

**ARTICLE 2
ZONING DISTRICTS & MAPS**

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2-1 ZONING MAPS & DISTRICTS

For the purpose of this Ordinance, the incorporated area of Calvert County is divided into Primary Districts and Overlay Districts.

2-2 ZONING MAP & DISTRICT BOUNDARIES ESTABLISHED

The locations and boundaries of the Districts are established as shown on the maps entitled "Zoning Maps". The maps and all notations, dimensions, references and other data shown, as well as properly attested amendments, are incorporated as a part of this Ordinance. Maps reflecting the current status of zoning are located in the Department of Planning & Zoning, Room 304, County Services Plaza, Prince Frederick.

2-3 INTERPRETATION OF DISTRICT BOUNDARIES

2-3.01 Determining District Boundaries

Where uncertainty exists with respect to the boundaries of the various Districts as shown on the Zoning Map, the following conditions shall apply:

- A. District boundaries are meant to and shall be considered to follow street, alley or lot lines, or lines parallel or perpendicular thereto, unless such boundaries are otherwise shown on the Zoning Maps.
- B. Where a boundary line is shown within a street, alley or navigable or non-navigable stream, it shall be intended to follow the center line of such street, alley or stream. Should the actual location of such street, alley or stream vary from the location as shown on the Zoning Map, then the actual natural location shall control.
- C. Where a boundary line is shown as being located a specific distance from a street line or other physical feature, then this distance shall control.
- D. In unsubdivided property, unless otherwise indicated, a District boundary line on the Zoning Map shall be determined by the use of the scale on the Zoning Map.
- E. Wherever any road, alley or other public way is abandoned by official action as provided by law, the Zoning Districts adjoining the side of such public way shall be automatically extended, depending on the side or sides to which such lands revert, to include the right-of-way of the public way thus vacated, which shall thenceforth be subject to all regulations of the extended District or Districts.

2-4 NOTE RESTRICTIONS ON ZONING MAPS

Note restrictions are placed on Zoning Maps to address special situations. In the event of a conflict between the note restrictions and the Zoning Ordinance, the note restrictions will supersede the specific regulations in the Zoning Ordinance. Also see Section 2-5 for amendments to note restrictions on Zoning Maps.

2-5 DISTRICT CHANGES

The Official Zoning District Maps may from time to time be amended, through rezonings by application and comprehensive rezonings. Restrictions on the Zoning Maps may be amended by the same procedure as Ordinance amendments (See Section 1-6).

2-5.01 Rezoning by Application

A. Application procedure:

Rezoning applications shall be submitted on forms obtained from the Department of Planning & Zoning. Each application shall be signed by all owners of the property and all persons having an interest in the property. The completed application, together with all required information and fees, shall be filed with the Department of Planning & Zoning. The Zoning Officer, upon receipt of a properly completed application, shall refer the application to the Planning Commission for its consideration and recommendation to the Board of County Commissioners.

B. Public Hearing required:

Before any rezoning by application can be adopted, a duly advertised joint public hearing shall be held by the Planning Commission and Board of County Commissioners.

C. Public Hearing notice:

The public hearing shall comply with the requirements of Article 66B, Section 4.05(c) of the Annotated Code of Maryland, as amended from time to time.

D. Posting of property:

At least 14 days prior to the scheduled public hearing, the Zoning Officer shall erect a sign on the land proposed to be rezoned. Such sign shall be erected within 25 feet of the boundary line of said land which abuts the most traveled County or State road and if no County or State road abuts thereon, then facing in such a manner as may be most readily seen by the public.

E. Notice to Neighboring Property Owners:

The Zoning Officer shall mail copies of the public hearing notice by U.S. Mail, First Class Postage Prepaid, to all parties shown by the record of said proceedings on file at the Department of Planning & Zoning, and to all adjoining owners of property, not less than 20 days before the date of the hearing. The applicant shall be responsible for submitting an accurate list of the names and addresses of the adjoining property owners.

F. Reapplication after Denial:

An application for rezoning shall not be accepted for any part of a property for which the Board of County Commissioners has denied a rezoning application within the previous 12 months.

G. Basis for Approval

1. The Board of County Commissioners may grant a rezoning by application based upon a finding that there was a substantial change in the character of the neighborhood where the property is located, or that there was a mistake in the existing Zoning District classification, and that the proposed change in

2-5.02 Conditional Rezonings

Zoning District classification would be more desirable in terms of the objectives of the Comprehensive Plan.

