely replaced in new applications by the more efficient metal halide and high-pressure sodium lamps.

METAL HALIDE LAMP

A HID lamp, similar to mercury vapor lamps, but with the addition of small amounts of various metallic halides, such as scandium, sodium, dysprosium, holmium and thulium iodide. The many different varieties of metal halide lamps give a wide variety of slightly different color characteristics, though generally they are white or blue/white sources. Besides a relatively steep fall-off in intensity with time (compared to high-pressure sodium; see below), many metal halide lamps also change their color as they age. Metal halide lamps are very commonly used in commercial outdoor lighting where white light with good color rendition is required or simply desired, such as car dealer display lots, sports lighting, and service station canopies. Advantages include a wide variety of moderate to high luminous output lamps, high efficiency compared to incandescent and mercury vapor and good color rendition. Disadvantages include lower efficiency and output maintenance compared to high- and low-pressure sodium, shorter lamp lifetime compared to high-pressure sodium, color changes, ultraviolet output if not adequately filtered, and potentially hazardous mercury waste.

MOTION SENSOR

Any device that turns a light fixture on when it detects motion and off when motion stops.

NADIR

The point directly below the luminaire.

NONCUTOFF

A luminaire light distribution where there is no candela limitation in the zone above maximum candela.

OUTDOOR LIGHTING

The nighttime illumination of an outside area or object by a device that produces light by any means.

OUTDOOR LIGHTING FIXTURE (OR LUMINAIRE)

Any outdoor electrically powered luminaire, permanently installed or portable, used for illumination, decoration, or advertisement. Such devices shall include general ambient lighting, street and area luminaires, decorative lighting, accent or feature lighting, as well as searchlights, spotlights, and floodlights, any of which being for use at or on:

- A. Buildings and structures, including church steeples.
- B. Recreational areas.
- C. Parking lot and area lighting.
- D. Landscape lighting.
- E. Outdoor signage, both internally and externally lit (advertising or other).
- F. Streetlighting.
- G. Product display area lighting.
- H. Building overhangs, eaves, and open and closed canopies.
- I. Farms, dairies, or feedlots.
- J. Gas canopy lighting.
- K. Outdoor walkways.
- L. Flag poles.
- M. Monuments or sculptures.

SEMICUTOFF

Luminaire light distribution where the candela per 1,000 lamp lumens does not numerically exceed 50 (5%) at an angle of 90° above nadir, and 200 (20%) at a vertical angle of 80° above nadir.

SKY GLOW

The result of scattered light in the atmosphere, means the haze or glow of light that reduces the ability to view the nighttime sky.

STERADIAN

The basic international system unit of measurement of a solid angle in a sphere. One steradian is the solid angle made at the center of a sphere by an area on the surface of the sphere equal to the square of the sphere's radius.

SWITCH

Any device that can be manually controlled by a person to turn a light fixture on and off. For the purpose of this article, switches include motion sensors but switches do not include light sensors or timers.

TEMPORARY LIGHTING

Illumination as required by citizens to carry out legally approved activities for durations as specified in the permits for those activities. These include, but are not limited to, activities such as nighttime agricultural operations, construction work lighting, and seasonal decorations, but in no case shall such temporary lighting continue for more than a period of three months without an exemption granted by the Town of Denton.

§ 128-182.1. Light fixtures prohibited.

