



Prince George's County, Maryland

Module 3: Procedures

Zoning Ordinance and Subdivision
Regulations Rewrite
September 2016

Public Review Draft

C L A R I O N

In Association with:

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Design Collective
GB Place Making
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Mosaic Urban Partners
Justice & Sustainability Assoc.
The Planning and Design Center

Division 27-1: General Provisions
Division 27-2: Administration
Division 27-6: Nonconformities
Division 27-7: Enforcement
Sec. 27-8.400: Terms and Uses Defined (Relevant Terms)

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Division 1: General Provisions

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DIVISION 27-1 GENERAL PROVISIONS¹

Sec. 27-1.100 Title²

This Subtitle is known as the Zoning Ordinance of Prince George's County, Maryland, and may be known in this Subtitle as “this Ordinance.”

Sec. 27-1.200 Authority³

27-1.201. General

- A. The County Council is authorized to adopt this Ordinance in accordance with:
1. The Prince George’s County Charter;
 2. Division II of the Land Use Article of the Maryland Code;
 3. The statewide visions for growth, Division I of the Land Use Article of the Maryland Code, § 1-201;

¹ Division 27-1: General Provisions, contains important general provisions that are relevant to the rewritten Zoning Ordinance as a whole. While many of these provisions are in the current Zoning Ordinance, they are found in different Sections. They are consolidated here. Division 27-1 plays an important part in making the ordinance user-friendly by including certain overarching principles and establishing a clear basis for the authority by which the ordinance is adopted, its administration, and its substantive regulations.

² This Section carries forward and builds on Sec. 27-101, Title, of the current Zoning Ordinance, and sets forth the official name by which the rewritten Zoning Ordinance may be cited (“the Zoning Ordinance of Prince George’s County, Maryland,” or “this Ordinance.”).

³ This is a new Section. It contains references to the authority the County has to adopt the rewritten Zoning Ordinance. It also adds a provision to address situations where either State or Federal laws that are cited in the ordinance are amended.

4. All other provisions of Division I of the Land Use Article of the Maryland Code that apply to charter counties set out in § 1-401;
5. The Maryland Priority Funding Areas legislation, Maryland Code State Finance and Procurement, Division I, Title 5, Subtitle 7B;
6. The Maryland Rural Legacy Program, Maryland Code Natural Resources, Title 5, Subtitle 9A; and
7. All other relevant laws of the State of Maryland.

27-1.202. Reference to State or Federal Laws

Whenever any provision of this Ordinance refers to or cites a section of the Maryland Code or any federal statute, and that section is later amended, this Ordinance shall be deemed to refer to the amended section.

Sec. 27-1.300 General Purpose and Intent⁴

This Ordinance is enacted to exercise the full range of authority available to the County in accordance with law to:

- 27-1.301. Protect and promote the health, safety, comfort, convenience, and welfare of the present and future residents and businesses of the County;
- 27-1.302. Implement the State’s vision for development as provided in the Maryland Land Use Code; and
- 27-1.303. Implement the General Plan, area master plans, sector plans, and functional master plans by:

⁴ This Section builds on Sec. 27-102, Purposes, and statements of purpose provided for various provisions in the current Zoning Ordinance. It also incorporates some of the County’s general development goals in the current General Plan.

- A. Guiding the orderly growth and development of the County, while recognizing the needs of agriculture, housing, industry, and businesses;
- B. Supporting pedestrian-friendly, higher-intensity, mixed-use development in the appropriate locations;
- C. Supporting and emphasizing a framework for multi-modal forms of mobility including options for pedestrians, bicyclists, transit users, and motorists;
- D. Supporting redevelopment and infill in established areas that is consistent with the community's desired contexts;
- E. Protecting the character of residential neighborhoods;
- F. Protecting the rural character of the County in appropriate locations;
- G. Facilitating cutting-edge economic growth;
- H. Supporting green building practices; Ensuring the provision of open space to protect scenic beauty and the natural features of the County, as well as to provide recreational space and light and air;
- I. Ensuring a high level of development quality for residential, non-residential, and mixed-use development;
- J. Promoting the development of communities that will be served with adequate public facilities and services;
- K. Protecting the County from fire, flood, panic, and other dangers; and
- L. Providing sound, sanitary housing in a suitable and healthy living environment within the economic reach of all County residents.