2. Prior to a decision on any proposed rezoning, the Board of County Commissioners shall make findings of fact, based on the evidence presented, including 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 compatibility with the Comprehensive Plan.
3. Even though an application for rezoning complies with all of the specific requirements and purposes of this Ordinance, the application may be denied if the proposed rezoning and possible resulting development would not be compatible with neighboring land uses.

2-5.02 Conditional Rezonings

The Board of County Commissioners, upon the approval of any rezoning by application, may impose such additional restrictions, conditions or limitations as it deems appropriate to preserve, improve or protect the general character and design of the land and improvements being rezoned, or of the surrounding or adjacent land and improvements. Conditions imposed shall not prohibit any use expressly permitted in the Zoning District to which the land is rezoned.

2-5.03 Comprehensive Rezonings

- A. Duly advertised public hearings shall be held by the Planning Commission and the County Commissioners. The provisions of Article 66B, Section 4.04 of the Annotated Code of Maryland, as amended from time to time, concerning public hearing and official notice apply to comprehensive rezonings.
- B. The public hearing notice shall contain a brief description sufficient to identify the property involved, the current and proposed Zoning District classifications, and the date, time and place of the public hearing.
- C. Posting of property and notification of neighboring property owners shall not be required.
- D. Comprehensive rezonings are not subject to the “change or mistake rule” described in Section 2-5.01.G if they are consistent with the Comprehensive Plan.

(10/13/10) **2-6 NON-CONFORMING USES AND STRUCTURES**

(1/19/12) 2-6.01 Non-Conforming Uses¹

- A. General Provisions
 1. In order to effectively implement the stated goals of the Calvert County Comprehensive Plan and Town Center Master Plans, if applicable, uses that do not conform to those goals shall be strictly regulated by the provisions of this Ordinance.
 2. A Non-Conforming Use is defined as a use which lawfully existed prior to the adoption or amendment of this Ordinance, but, by virtue of the adoption or amendment of this Ordinance, is no longer a permitted use in the Zoning District

¹ For provisions regarding Non-Conforming *Structures*, see Section 2-6.02 of this Ordinance.

within which it is located. For the purposes of this Section, the “date of non-conformity” shall be the date of the adoption or amendment of this Ordinance; the adoption or amendment of which rendered a use non-conforming.

3. See Section 8-1 of this Ordinance for requirements regarding non-conforming uses in the Critical Area.

(1/19/12)

B. Certificates of Non-Conformity

1. Upon the request of a property owner, the Zoning Officer may issue a Certificate of Non-Conformity to establish the existence of a Non-Conforming Use, as defined herein. The Certificate shall include, among other information:
 - a. The date of non-conformity, which is the date of the adoption or amendment of this Ordinance; the adoption or amendment of which rendered a use non-conforming.
 - b. The Zoning Ordinance Section(s) which caused the previously legal conforming use to become a Non-Conforming Use, and the date on which the Section(s) were adopted or amended.
2. The Zoning Officer shall establish procedures and appropriate forms for processing requests for Certificates of Non-Conformity.
3. A request for a Certificate of Non-Conformity for a Non-Conforming Use shall include the following information:
 - a. Evidence, as described below, clearly demonstrating that the use has continuously existed without interruption from the date of non-conformity through the application date for the Certificate of Non-Conformity (except such lapses as permitted by Section 2-6.01.F herein). Such evidence may include, for example:
 - i. Photographs of the property (ground level, overhead or aerial photographs) that clearly depict the use and include the date on which the photographs were taken.
 - ii. A valid building, grading, or use and occupancy permit substantiating the date of non-conformity and the legal status of the use.
 - iii. Other records, including tax records, receipts, etc., which establish that the use existed on the property as of the date of non-conformity.
 - iv. A plat or site plan of the subject property, prepared and stamped by a Registered Surveyor, which clearly depicts the location of all buildings, structures, and the area used by the Non-Conforming Use.

C. Continuation of Lawfully Existing Uses

Any use lawfully existing at the time of the adoption or amendment of this Ordinance may continue to be used even though such use is no longer permitted in the Zoning District in which it is located. Non-Conforming Uses may continue even if ownership of the property changes.

D. Expansion of Non-Conforming Uses

1. The Board of Appeals may approve expansion of a Non-Conforming Use provided that such expansion is restricted to 50 percent of the square footage of the area occupied by the use at the time the use originally became non-conforming under this or any previous Zoning Ordinance (date of non-conformity). The intent of this Section is to limit the amount by which a Non-Conforming Use may be expanded as of the date the use was deemed non-

conforming by any Ordinance, past or present.