- A. Non-dark sky fixtures are prohibited in the Town of Denton unless otherwise permitted by this chapter.
- B. In addition to Subsection **A**, the following light fixtures are prohibited:
 - (1) Lights which shine directly into neighboring residential districts or buildings and adjacent properties.
 - (a) The maximum illumination of an adjacent parcel from light emitted from an artificial light source is 0.1 horizontal footcandle and 0.1 vertical footcandle when measured:
 - [1] At five feet inside an adjacent residential parcel.
 - [2] At 10 feet inside an adjacent commercial or industrial parcel.
 - (b) No line of sight to a light source is permitted five feet or more beyond the edge of the public right-of-way or property line in a residential district by an observer viewing from a position that is level with or higher than the ground below the fixture.
 - (c) Compliance is achieved with fixture shielding, directional control designed into the fixture, fixture location, fixture height, fixture aim, or a combination of these factors.
 - (2) Excessive lighting: lighting which directs attention away from existing business and community lighting. New lighting shall not cause existing lighting to appear noticeably dimmer or reduce the sense of security it provides.
 - (a) Areas under structural canopies shall be illuminated so that the uniformity ratio (ratio of average to minimum luminance) shall be no greater than 5:1 with an average illumination level of not more than 30 footcandles.
 - (b) Light fixtures located on structural canopies shall be mounted so that the lens cover is recessed or flush with the ceiling of the canopy.
 - (3) Glare: high-intensity discharge (HID) light sources which cause disability glare directly visible to drivers. Full cutoff fixtures shall be used so as to ensure lighting elements are not exposed to normal view by or do not create or constitute a hazard or nuisance to motorists, pedestrians or neighboring residents.
 - (4) Flashing lights.

§ 128-182.2. Light fixtures permitted.

The following light fixtures and lighting are permitted:

- A. All light fixtures that were installed prior to the effective date of this article.
- B. All light fixtures that are dark sky fixtures and dark sky cutoff fixtures.
- C. All light fixtures that have a dark sky shade or a dark sky shield.
- D. All light fixtures that are dark sky fixtures and dark sky cutoff fixtures providing uniform and appropriate lighting in parking lots.
- E. All light fixtures that use quality prismatic or translucent lens materials to spread the bright image over a larger area and reduce the brightness of the source.
- F. Lighting designed for historic or residential streets with special product aesthetics or vertical luminance criteria to limit the lamp lumens or wattage and thereby control glare and light trespass.
- G. Appropriate lighting used solely to enhance the beauty of an object.
- H. Necessary floodlights mounted at the appropriate height, so as to reduce glare in an unintended field of view and with a total effect that conforms to reasonable ambient lighting levels, based on the environment of the proposed installation. The light sources in flood and spot lights shall not be directly visible from adjacent properties.
- I. All temporary light fixtures for special public events.
- J. All temporary holiday lighting.
- K. All emergency lighting.
- L. All lighting less than 1,800 lumens.
- M. Lighting of churches and flags, as well as sports fields in nonresidential areas.
- N. Waterfront lighting: All lighting in and around the ponds, lakes and other waters of the Town shall not be installed or maintained so as to create a hazard to or nuisance to other property owners, navigation or boaters and shall comply with the following:
 - (1) Lights on docks or piers shall be no more than three feet above the docks or piers, shall be downward directed, and shall be no more than 550 lumens or less.
 - (2) Lights illuminating paths, decks, etc., shall not be directed toward the waters and shall be no more than 1,800 lumens or less.
 - (3) All exterior lighting shall be located, mounted and shielded so that direct illumination is not directed on the water surface more than 20 feet from the shore.
- O. Appropriate sign lighting as referenced in Article **XV**, Signs, of this chapter.
 - (1) Illumination. The illumination of all signs shall comply in all respects with the provisions of this article.
 - (2) All illuminated signs shall be lighted by top-mounted lights pointed downward. No sign may be illuminated with fixtures not shielded from upward transmission of light.
 - (3) Nonflashing illumination. Signs may be illuminated only by conflating lights. Lights that flash, pulse, rotate, move, or simulate motion are not permitted.
 - (4) All lights shall be shielded to ensure that light sources are not directly visible to drivers or from

neighboring properties.

§ 128-182.3. Replacement of non-dark sky fixtures.

When a non-dark sky fixture is replaced, it shall be replaced with one of the following:

- A. Dark sky fixture; or
- B. Dark sky cutoff fixture; or
- C. Non-dark sky fixture that has a dark sky shade or a dark sky shield that causes it to operate as if it were a dark sky fixture or a dark sky cutoff fixture.

§ 128-182.4. Installation of new light fixtures.