Sec. 27-1.400 Applicability and Jurisdiction⁵

- 27-1.401.** This Ordinance applies to the development of any land in the Maryland-Washington Regional District in Prince George's County, Maryland, unless expressly exempted by a specific Section, Subsection, or paragraph of this Ordinance.
- 27-1.402.** Development shall not occur except in accordance with the requirements of this Ordinance and all other applicable County, State, and Federal ordinances, laws, statutes, and regulations.
- 27-1.403.** Development undertaken without required development approvals or permits is a violation of this Ordinance.
- 27-1.404.** Unless stated otherwise, the standards and requirements of this Ordinance are minimum requirements.

⁵ This Section makes clear who is subject to the requirements of the ordinance. Generally, all development in the Maryland-Washington Regional District in Prince George's County, unless expressly exempted in this Section, or in other specific provisions of the ordinance. (For example, if certain types of development are exempted from specific development standards, the exemptions will be identified in the development standards section.). The definition of development is included in Sec. 27-8.400, Terms and Uses Defined. The Section also includes a Subsection based on Sec. 27-104, Minimum Requirements, that expresses that unless stated otherwise, the standards and requirements of the ordinance are minimum requirements.

Sec. 27-1.500 Implement and be Consistent with General Plan⁶

This Ordinance implements and is consistent with the County's General Plan.

Sec. 27-1.600 Relationship with Other Laws, Covenants, or Deeds⁷

27-1.601. Conflicts with Provisions of Adopted Codes or Ordinances

- A. Whenever any provision of this Ordinance imposes a greater requirement or a higher standard than is required in any State or Federal statute or other County ordinance or regulation, the provisions of this Ordinance control, unless preempted by State or Federal law.
- B. Whenever any provision of a State or Federal statute or other County ordinance or regulation imposes a greater requirement or a higher standard than required by this Ordinance, the State, Federal, or other County statute controls.
- C. When there is a conflict between an overlay zone and an underlying base zone, the provisions of the overlay zone apply, unless expressly stated to the contrary in this Ordinance. When

⁶ This is a new Section that states one of the general legislative intents of the rewritten Zoning Ordinance is to implement and be consistent with the adopted General Plan. *Plan Prince George's 2035* is not specifically identified, as the General Plan will be updated from time to time.

⁷ This Section builds on Sec. 27-103, Conflicting Ordinances, of the current Zoning Ordinance. It establishes rules governing what standards and regulations apply when there are conflicting provisions. It also sets out the ordinance's relationship to private easements, covenants, deed restrictions, and other agreements.

there is a conflict between provisions of two or more applicable overlay zones, the more restrictive provisions apply, unless otherwise expressly stated in this Ordinance.

- D. When it is possible to implement, administer, or construe a particular provision of this Ordinance in more than one way, it shall be implemented, administered, or construed in a way that eliminates or minimizes conflicts with other provisions of this Ordinance in a way that is consistent with State and Federal case law.

27-1.602. Conflicts with State or Federal Law

If the provisions of this Ordinance are inconsistent or conflict with the laws or regulations of the State or Federal government, the more restrictive provision shall control, to the extent permitted by law. The more restrictive provision is the one that imposes greater restrictions or burdens, or more stringent controls.

27-1.603. Relationship with Easements, Covenants, Deed Restrictions, and Other Agreements

- A. It is not the intent of this Ordinance or the County to interfere with or annul private easements, covenants, deed restrictions, or other agreements. Additionally, the County does not monitor or enforce private easements, covenants, and restrictions. However, it may inquire into private easements and restrictions in reviewing development applications in order to ensure compliance with this Ordinance and other County requirements.
- B. Private easements, covenants, and restrictions notwithstanding, all development, unless expressly exempted by this Ordinance, shall comply with the requirements of this Ordinance.