2. For a Non-Conforming Use that does not involve a building or structure, the area of the lot utilized by such a use as of the date of non-conformity may be expanded by up to 50 percent if approved by the Board of Appeals.
3. The criteria to be applied by the Board of Appeals when reviewing a request for expansion of a Non-Conforming Use shall be the same as those contained in Section 11-1.02 for special exceptions.
4. A Certificate of Non-Conformity, as described in paragraph 'B' of this Section, shall be issued by the Zoning Officer prior to application to the Board of Appeals for expansion of a Non-Conforming Use.
5. When expansion of a Non-Conforming Use is proposed, the entire site shall be brought into conformance with the requirements of this Ordinance and/or the applicable Town Center Zoning Ordinance to the maximum extent feasible, as determined by the Planning Commission or its designee.
6. The Zoning Officer may permit an existing non-conforming manufactured home to be replaced, expanded or altered if it is determined to be habitable in accordance with Section 75-10 C (1) – (5), Minimum Livability Code, of the Calvert County Code.

(1/19/12)

E. Replacement of Non-Conforming Uses

1. A Non-Conforming Use may, with approval of the Board of Appeals, be changed to another Non-Conforming Use which the Board of Appeals finds to be of the same or a more appropriate use or classification.
2. Whenever a non-conforming use has been changed to a more appropriate use such use shall not thereafter be changed to a less appropriate use or classification.
3. The criteria to be applied by the Board of Appeals when reviewing a request for replacement of a Non-Conforming Use shall be the same as those contained in Section 11-1.02 for special exceptions.
4. A Non-Conforming Use may be replaced with a conforming use without approval from the Board of Appeals.
5. When replacement of a Non-Conforming Use is proposed, the site shall be brought into conformance with all other requirements of this Ordinance and/or the applicable Town Center Zoning Ordinance to the maximum extent feasible, as determined by the Planning Commission or its designee.

F. Discontinuance of Non-Conforming Uses

A Non-Conforming Use which has been discontinued or abandoned for nine consecutive months or for 18 months during a three-year period shall not again be used for a Non-Conforming Use except that non-conforming seasonal uses shall be permitted to continue unless discontinued or abandoned for a period of 24 consecutive months.

G. When a Non-Conforming Use Becomes a Special Exception

If a change to the Zoning Ordinance results in an existing Non-Conforming Use being permitted as a special exception use, the use shall be considered a conforming use. The owner shall automatically have a special exception and shall not be required to obtain a special exception from the Board of Appeals to continue

the use. However, expansion in area of use or building area requires the approval of the Board of Appeals. The criteria to be applied by the Board of Appeals when reviewing such a request shall be the same as those contained in Section 11-1.02 for special exceptions.

2-6.02 Non-Conforming Structures (Excluding Signs)²

A. General Provisions

1. A non-conforming structure is defined as a structure which lawfully existed prior to the adoption or amendment of this Ordinance, but which, by virtue of the adoption or amendment of this Ordinance, no longer conforms to the requirements of this Ordinance in terms of such requirements as area, setback, or height requirements, etc.
2. For the purposes of this Section, the “date of non-conformity” shall be the date of adoption or amendment of this Ordinance; the adoption or amendment of which rendered the structure non-conforming.
3. See Section 8-1 of this Ordinance for requirements regarding non-conforming structures in the Critical Area.

(1/19/12)

B. Certificates of Non-Conformity

1. Upon the request of a property owner, the Zoning Officer may issue a Certificate of Non-Conformity to establish the existence of a Non-Conforming Structure, as defined herein. The Certificate shall include, among other information:
 - a. The date of non-conformity, which is the date of the adoption or amendment of this Ordinance; the adoption or amendment of which rendered a structure non-conforming.
 - b. The Zoning Ordinance Section(s) which caused the previously legal conforming structure to become a Non-Conforming Structure, and the date on which the Section(s) were adopted or amended.
2. The Zoning Officer shall establish procedures and appropriate forms for processing requests for Certificates of Non-Conformity.
3. A request for a Certificate of Non-Conformity for a Non-Conforming Structure shall include the following information:
 - a. A plat or site plan of the subject property prepared and stamped by a Registered Surveyor, which clearly depicts the location of the structure.
 - b. Evidence, as described below, clearly demonstrating that the structure has continuously existed from the date of non-conformity through the application date for the Certificate of Non-Conformity. Such evidence may include, for example:
 - i. Photographs of the property (ground level, overhead or aerial photographs) that clearly depict the use and include the date on which the photographs were taken.
 - ii. A valid building, grading, or use and occupancy permit substantiating the date of non-conformity and the legal status of the structure.