- A. When a new light fixture is installed, it shall be installed with a switch to allow lighting to be manually turned on and off, with a motion sensor to automatically turn it on when motion is detected and turn it off when motion ends, or with timers or photocells when lighting is not needed.
- B. Noncritical lighting after business hours and at other times shall be turned off when it is not required.

§ 128-182.5. Light fixtures encouraged but not required.

- A. Light fixtures with motion sensors are encouraged to minimize the duration of nighttime lighting.
- B. Light fixtures with soft yellow or orange lights (e.g., high-pressure sodium) instead of harsh white lights (e.g., metal halide) are encouraged to protect the view of the night sky.
- C. Dark sky shades and dark sky shields are encouraged for old existing fixtures to protect the view of the night sky, minimize ground reflection and reduce light scatter beyond the property line.
- D. Dark sky cutoff fixtures are encouraged where light fixtures are mounted on structures or poles higher than the first level above ground level to protect the view of the night sky, minimize ground reflection and reduce light scatter beyond the property line.

§ 128-182.6. Exemptions.

- A. The Planning Commission may allow exemptions from this article, as needed, to relieve any unusual circumstances or difficulties or costs that would be encountered if an attempt were made to comply with this chapter.
- B. The Town Council may allow exemptions from this article to recognize that a good faith attempt has been made to comply with this chapter but compliance is still not possible due to unusual circumstances or difficulties or costs encountered.

§ 128-182.7. Liability.

- A. A person utilizing or maintaining an outdoor light shall be responsible for all costs and any other liability resulting from failure to comply with this article.
- B. Responsibility for costs and liability begins from and after the day this article becomes effective.

§ 128-182.8. Enforcement.

The Building Official and the Department of Planning are authorized to enforce the provisions of this article.

§ 128-182.9. Disclaimer.

The Town of Denton does not, by approving or disapproving a lighting fixture, warranty or make assurance of any kind whatsoever, specifically as to whether the subject of the approval or disapproval is safe, suitable for its intended purpose, merchantable, or in compliance with any applicable codes or regulations.

Article XXIII. Site Plan Required For Certain Uses

§ 128-183. Purpose.

For the purpose of assuring a sound, serviceable arrangement of the following structures and uses and insuring consistency with the Comprehensive Plan, as well as compliance with applicable requirements of this chapter and/or Chapter **73**, Land Subdivision, site plans for the following major uses, whether proposed as special exception uses or permitted uses, shall be subject to review and recommendation by the Planning Commission. The site plan shall be approved, disapproved or approved subject to conditions by the Director of Planning.

§ 128-184. Development types or land uses requiring site plan approval.

A site plan is required for any development or land uses where the applicable district regulations require such a plan (Articles **X** and **XI** of this chapter) or for any of the following proposed uses or structures:

- A. Any residential development involving uses other than detached single-family residential units or structures, including conversions of existing buildings.
- B. Redevelopment of vacant properties or buildings or changes in use of properties or buildings.
- C. Uses subject to approval as special exception uses by the Denton Board of Appeals.
- D. Development which requires off-site improvements involving the expenditure of public funds.

- E. Any and all development or redevelopment in the Critical Area buffer.
- F. Construction or expansion of a single-family dwelling and ordinary accessory structure, and related land use activities.
- G. Commercial and industrial structures or uses.
- H. All signs except in conjunction with new development.

§ 128-185. Procedures for processing.