Sec. 27-1.700 Official Zoning Map⁸

27-1.701. Establishment

- A. Land subject to this Ordinance is divided into the various base and overlay zones established in Division 27-3: Zones and Zone Regulations. The location and boundaries of the zones are shown on a set of maps, entitled "Zone Map of the Maryland-Washington Regional District in Prince George's County, Maryland." This map is referred to as the "Official Zoning Map." The Official Zoning Map, including all its notations, is incorporated herein by reference and made part of this Ordinance. The Official Zoning Map shall be the final authority as to the status of zone classifications of land in the County. In case of any dispute regarding the zone classification of land, the original map adopted with the ordinance applying the original zone classification rezoning the land shall control.
- B. The Planning Department shall maintain the Official Zoning Map in an electronic map layer in the County's Geographic Information System (GIS) data base maintained by the Maryland-National Capital Park and Planning Commission (M-NCPPC). The official copy of the electronic version of the Official Zoning Map shall be recorded onto permanent media to ensure the electronic information is protected.

⁸ This Section establishes the Official Zoning Map. It builds on Sec. 27-110, Zoning Map and Sec. 27-111, Boundaries of Zones, of the current Zoning Ordinance. It includes: a provision to allow the Official Zoning Map to be kept in digital form; clarifies procedures for entering changes onto the Official Zoning Map; clarifies the Planning Director's authority to interpret the Official Zoning Map and determine where the boundaries of the different zones fall if in dispute (an appeal of the Planning Director's interpretation may be made to the Board of Zoning Appeals (BZA)); and clarifies that the Official Zoning Map is amended upon the approval of a rezoning application. Rules governing the interpretation of zone boundaries are included in Sec. 27-8.302, Interpretation of Unlisted Uses and Zone Boundaries.

- C. The Planning Director shall enter any change to the zone boundaries, zone names, or other matters shown on the Official Zoning Map. These changes shall be forwarded to the Clerk of the County Council, along with a note as of the date of the amendment, which shall be incorporated onto the Official Zoning Map.
- D. Interpretations of the boundaries of the zones on the Official Zoning Map shall be made by the Planning Director (see Sec. 27-8.302.E, Rules of Interpretation of Zone Boundaries). The interpretation of the Planning Director may be appealed to the Board of Zoning Appeals (BZA) (see Sec.27-2.519, Appeal to Board of Zoning Appeals (BZA)).
- E. In the event that minor drafting or other clerical errors or omissions on the Official Zoning Map are identified, the Planning Director may correct such minor errors or omissions, provided the Planning Director shall issue a written statement of justification and shall not make any substantive changes (amendments), except in accordance with Sec. 27-2.500, Application-Specific Review Procedures and Decision Standards.

27-1.702. Zone Classification of Annexed Land⁹

- A. Any lands annexed into the Regional District shall immediately be placed in the RR zone until a zone map amendment for the land is adopted by the District Council.
- B. Within six months of the effective date of the annexation, the Planning Board shall conduct an evaluation of the annexed land, surrounding land uses and zoning patterns, an analysis of conformance to the applicable area master plan or sector plan,

⁹ This Section carries forward Sec.27-112, Newly Annexed Zones, of the current Zoning Ordinance, with minor refinements to clarify language.

as appropriate, and recommend a zone classification for the annexed land, to the District Council.

- C. The District Council shall take action on the Planning Board’s recommendation on a zone classification for the annexed land as promptly as reasonably possible in consideration of the interests of the landowner(s), affected parties, and citizens of the County.

27-1.703. Land Conveyed by the United States or the State of Maryland¹⁰

- A. Subject to the exception in Sec. 27-1.703.B below, land conveyed in fee simple by the United States or the State of Maryland shall immediately be classified by the County to the PL Zone until the District Council approves a zone map amendment for the land in accordance with Sec. 27-2.503, Sectional Map Amendment (SMA), or Sec. 27-2.504, Parcel-Specific Map Amendment.
- B. If land conveyed by the United States or State of Maryland was rezoned by a Sectional Map Amendment (see Sec. 27-2.503) or a Parcel-Specific Map Amendment (see Sec. Sec. 27-504) during the 24-month period immediately prior to the acquisition of the land by the United States or the State of Maryland, the land