² For provisions regarding Non-Conforming Uses, see Section 2-6.01 of this Ordinance. For provisions regarding non-conforming signs, see Article 6 of this Ordinance.

- iii. Other records, including tax records, receipts, etc., which establish that the structure existed on the property as of the date of non-conformity.

C. Continuation of Lawfully Existing Structures

Any structure lawfully existing at the time of the adoption or amendment of this Ordinance may continue to be used even though such structure does not conform to the provisions of the Zoning District in which it is located. The use of non-conforming structures may continue even if ownership of the property changes.

D. Change in Use Causing a Lawfully Existing Structure or Site to No Longer Conform to the Zoning Ordinance

In order for the use of any structure or site to be changed from one use to another, the structure and site must conform to the provisions of this Ordinance and/or the applicable Town Center Zoning Ordinance. If the structure and site cannot be brought into conformance for the proposed use, a variance from the Board of Appeals, if allowed, or a waiver from the Planning Commission, if allowed, shall be required to bring the structure and site into conformance.

E. Expansion of Non-Conforming Structures

1. The Zoning Officer may approve the extension of a building wall or retaining wall which lawfully existed prior to the adoption, revision or amendment of the Zoning Ordinance but which fails, by reason of such adoption, revision or amendment, to conform to the current setback requirements subject to the conditions specified below. The length of a non-conforming building wall may be extended by the construction of a deck or porch if the conditions of this Section are met.
 - a. A Certificate of Non-Conformity, as described in paragraph 'B' of this Section, shall be issued by the Zoning Officer prior to approval of expansion of a Non-Conforming Structure.
 - b. The building wall or retaining wall shall not be extended closer to the property line than the original structure. Such extensions require a variance from the Board of Appeals.
 - c. Such extension shall not constitute more than 50 percent of the length of the original non-conforming building wall or retaining wall. Extensions beyond 50 percent require a variance from the Board of Appeals.
2. When expansion of a non-conforming structure is proposed, the entire site shall be brought into conformance with the requirements of this Ordinance and/or the applicable Town Center Zoning Ordinance to the maximum extent feasible, as determined by the Planning Commission or its designee.

F. Replacement of Non-Conforming Structures

1. Nothing in these regulations shall prevent the restoration of a non-conforming structure destroyed by fire, wind storm, flood, explosion or act of public enemy or accident, or prevent the continuance of the use thereof as it existed at the time of such destruction, provided that a building permit application is properly submitted within one year after the occurrence. This provision does not apply if an owner of a property intentionally destroys a non-conforming structure.
2. A non-conforming structure which is taken in a negotiated settlement or condemnation proceedings shall be permitted to relocate only on the same lot

or parcel, or on a contiguous lot or parcel which was in the same ownership at the inception of the condemnation proceedings, and provided the applicable lot area, setback and height requirements of the District in which such use is a principal permitted use can be met. Such relocation or construction as existed prior to its taking may be permitted provided a building permit application is properly submitted within six months of the settlement date of the condemnation proceedings.

2-7 ZONING DISTRICTS (PRIMARY)

2-7.01 Purpose of Establishing Primary Zoning Districts

Primary Zoning Districts are established to provide appropriate locations for different types of land uses. The appropriate location for a particular land use is determined by environmental suitability, the location of public facilities and services, land productivity, existing land uses in the vicinity and recommended guidelines in the Calvert County Comprehensive Plan.