- A. For each application involving site plan approval, seven copies of a preliminary site plan, together with the required information described in **Appendix I** of this chapter,^[1] shall be submitted with the zoning certificate and building permit application to the Town Director of Planning no later than 45 days prior to the Planning Commission meeting.
[1]: Editor's Note: Appendix I is included at the end of this chapter.
- B. Minor site plans requiring an administrative approval shall not have the forty-five-day prior submittal requirement.
- C. The Director of Planning or designated representative shall be responsible for checking the site plan for general completeness and compliance with such administrative requirements as exist or may be established prior to routing copies thereof to reviewing departments, agencies, and officials. The Director of Planning shall insure that all reviews are completed on time and that site plans are submitted to the Planning Commission with review comments prior to the next regular Planning Commission meeting, provided the plans have been submitted 45 days prior to the meeting.
- D. Minor site plans, deemed complete and requiring only an administrative approval, shall be reviewed by the Director of Planning.
- E. The Planning Commission and/or Director of Planning shall examine the proposed development with respect to the traffic and circulation patterns; parking, internal and external; relation to existing or proposed transportation in the area; utilities, stormwater management facilities, and community facilities, existing or proposed; surrounding development, existing or future; the preservation of trees or historic sites; provision for open space; and in general with the objective of insuring a durable, harmonious, and appropriate use of the land consistent with the objectives of the Comprehensive Plan. When the granting of a special exception is required, the Commission shall forward the site plan, together with its recommendation, to the Board of Appeals. The Board of Appeals may prescribe additional information to be shown on the plan, with all changes and additions to be reviewed for compliance with this chapter and the Comprehensive Plan. If specified conditions are met in the revised plan, the Director of Planning may approve issuance of building permits in accord with the revisions without returning the plans for further Planning Commission review. The Director of Planning may approve minor changes in site plans after approval by the Planning Commission or Board of Appeals and approve issuance of building permits accordingly, if such changes do not substantially affect the original approval or conditions attached thereto.
- F. Nothing in this section shall be interpreted to permit the granting of a variance or special exception to the regulations of this chapter or to abridge the procedures or requirements of the laws and ordinances governing the subdivision of land.
- G. Subsequent to approval of the preliminary plan, two final drawings must be submitted to the Department of Planning, with one copy to be kept on file.

§ 128-186. Required information to be shown.

Every site plan that is submitted in accordance with this article shall contain the information shown in **Appendix I** at the end of this chapter.

§ 128-187. Simplified site plans and concept plans.

A. Simplified site plan.

- (1) Upon the determination by the Director of Planning, with the concurrence of all appropriate agencies, a simplified site plan may be filed for duplexes, conversions, redevelopment of existing facilities, development or redevelopment in a BEA, an accessory building and/or addition to a commercial or industrial use structure in those cases where a field inspection indicates that the scope of the proposed accessory building and/or addition is of such a nature that the provisions for stormwater management, sediment control, off-street parking, setbacks, water and sewerage, and other requirements can be adequately addressed with a simplified site plan. Said site plan may be approved by the Director of Planning upon concurrence of all appropriate agencies.
- (2) The simplified site plan shall contain the information for simplified site plans shown in **Appendix I** at the end of this chapter.

B. Concept plan.

- (1) A concept plan is a site plan by which, at the early stages of development design, the Planning Commission may consider, approve, or restrict major aspects of the development without requiring an undue amount of final design work on the part of the developer. The concept plan is less detailed and specific than a major site plan in terms of exact arrangement of buildings, parking areas, open spaces, access points, and any other site design features. No building permits can be issued based upon a general development plan.
- (2) Concept plans shall be required as follows:
 - (a) All applications for Official Zoning Map amendments shall be accompanied by a concept development plan.
 - (b) To permit more than one principal structure and its accessory structures on a lot or parcel of land.
 - (c) For consideration of a planned development.

§ 128-188. Specific standards and conditions on site plan approval.

The following specific standards will be met in the site plan, in addition to other requirements of this chapter:

- A. Lighting. Lighting emitting objectionable glare or sky glow observable from surrounding properties or streets will be shielded.

- B. Public facilities. The Town and/or Health Department shall certify that the proposed water and sewer facilities are adequate to service the proposed development
- C. Screening. The Planning Commission may recommend requirement of screening the property lines and around, and within, the parking areas. Minimum standards are:
 - (1) Planting strips will be no less than five feet wide planted with shrubs and/or trees, which are of a type and spaced at intervals which may be expected to form a year-round dense screen at least six feet high within three years; and
 - (2) Opaque fencing may be used in lieu of trees and shrubs, subject to approval of the Director of Planning.
- D. Common areas. If the plan of development includes common areas, property, and/or facilities, including, but not limited to, stormwater management facilities, the Director of Planning, as a condition of approval, shall establish such conditions on the ownership, use, and maintenance of such lands or property as he deems necessary to insure the preservation and maintenance of such areas, property, and facilities for their intended purposes.