¹⁰ This Section carries forward Sec.27-113, Property Conveyed by the United States of America or the State of Maryland. Newly Annexed Zones, of the current Zoning Ordinance, with minor refinements to clarify language. This section does not carry forward the balance of the subsections in 27-113 (Sec. 27-113.01, Conveyance of Public Land in the R-O-S Zone to Another Public Entity, Sec. 27-113.02, Land Conveyed by the Prince George’s County Housing Authority, the Revenue Authority of Prince George’s County, or the Redevelopment Authority of Prince George’s County, Sec. 27-113.03, Land Conveyed to the Maryland-National Capital Park and Planning Commission, and Sec. 27-113.04, Property Conveyed by the State for the University of Maryland), since these provisions can be handled administratively, or included in the Procedures Manual.

shall be placed in the zone classification which applied before Federal or State ownership.

Sec. 27-1.800 Transitional Provisions¹¹

27-1.801. Effective Date¹²

This Ordinance shall become effective on [redacted] [insert the effective date of this Ordinance], and repeals and replaces Subtitle 27. Zoning, Prince George's County Code, 2015 Edition, as amended from time to time.

27-1.802. Violations Continue¹³

Any violation of the prior Zoning Ordinance continues to be a violation under this Zoning Ordinance and is subject to Division 27-7: Enforcement, unless the development complies with the express terms of this Ordinance. This Section shall not relieve any person of liability for any fines or penalties owing or claimed to be owing under the prior Zoning Ordinance.

¹¹ This is a new Section that identifies the effective date of the rewritten Zoning Ordinance and repeals the current Zoning Ordinance, establishes rules governing continuing violations of the ordinance, and then establishes rules governing how pending development applications and existing development approvals and permits will be treated when the rewritten Zoning Ordinance is adopted.

¹² This is a new Section that establishes the effective date of the rewritten Zoning Ordinance, and repeals the current Zoning Ordinance.

¹³ This is a new Section that states violations under the current Zoning Ordinance continue under the rewritten Zoning Ordinance, if they continue to be violations. It also expressly states the Section does not relieve any person of liability or penalties for violations under the current Zoning Ordinance.

27-1.803. Pending Rezoning Between Adoption and Effective Date of this Ordinance¹⁴

Any development application for a rezoning of land submitted and accepted as complete but not acted upon by the County prior to [redacted] [insert the adoption date of this Ordinance], shall not be considered or acted upon by the County until adoption of the complete Official Zoning Map for this Ordinance (Sec. 27-1.700, Official Zoning Map). Notwithstanding Section 27-1.804, Application for Which No Final Action Taken, these rezoning applications shall then be processed by the County, but shall comply with the procedures and standards of this Ordinance.

27-1.804. Applications For Which No Final Action Taken¹⁵

A. Any development application submitted and accepted as complete before [redacted] [insert the effective date of this Ordinance], but still pending final action as of that date, shall be reviewed and decided in accordance with the regulations in effect when the application was accepted. To the extent such

an application is approved and proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Article 27-6: Nonconformities.

- B.** Completed applications shall be processed in good faith and shall comply with any time frames for review, approval, and completion as established in the regulations in effect at the time of application acceptance. If the application fails to comply with the required time frames, it shall expire and future development shall be subject to the requirements of this Ordinance.
- C.** An applicant with a pending application accepted before [redacted] [insert the effective date of this Ordinance] may opt to have the proposed development reviewed and decided under the standards of this Ordinance by withdrawing the pending application and submitting a new application in accordance with the standards of this Ordinance. The application submittal fees will be waived for this new application.
- D.** To the extent an application approved under this Section proposes development that does not comply with this Ordinance, the development, although permitted, shall be nonconforming and subject to Division 27-6: Nonconformities.

¹⁴ This Section establishes that any development application for a rezoning of land determined complete but not acted upon prior to the effective date of the rewritten Zoning Ordinance, will be held in abeyance until the complete Official Zoning Map for the rewritten Zoning Ordinance is adopted. At that time, the application may proceed, but must comply with the new ordinance. This is done to allow the County to complete and adopt the Official Zoning Map for the rewritten Zoning Ordinance.