2-8 PRIMARY DISTRICTS: PURPOSE, INTENT AND SPECIAL CONDITIONS

2-8.01 Farm and Forest District (FFD)

- A. The Farm and Forest District consists of farmland and woodland tracts, along with some scattered residential communities. This District also consists of large undeveloped lands containing a significant portion of sensitive soils and/or steep slopes. This Primary District is intended to:
 - 1. protect and preserve prime farming regions as identified by the presence of Class I, II, or III or Group 1 or 2 soils (as defined by the Soil Survey of Calvert County, Maryland, prepared by the U.S. Department of Agriculture Soil Conservation Service, as amended from time to time);
 - 2. protect lands in proximity to Agricultural Preservation Districts and actively farmed areas;
 - 3. protect and preserve unique or significant environmental features as identified by the presence of large contiguous forested areas, forest interior dwelling bird habitat, wildlife habitat and /or environmentally sensitive areas;
 - 4. protect and manage watersheds and water supplies;
 - 5. maintain historic and scenic landscapes;
 - 6. and promote forestry, the growing of crops and animal husbandry.
- B. This District is also intended to permit agritourism, ecotourism and heritage tourism uses that promote and do not conflict with the protection and preservation of agricultural, scenic, natural and historic resources; to limit the amount and impact of residential development; to prohibit sewer and water service areas, schools, fire and rescue stations and other uses intended to serve the general public; and to prohibit uses, other than agritourism, ecotourism, and heritage tourism, that may require increasing the traffic capacity of rural roads.
- C. In accordance with the Calvert County Right to Farm Law (Article 99, Calvert County Code), it is intended that in this District there shall be no basis for recourse

2-8.02 Rural Community District (RCD)

against the effects of any reasonable farming or forestry operation, as permitted in this District, and conducted in a reasonable manner in accordance with good husbandry or forestry practices, including but not limited to noise, odor, vibration, fumes, dust or glare.

2-8.02 Rural Community District (RCD)

- A. The Rural Community District consists of a patchwork of single-family communities, farms and woodland tracts. This Primary District is intended to maintain a mix of farms, forests and residential uses; to serve as a receiving area for development rights transferred from the Farm and Forest District; to manage watersheds and water supplies; to maintain historic and scenic areas; to protect fish and wildlife; to promote forestry, the growing of crops and animal husbandry.
- B. It is the intent to maintain a lower residential density within the Rural Community District while allowing the use of Transferable Development Rights and to avoid drawing traffic onto rural roads by prohibiting commercial uses, sewer and water service areas, and other uses intended to serve the general public.
- C. It is intended that there shall be no basis for recourse against the effects of any reasonable farming or forestry operation, as permitted in these Districts, and conducted in a reasonable manner in accordance with good husbandry or forestry practices, including but not limited to noise, odor, vibration, fumes, dust or glare.

2-8.03 Residential District (RD)

This Primary District is intended to provide for residential development, together with such public buildings, schools, churches, public recreational facilities and accessory uses, as may be necessary or are normally compatible with residential surroundings.

2-8.04 Wetlands District (WL)

The purpose of the Wetlands District is to protect watercourses and tidal and non-tidal wetlands from environmentally harmful development.

2-8.05 Light Industrial District (I-1)

- A. This Primary District is intended to provide available space for light industrial uses, free from other uses which might affect such development. Industrial Parks are encouraged in this District.
- B. Light industries include those which manufacture, process, store, package or distribute goods and materials and are normally dependent on raw material produced elsewhere. Uses that may have adverse impacts such as noise, odor, or dust on neighboring properties require a special exception from the Board of Appeals.

This District is not intended for retail sales establishments such as department stores, general stores, home improvement stores, convenience stores, etc. However, it is the intent to permit the sale of unusually large items that require the use of heavy freight transport and generate low automobile traffic volumes. Such uses may include building materials sold in bulk, heavy machinery and equipment, and large vehicles such as farm tractors and large boats.

- C. Permitted, conditional, or special exception uses allowed in the Employment Center (EC) District shall be permitted in the I-1 Light Industrial District if the following conditions are met:

1. The I-1 District adjoins a Town Center; and
2. All conditions imposed by Section 3-1 (if applicable) shall be met; and
3. All development criteria for Employment Center areas described in Section 2-8.09, including the provisions for Development Rights and Responsibility Agreements, shall be met.

2-8.06 Rural Commercial District (RC)

The Rural Commercial District was created to provide a zoning classification for existing commercial enterprises located outside Town Centers and Marine Commercial Districts at the time of the 1984 Comprehensive Rezoning. The intent is to limit the amount of Rural Commercial zoned land; to prohibit any additional Rural Commercial zoning; to keep development within this zoning classification small in scale and rural in character; to limit uses to those serving the immediate neighborhood with convenience goods and services, and to ensure attractive and appropriate design.