§ 128-189. Required improvements.

In furtherance of the purposes of this chapter, and to assure public safety and general welfare, the Town departments, and agencies charged with the responsibility for the review and approval of site plans, shall require such of the following improvements as fall within their respective responsibilities:

- A. Designation of pedestrian walkways so that individuals may walk on same from store to store or building to building within the site and to adjacent sites.
- B. The concurrence of the State Department of Transportation with the location and design of vehicular entrances and exits to and from state-maintained streets and highways.
- C. Connection, wherever possible, of all walkways, travel lanes, and driveways, with similar adjacent developments.
- D. Screening, fences, landscaping, and buffer areas as are required by the provisions of this section and other ordinances of the Town.
- E. Easements or rights-of-way for all facilities to be publicly maintained. Such easements shall clearly be defined for the purpose intended.
- F. Outdoor lighting facilities as specified in Article **XXII**, Outdoor Lighting, in this chapter
- G. Adequate stormwater management facilities as specified by Chapter **106**, Stormwater Management.

§ 128-190. Agreement bond for improvements.

- A. Prior to approval of any site plan, there shall be executed by the owner or developer and submitted with the site plan an agreement to construct such required physical improvements as are located within public rights-of-way or easements or as are connected to any public facility in form and substance as approved by the Town of Denton, together with a bond or surety acceptable to the Town in the amount of the estimated

cost of the required physical improvement of all work covered thereby, which time may be extended by the Town Council upon written application by the owner or developer, signed by all parties (including sureties) to the original agreement. The adequacy, conditions, and acceptability of any bond or surety hereunder shall be determined by the approving authority for the Town. The legal sufficiency of the bond or surety shall be determined by the Town Attorney.

- B. The Town may also require agreement bonds for required landscaping and bufferyard plantings. The bond (amount to be determined by the Town Arborist) may be held for the Town for a period of one year to ensure that plantings remain healthy and alive during this period.

§ 128-191. Approval and extension.

Approval of a site plan submitted under the provisions of this article shall expire one year after the date of such approval unless building permits have been obtained for construction in accordance therewith. A single one-year extension may be given upon written request by the applicant to the Director of Planning made within 90 days before the expiration of the approved site plan. The Director of Planning shall acknowledge the request and shall forward the request within 45 days after receipt to the Planning Commission for a recommendation regarding the requested extension.

§ 128-192. Modification, revision and waiver.

Any site plan may be revised using the same procedure as originally approved, and any requirements of this article may be waived by the Planning Commission, or the Director of Planning for minor modifications as specified in Subsection A, in specific cases where such requirement is found to be unreasonable. No such waiver shall be adverse to the purpose of this section. Approved site plans may be modified as follows:

- A. Minor modifications. The Director of Planning may authorize minor adjustments in an approved plan as follows:
- (1) Minor modification of the size and location of drainageways, sewers, roadways, plantings or other similar features, in light of technical or engineering considerations.
 - (2) Minor modifications of the bulk of any proposed structure, provided that the modified dimensions comply with all requirements of the applicable zoning district and do not allow buildings closer to property lines or otherwise adversely affect neighboring properties or the development authorized by the plan as originally approved.
 - (3) Any request for a modification of any condition imposed in a site design plan approval which is deemed by the Planning Director to be a minor modification.
- B. Major modifications. Modifications to any approved site design plan that the Director of Planning deems to be a major modification may be approved only in accordance with the procedures required for original plan approval, subject to waivers of plan submission requirements by the Director of Planning.

§ 128-193. Building permit.

No building permit shall be issued for any structure in any area covered by the site plan that is required under

the provisions of this article except as it is in conformity to such site plan which has been duly approved.

Article XXIV. Administration

§ 128-194. Director of Planning and Codes.

This chapter shall be administered and enforced by the Director of Planning and Codes. The Director of Planning may be provided with the assistance of such other persons as the Town Council may direct. Delegation of such duties and responsibilities in connection with the administration and enforcement of this chapter may be done as deemed appropriate in the judgment of the Director of Planning.