¹⁵ This a new Section that establishes rules governing applications already in the development approval pipeline at the time of the adoption of the rewritten Zoning Ordinance that are determined “complete.” The rule states that they shall be processed under the provisions of the regulations in effect at the time of their submission. The provisions also clarify that an applicant who wants to proceed under the standards in the rewritten Zoning Ordinance (instead of the regulations of the current Zoning Ordinance) may do so, but will need to withdraw the application and resubmit it.

27-1.805. Development Approvals and Permits Under Prior Zoning Ordinance¹⁶

The following transitional provisions apply to projects approved prior to the effective date of this Zoning Ordinance.

- A.** All development approvals or permits that were approved before [redacted] [*insert effective date of this Ordinance*] and are valid on that date, remain valid until their expiration date, and may be carried out in accordance with the terms and conditions of their approval, and the development standards in effect at the time of approval, as long as they remain valid and have not expired or been revoked or substantially modified. If the approval or permit expires or is revoked (e.g., for failure to comply with the terms and conditions of approval) or substantially modified, all subsequent development of the site shall require approvals and permits obtained in accordance with the procedures and standards of this Ordinance.
- B.** No provision of this Ordinance requires any change in the plans, construction, or designated use of any structure for which a building permit was issued prior to [redacted] [*insert the effective date of this Ordinance*].
- C.** To the extent a prior-approved application proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to Division 27-6: Nonconformities.

- D.** Any re-application for an expired development approval or permit shall comply with the standards in effect at the time of re-application.

Sec. 27-1.900 Severability

If any provision of this Zoning Ordinance is decided by the courts to be unconstitutional or invalid, that decision does not affect the validity of this Ordinance other than the part decided to be unconstitutional or invalid.

¹⁶ This Section establishes rules governing lands with existing development approvals and permits under the current Zoning Ordinance. Generally the rule established is that land subject to a development approval or permit under the current Zoning Ordinance may proceed with development under the rewritten Zoning Ordinance, as long as it complies with the terms and conditions of the approval or permit, and the rules in existence at the time of their approval. However, substantial modifications to the development approvals or permits will subject the site to the requirements of the rewritten Zoning Ordinance.

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Division 2: Administration

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DIVISION 27-2 ADMINISTRATION¹⁷

¹⁷ This Division consolidates and streamlines development review procedures, as discussed in the Evaluation and Recommendations Report (Sec. II.F). It summarizes the development review responsibilities of review bodies and staff, establishes a set of standard procedures for the review of development applications, and includes specific procedures and review standards for each type of development application. As discussed in the Evaluation and Recommendations Report (pp. 14 to 17), the major changes to the procedures made in the Division are:

- Reorganizing the map amendment (rezonings) procedures into four different types of rezonings:
 - Text amendments and sectional map amendments (Countywide Map Amendments, and Sectional Map Amendments (SMAs));
 - Parcel-specific map amendments;
 - Chesapeake Bay Critical Area Overlay Zone map amendments; and
 - Planned development map amendments.
- Eliminating the special permits, or if a special permit use needs to be carried forward, identifying it as a special exception.
- Revising and consolidating the special exception review procedure and authorizing the Zoning Hearing Examiner (ZHE) to review and decide special exception uses. (Appeals from the ZHE would go to the District Council as an appellate body).
- Consolidating conceptual and detailed site plan review into one site plan review procedure, and establishing a two-tier level of site plan review — minor and major.
 - Minor site plans are reviewed and decided by the Planning Director. Appeals go to the Planning Board, then the District Council, and then the Circuit Court.
 - Major site plans are decided by the Planning Board. Appeals go to the District Council, and then the Circuit Court.
- The name of departures is changed to adjustments, and their application is expanded. A two-tier level of adjustments is established — a minor adjustment and a major adjustment.
 - Minor adjustments are decided by the Planning Director for dimensional standards and specific standards and other development standards). Appeals go to the Planning Board. Minor adjustments are subject to specific threshold limits and must comply with specific review standards.

Sec. 27-2.100 Purpose and Organization¹⁸

27-2.101. This Division sets forth the review and approval procedures for development applications.