2-8.07 Marine Commercial District (MC)

This Primary District is intended to provide for businesses which supply and cater to marine activities and needs. In considering applications for any new marine commercial zoning, the Planning Commission shall require the applicant to prove the following:

- A. That the activities will not significantly alter existing water circulation patterns or salinity regimes;
- B. That the water body upon which these activities are proposed has adequate flushing characteristics in the area;
- C. That disturbance to wetlands, submerged aquatic plant beds, or other areas of important aquatic habitats will be minimized;
- D. That adverse impacts to water quality that may occur as a result of these activities, such as non-point source run-off, sewage discharge from land activities or vessels, or from boat cleaning and maintenance operations, is minimized;
- E. That shellfish beds will not be disturbed or be made subject to discharge that will render them unsuitable for harvesting;
- F. That dredging shall be conducted in a manner, and using a method, which causes the least disturbance to water quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the Critical Area, generally;
- G. That dredged spoil will not be placed within the buffer or elsewhere in that portion of the Critical Area which has been designated as a Habitat Protection Area except as necessary for:
 1. Backfill for permitted shore erosion protection measures;
 2. Use in approved vegetated shore erosion projects;
 3. Placement on previously approved channel maintenance spoil disposal areas; and
 4. Beach nourishment; and

- H. That interference with the natural transport of sand will be minimized.

2-8.08 Town Center District (TC)

- A. The Town Center District is intended to include all property comprehensively zoned Town Center and governed by Town Center Master Plans and Zoning Ordinances. The purpose of this District is to provide attractive, pleasant and convenient places to live, work, and shop in a town-like setting; to promote strong business growth; to provide an alternative to scattered, strip commercial development along MD 2, 4, and 2/4; to expand the choice of housing options for all ages and incomes; to reduce dependence on motorized vehicles by providing public transit alternatives and requiring that pedestrian circulation be addressed; to reduce residential growth in agricultural areas; and to provide cultural and recreational amenities serving the entire population.
- B. North Beach, Chesapeake Beach, Prince Frederick, and Solomons are designated as major Town Centers. Major Town Centers are to serve as regional centers, providing goods and services that attract visitors from the entire County and/or from outside the County (as in tourism). Multi-family housing (apartments and townhouses) are permitted in major Town Centers.
- C. Dunkirk, Owings, Huntingtown, St. Leonard and Lusby are designated as minor Town Centers. Unless the Town Center Master Plan determines otherwise, minor Town Centers are to serve as local convenience centers and should not allow multi-family housing.
- D. Within the Town Centers, a property may be developed under Ordinance No. 10-97, entitled "Development Rights and Responsibility Agreements", adopted by the Board of County Commissioners March 11, 1997.

(10/13/10)

2-8.09 Employment Center District (EC)

- A. The Employment Center (EC) District is intended to best utilize the County labor force by providing areas adjacent to the Town Centers where attractive and appropriately designed office parks, flex space, light manufacturing, warehousing, educational facilities and research and development companies may develop.
- B. Within the EC District, properties may be developed under Ordinance No. 10-97, entitled "Development Rights and Responsibility Agreements", adopted by the Board of County Commissioners March 11, 1997. All non-residential uses permitted in Town Centers may be permitted in the EC District under the terms of a Development Rights and Responsibility Agreement approved by the Board of County Commissioners after a determination by the Board of County Commissioners that the use meets the intent of the EC District.

2-9 OVERLAY DISTRICTS

2-9.01 Purpose of Establishing Overlay Zoning Districts

Overlay Districts are created to impose special regulations in designated areas of the County. Overlay Districts shall be in addition to the underlying Primary Zoning District. There are four types of Overlay Districts: Agricultural Preservation Districts (see Section 2-10.01); Districts Allowing the Use of Transferable Development Rights (see Section 2-10.02); Critical Area Districts (see Section 2-10.03); and Historic Districts (see Section 2-10.04).