§ 128-195. Permits.

- A. No building shall be erected, constructed, demolished, altered, moved, converted, extended, or enlarged without the owner first having obtained a permit from the Department of Planning. Such permit shall require conformity with the provisions of this chapter.
- B. Posting of the property as stated herein shall not be required for sectional or comprehensive amendment procedures.

§ 128-196. (Reserved)

§ 128-197. (Reserved)

Article XXV. Interpretation and Conflict

§ 128-198. Minimum requirements.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by this chapter to interfere with, or abrogate or annul, any easement, covenants, or other agreement between parties; provided, however, that where this chapter, imposes a greater restriction or higher standard upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by other resolutions, ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this chapter shall govern. If, because of error or omission in the Official Zoning Map, any property in the jurisdiction of this chapter is not shown as being in a zoning district, the classification of such property shall be classified SR Suburban Residential, until changed by map amendment.

Article XXVI. Enforcement

§ 128-199. Duty of Director of Planning and Codes, officers and employees.

It shall be the duty of the Director of Planning to enforce the provisions of this chapter and to refuse to issue any permit for any building or for the use of any premises which would violate any of the provisions of this chapter. It shall also be the duty of all officers and employees of the Town to assist the enforcing officer by reporting to him or her any seeming violation in new construction, reconstruction, or land use.

§ 128-200. Instituting action to end violation.

In case any building is erected, constructed, reconstructed, altered, repaired, demolished, or converted or any building or land used in violation of this chapter, the Director of Planning is authorized and directed to institute any appropriate action to put an end to such violation.

§ 128-201. Violations and penalties.

- A. It shall be considered a municipal infraction for any person or corporation to violate any provision of this chapter, or to erect, construct, alter or repair, convert, or maintain any building or structure, sign, or land in violation of any written statement or plan submitted and approved hereunder.
- B. It shall be considered a municipal infraction for any owner, tenant, or occupant of a building, structure, sign or land, or part thereof, which is in violation of this chapter, or any architect, builder, contractor, subcontractor, agent, servant, person or corporation, knowingly to assist or further the commission of any violation of this chapter. There shall be a rebuttable presumption that the defendant was violating this chapter knowingly.
- C. In the event that any person is found to have committed a municipal infraction hereunder, notice shall be given in the same manner as for property maintenance violations that incorporate requirements stated in Chapter **94** of the Town Code.
- D. In the event that any person is found to have committed a municipal infraction hereunder, each infraction shall be punishable by a fine of up to the maximum municipal infraction fine permitted by state law for each single violation. Each day such violation continues shall be a separate offense. In addition to said fine, the Town may request during the adjudication of the infraction that the defendant abate the violation or, in the alternative, to permit the Town to abate the violation at the defendant's expense, with the costs to be assessed against the property as a lien collectible in the same manner as real estate taxes. Nothing herein shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation.

§ 128-202. Banner enforcement.

Should there be a violation of any provisions of § 128-135, the Town shall provide immediate notice of the violation to the lessee and/or the owner of the property on which the banner is located and shall require said persons to correct the violation within 24 hours of notice of the violation, which may include removal of the banner. In the event that this violation continues after the twenty-four-hour period referenced herein, the violation shall be a municipal infraction, and this chapter enforced in accordance with Chapter **20**, Infractions; General Penalty, of the Code of the Town of Denton.

Article XXVII. Miscellaneous Provisions

§ 128-203. Severability.

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

§ 128-204. When effective.

This chapter shall take effect and become enforceable immediately upon its adoption by the Town Council of the Town of Denton. Nothing in this chapter shall impair or invalidate any work begun under any permit issued before the effective date hereof nor shall it impair or invalidate any unexpired permit for work not yet begun, provided that such work must conform to all terms of the permit and the Zoning under which such permit was issued. All applications receiving preliminary site plan approval before the effective date hereof shall be processed and decided in accordance with the Zoning in effect when the particular application was approved.