- A.** Sec. 27-2.200, Summary Table of Development Review Responsibilities, provides a summary of the actions required of each advising and decision-making body and person for each type of development application.
- B.** Sec. 27-2.300, Advisory and Decision-Making Bodies, describes the powers and duties of the various bodies and persons that review and make decisions on development applications.
- C.** Sec. 27-2.400, Standard Review Procedures, describes procedures that generally apply to all development applications.
- D.** Sec. 27-2.500, Application-Specific Review Procedures and Decision Standards, contains specific information for each type

- Major adjustments are decided by the Planning Board. Appeals and are taken to the Circuit Court. Major adjustments are also subject to specific threshold limits and must comply with specific review standards.
- Finally, the call-up provision allowing any appeal to go directly to the Circuit Court is eliminated, based on best practices.
- With this change, though, the District Council still has significant review and decision making authority: under the Zoning Ordinance:
 - The make decisions on all amendments (rezonings), including planned developments;
 - On special exceptions, as an appellate body; and
 - On site plans (as an appellate body).The place where the Council is no longer involved as either the final decision-maker or an appellate body is with adjustments (characterized as modifications in the current Zoning Ordinance.

¹⁸ This Section outlines the organization of Division 27-2: Administration. It includes a short description of the purposes of each Section.

of development application, including applicable additions or modifications to the standard review procedures, and standards for making a decision on the application.

Sec. 27-2.200 Summary Table of Development Review Responsibilities¹⁹

Table 27-2.200: Summary of Development Review Responsibilities, identifies the types of development applications authorized by this Ordinance. For each type of application, the table identifies the action required by the various advising or decision-making bodies or persons.

¹⁹ This Section consolidates information on the actions required of each advising and decision-making body for each type of development application in the rewritten Zoning Ordinance (see Evaluation and Recommendations Report, pp. VI-7 to VI-9). Provisions such as these help to establish clear lines of authority in the decision-making process.

Table 27-2.200: Summary of Development Review Responsibilities							
D = Decision R = Recommendation C = Comment A = Appeal I = Initiation (If Other Than Applicant) < > = Public Hearing Required							
Procedure	Review and Decision-Making Bodies						
	District Council	Planning Board	Board of Zoning Appeals	Zoning Hearing Examiner	Planning Director	DPIE Director	Historic Preservation Commission
Comprehensive Plans							
Comprehensive Plans and Amendments (General Plan, Functional Master Plans, Area Master Plans, and Sector Plans)	I <D> [1]	<R> [1]			R		R [3]
Amendments and Planned Developments							
Text Amendment	I <D>	I <R>			R		C [3]
Sectional Map Amendment (SMA)	I <D>	I <R>			R		C [3]
Parcel-Specific Map Amendment	<D>	<R> [2]		<R>	R		C [3]
Planned Development (PD) Map Amendment	<D>	<R>			R		C [3]
Chesapeake Bay Critical Area Overlay Zone Map Amendment	I <D>	I <R>		<R>	R		C [3]
Special Exceptions							
Special Exception	<A>	R		<D>	R		C [3]
Minor Change to Approved Special Exception					D		
Site Plans							
Minor Site Plan	<A>	<A>			D		
Major Site Plan	<A>	<D>			R		C [3]
Minor Deviation to Approved Major Site Plan					D		
Permits and Certifications							
Sign Permit			<A>		C	D	
Temporary Use Permit			<A>			D	
Use and Occupancy Permit		C	<A>		C	D	
Zoning Certification			<A>		D		
Grading Permit		C	<A>		C	D	
Building Permit		C	<A>		C	D	

Table 27-2.200: Summary of Development Review Responsibilities							
D = Decision R = Recommendation C = Comment A = Appeal I = Initiation (If Other Than Applicant) < > = Public Hearing Required							
Procedure	Review and Decision-Making Bodies						
	District Council	Planning Board	Board of Zoning Appeals	Zoning Hearing Examiner	Planning Director	DPIE Director	Historic Preservation Commission
Relief Procedures							
Interpretation (Text, Uses, and Zone Map)			<A>		D		
Variance			<D>		C	R	
Adjustment (Departure)							
Minor Adjustment		<A>			D		
Major Adjustment		<D>			R		C [3]
Validation of Permit Issued in Error	<D>			<R>		R	C [3]
Appeal to Board of Zoning Appeals			<D>				
Enforcement Procedures²⁰							
Zoning Enforcement, Generally			<A>			I	
Other Procedures							
Authorization of Permit Within Proposed Right-of-Way (ROW)	<D>			<R>	R		C [3]
NOTES:							
[1] At least one joint public hearing held by the District Council and the Planning Board is required.							
[2] The Planning Board elects whether to conduct a public hearing for each application.							
[3] The Historic Preservation Commission makes a recommendation or comment only if the subject land contains a historic resource identified on the <i>Adopted and Approved Historic Sites and Districts Plan</i> .							