2-10 OVERLAY DISTRICTS: PURPOSE, INTENT AND SPECIAL CONDITIONS FOR EACH OVERLAY DISTRICT

2-10.01 Agricultural Preservation Districts

- A. Agricultural Preservation Districts (APDs) are part of the Agricultural Land Preservation Program. The purpose of this program shall be to:
 - 1. offer an incentive for preservation of prime agricultural and forestry land;
 - 2. provide compensation to the landowner who voluntarily agrees to place agricultural and forestry use covenants on his land;
 - 3. offer a free market system for financing agricultural and forestry preservation, thus reducing direct cost to the taxpayers;
 - 4. guide development away from prime agricultural and forestry lands on which viable farming and forestry endeavors are practical; and
 - 5. act as a source of development rights.
- B. District boundaries for Agricultural Preservation Districts shall be established by the Agricultural Preservation Advisory Board following an application by a property owner.
- C. The program shall be administered by the Agricultural Preservation Advisory Board which shall be responsible for the development of the guidelines for the approval of Agricultural Preservation Districts, as well as any changes to the guidelines. (See "Agricultural Preservation Rules and Regulations", available from the Department of Planning and Zoning.
- D. Permitted and special exception uses shall be in accordance with Article 3 Land Uses by Zoning Districts.
- E. Agricultural Preservation Advisory Board
 - 1. The Board of County Commissioners shall appoint an Agricultural Preservation Advisory Board consisting of five members, at least three of whom shall be owner operators of commercial farms.
 - 2. The Board of County Commissioners may appoint one or more alternate members for the Agricultural Preservation Advisory Board who may be empowered to sit on the Board in the absence of any member of the Board. A quorum for meetings is three members of whom no more than one shall be an alternate.
 - 3. The membership of the Board shall consist of at least one resident from each Election District.
 - 4. The term of a member is five years.
 - 5. The terms of members are to be staggered as required by the terms provided for members of the Board on July 1, 1985.
 - 6. At the end of a term, a member continues to serve until a qualified successor is appointed.
 - 7. A member who is appointed after a term has begun serves only to complete

the term or until a qualified successor is appointed.

8. A member may not serve for more than two consecutive full terms.
 9. The Board shall accept, approve, or reject all applications; promulgate regulations for adoption by the Board of County Commissioners; and develop procedures for the formation of Agricultural Preservation Districts, subject to the provisions of this Subsection. The procedures shall include the following:
 - a. The acreage requirements to establish or join an Agricultural Preservation District.
 - b. Agricultural Preservation District boundaries should follow as closely as possible, existing physical separations, such as streams, valleys, roads, etc.
 - c. An Agricultural Preservation District shall remain in effect for a minimum of five years. Subject to Section 2-10.01.H, an owner of a parcel of land enrolled in an Agricultural Preservation District may withdraw the land after five years in the program, by giving the Board a one-year notice of the intent to withdraw.
 - d. An Agricultural Preservation District shall be governed by the laws and regulations in effect at the time of its creation.
- F. Local Ordinances; Eminent Domain; Special Assessments
1. Within an Agricultural Preservation District, the right of eminent domain is limited to those instances where no other viable alternative exists.
 2. Within an Agricultural Preservation District, special assessments shall not be permitted for the support of any public service including, but not limited to, water and sewer service. (Code 1981, Section 17-103; 1985, cs. 715, Section 2.)
- G. Designated Agricultural Areas
1. The Agricultural Preservation Advisory Board shall designate certain portions of the County as having the greatest potential for maintaining a viable level of agricultural or forest production. The criteria the Board uses shall include, but not be limited to:
 - a. Present land use
 - b. Percent of cropland
 - c. Suitability of the soil
 - d. Amount of contiguous farm land
 2. The area specified in this Section shall be called the "Designated Agricultural Area". Wooded parcels may be included in the Designated Agricultural Area.
 3. Any person who owns land within a Designated Agricultural Area is not required to join an Agricultural Preservation District. The program is entirely voluntary.
- H. Transferable Development Rights (TDRs)

2-10.02 Districts Allowing the Use of Transferable Development Rights

1. One Transferable Development Right (TDR) per acre of land is allocated within an Agricultural Preservation District created in the Rural Community and Farm and Forest Districts. Provided that no TDRs have previously been sold, two TDRs per acre of land are allocated within an Agricultural Preservation District created in the RD Residential District. See Section 8-1.06.K for provisions regarding allocation of TDRs for properties in the Critical Area.
 2. Five development rights shall be subtracted for each residence located on a parcel in an Agricultural Preservation District.
 3. The Board of County Commissioners shall grant five development rights for each one-acre exception lot authorized in the Rural Community and Farm and Forest District under the provisions of Sections 5-1.02 and 5-1.03 of the County Zoning Ordinance and not previously used.
- I. Conveyance of Development Rights
1. The conveyance of a development right does not affect the ownership of that property. Once the development right of a property has been conveyed, that property shall be used for agricultural, forestry, or other uses permitted by regulations adopted by the Board of County Commissioners.
 2. The conveyance of a development right restricts the use of that land by all future purchasers, owners, heirs, and assigns to the same extent as the use was restricted by the original conveyor of the development.
 3. An owner of property located within an Agricultural Preservation District is not required to convey TDRs. However, once a TDR is conveyed, the owner may not remove that designated parcel from the Agricultural Preservation District. This restriction applies only to the designated parcel from which the TDR was conveyed and not to other parcels of land owned by the conveyor.