²⁰ As is also noted in a footnote to Table 27-200: Summary of Development Review Responsibilities, the procedure for amendments of the Official Zoning Map for noncompliance with conditions which was suggested to be included in the annotated outline of the Evaluation and Recommendations Report (p. VI-18) is not included, since it became apparent in the drafting process that if a land owner fails to comply with the conditions of a parcel specific map amendment, the County already has another procedure to address the problem -- the planned development.

Sec. 27-2.300 Advisory and Decision-Making Bodies

27-2.301. Purpose

This Section describes the powers of review bodies and officials for all development applications for development approvals and permits in Prince George's County.

27-2.302. District Council

A. Generally

The County Council of Prince George's County is the District Council for that portion of the Maryland-Washington Regional District²¹ located in Prince George's County.²² They shall be called in this Ordinance "District Council."

B. Duties of the District Council

To exercise its authority in accordance with State law, the District Council shall have the following powers and duties under this Ordinance:

1. To review and decide the following:
 - a. Comprehensive plans (Sec. 27-2.501);
 - b. Text amendments (Sec. 27-2.502);
 - c. Sectional map amendments (Sec. 27-2.503);
 - d. Parcel-specific map amendments (Sec. 27-2.504);

- e. Planned development (PD) map amendments (Sec. 27-2.505);
 - f. Chesapeake Bay Critical Area Overlay (CBCA-O) Zone map amendments (Sec. 27-2.506); and
 - g. Validations of permits issued in error (Sec. 27-2.518).
2. To hear and decide appeals on the following:
 - a. Special exceptions (Sec. 27-2.507);
 - b. Minor site plans (Sec. 27-2.508.D); and
 - c. Major site plans (Sec. 27-2.508.E).
 3. To establish a schedule of fees and a collection procedure for applications for development approvals and permits reviewed under this Ordinance. The schedule of fees shall be placed in the Procedures Manual, and may be altered only by the District Council.
 4. To appoint and remove in accordance with State law members of the Board of Zoning Appeals (BZA) and Zoning Hearing Examiner (ZHE).
 5. To approve appointments or removals from the Planning Board by the County Executive, as provided in the Regional District Act.²³
 6. To establish timetables for consideration of area master plans for all of the Regional District in the County.
 7. To schedule review of area master plans for each planning area at least once every ten years, and if any part of a

²¹ Maryland Land Use Code § 20-101.

²² Maryland Land Use Code § 22-101.

²³ See Maryland Land Use Code §§ 15-102, 15-103, and 15-105 (these refer to the "Commission" or M-NCPPC; the Commissioners from Prince George's County are designated the Prince George's County Planning Board, see Land Use Code § 20-201).

planning area is scheduled more than once in a five year period, to provide the specific reasons in a resolution.

8. To take any other action not delegated to the BZA, ZHE, or any other body or person, within the District Council's authority, as it deems desirable and necessary to implement the provisions of this Ordinance.

27-2.303. Prince George’s County Planning Board (Planning Board)

A. Generally

The Prince George's County Planning Board (Planning Board) is established in accordance with State law.

B. Duties of the Planning Board

To exercise its authority in accordance with State law, the Planning Board shall have the following powers and duties under this Ordinance:

1. To review and make recommendations to the District Council on the following:
 - a. Comprehensive plans (Sec. 27-2.501);
 - b. Text amendments (Sec. 27-2.502);
 - c. Sectional map amendments (Sec. 27-2.503);
 - d. Parcel-specific map amendments (Sec. 27-2.504);
 - e. Planned development (PD) map amendments (Sec. 27-2.505); and
 - f. Chesapeake Bay Critical Area Overlay (CBCA-O) Zone map amendments (Sec. 27-2.506).
2. To review and decide applications for the following:

- a. Major site plans (Sec. 27-2.508.E); and
- b. Major adjustments (Sec. 27-2.517.D).