2-10.02 Districts Allowing the Use of Transferable Development Rights

- A. Mapped Transfer Zone Districts are properties that were designated on the official Calvert County Zoning Map as Transfer Zone Districts prior to 1993. Developments within these Districts are subject to individual resolutions adopted by the Board of County Commissioners for each District, and recorded among the Land Records of Calvert County.
- B. Since 1993, Transfer Zones have been permitted in the Rural Community District, the Residential District, and the Town Centers without being officially designated as such on the Zoning Maps. Regulations governing the use of TDRs in these Districts may be found in Section 5-1 and in the Town Center Zoning Ordinances.
- C. Within the one-mile radius of the Town Centers as described in this Section, it is the intent to permit the use of Transferable Development Rights (TDRs) to create higher density residential neighborhoods adjacent to Town Centers in the Rural Community District. See Section 5-1 for densities permitted.
 1. The one-mile radius shall be measured from the perimeter of major Town Centers (North Beach, Chesapeake Beach, Prince Frederick and

2-10.03 Critical Area District

Solomons) as they exist as of the effective date of this Ordinance (05/01/06).

2. The one-mile radius shall be measured from the center of minor Town Centers as they exist as of the effective date of this Ordinance (05/01/06) and as identified as follows:
 - a. Dunkirk: A point on Ward Road, 550 feet east of the intersection with Route 4.
 - b. Owings: Intersection of Rte. 260 and Thomas Road.
 - c. Huntingtown: Intersection of Rte. 521 and Rte. 524.
 - d. St. Leonard: Intersection of Calvert Beach Road and Rte. 765.
 - e. Lusby: Intersection of Rousby Hall Road and Rte. 765.

2-10.03 Critical Area District

A. Purpose

This District is created to:

1. minimize adverse impacts on water quality that result from pollutants in run off from surrounding land uses;
2. conserve fish, wildlife and plant habitat; and
3. establish land-use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement and activities of persons in that area can create adverse environmental impacts.

B. District Boundaries

The Critical Area District consists of:

1. 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 tidal wetlands; and
2. All land and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands and the heads of tides. The wetlands and heads of tide are as indicated on the State wetlands maps and the Critical Area line is as indicated on the Calvert County Critical Area aerial maps.

C. Special Exception Uses

Uses allowed as special exceptions may also be allowed as long as they meet the conditions in Section 8-1.

See Section 8-1 for conditions for development in the Critical Area District.

2-10.04 Historic Districts

A. Purpose

The purpose of this District shall be to:

1. safeguard the heritage of the County by preserving areas and structures which reflect significant elements of its cultural, social, economic, political or architectural history;

2. stabilize and improve property values in the area of Historic Districts and strengthen the local economy;
3. foster civic beauty;
4. promote the use and preservation of Historic Districts for the education, welfare, and pleasure of the residents of the County;
5. develop an awareness among property owners of the value of preserving, protecting and restoring areas of historical significance; and
6. enable the County government to identify and officially designate landscapes, structures and sites of historical and cultural importance to the County in order to make such structures and sites eligible for specific benefits conferred by this and other County ordinances and policies both current and adopted in the future.

B. District Boundaries

The boundaries of a Historic District shall be drawn so as to include all lands closely related to the character of the historic site, as recommended by the Calvert County Historic District Commission and designated by the Board of County Commissioners. A Historic District shall be permitted as an Overlay District in all zoning Districts established under Article 2.

C. Administration

The property owners or their agent, the Historic District Commission, or any interested person may petition to have a property designated as a Historic District. Such petition shall be submitted in accordance with the provisions of Article 57, Historic Districts, of the Calvert County Code as amended from time to time.

D. Permitted Uses and Special Exception Uses

Permitted and special exception uses shall be as indicated in Article 3, Land Uses by Zoning Districts. In addition, the following conditions shall apply to special exception uses:

1. If the property is a lot within a recorded subdivision containing more than five lots, the use shall only be permitted if:
 - a. access to the Historic District is not through the subdivision, and
 - b. all the lot owners in the subdivision sign the special exception application.
2. Parking and accessory uses such as refuse bins, storage, etc. shall be screened from view from adjoining properties.