3. To hear and decide appeals from the following:

- a. Minor site plans (Sec. 27-2.508.D); and
- b. Minor Adjustments (Sec. 27-2.517.C).

4. To perform any other functions that are delegated to it by State law or this Ordinance.

27-2.304. Board of Zoning Appeals (BZA)

A. Establishment, Membership, and Officers

The Board of Zoning Appeals (BZA) is established by the District Council in accordance with State law.²⁴

B. Powers and Duties

To exercise the authority delegated to it by the District Council in accordance with State law, the BZA shall have the following powers and duties under this Ordinance:

1. To review and decide all variances (Sec. 27-2.516), except variances for lot area, setback, and similar requirements that are delegated to the following municipalities:
 - a. The City of Bowie;
 - b. The City of Greenbelt;
 - c. The City of College Park; and
 - d. The City of New Carrollton.

²⁴ Maryland Land Use Code § 22-309.

2. To hear and decide appeals initiated by the applicant from the following :
 - a. Sign permits (Sec. 27-2.509);
 - b. Temporary use permits (Sec. 27-2.510);
 - c. Use and occupancy permits (Sec. 27-2.511);
 - d. Zoning certifications (Sec. 27-2.512);
 - e. Grading permits (Sec. 27-2.513);
 - f. Building permits (Sec. 27-2.514);
 - g. Interpretations (text, uses, and zone map) (Sec. 27-2.515); and
 - h. Zoning enforcement (Division 27-7).

C. Meetings

The BZA meetings and procedures shall be governed by regulations and supplemental rules of procedure adopted by the District Council, and State law.²⁵

27-2.305. Zoning Hearing Examiner (ZHE)

A. Office of the Zoning Hearing Examiner

1. In accordance with State law, the District Council establishes the Office of the Zoning Hearing Examiner (ZHE). The District Council shall appoint one or more hearing examiners, as appropriate, to conduct public hearings and make recommendations or decisions in zoning cases as established in this Section.
2. The ZHE shall:

- a. Be an attorney admitted to practice before the highest Court in Maryland or the District of Columbia;
 - b. Possess judicial temperament;
 - c. Have at least five years experience in administrative litigation; and
 - d. Demonstrate a knowledge of administrative and zoning law practice and procedure by competitive written examination.
3. After being appointed, ZHEs shall be considered within the classified service of the County's Personnel Law and subject to the regulations of the system.
 4. A Chief ZHE shall be designated by the District Council to administer the Office of Zoning Hearing Examiner.

B. Powers and Duties

The ZHE shall have the following powers and duties under this Ordinance:

1. To prepare, review, and make recommendations on the following:
 - a. Parcel-specific map amendments (Sec. 27-2.504);
 - b. Chesapeake Bay Critical Area Overlay (CBCA-O) Zone map amendments (Sec. 27-2.506); and
 - c. Validations of permits issued in error (Sec. 27-2.518).
2. To review and decide special exceptions (Sec. 27-2.507).

²⁵ Maryland Land Use Code §§ 22-309 and 22-311.

27-2.306. Planning Director

A. Generally

The Planning Director of the Prince George's County Planning Board (Planning Director) shall be appointed by and serve at the discretion of the Planning Board.²⁶ The Planning Director supervises the day to day operations of the Planning Department, processes and reviews applications, and has authority to render decisions only where indicated in this Ordinance. The Planning Director may delegate any administrative, decision, or review authority under this Ordinance to any professional-level subordinate under the Director's supervisory authority.

B. Powers and Duties

In accordance with State law, the Planning Director shall have the following powers and duties under this Ordinance:

1. To review and make recommendations to the appropriate decision-making body or official on the following:
 - a. Comprehensive plans (Sec. 27-2.501);
 - b. Text amendments (Sec. 27-2.502);
 - c. Sectional map amendments (Sec. 27-2.503);
 - d. Parcel-specific map amendments (Sec. 27-2.504);
 - e. Planned development (PD) map amendments (Sec. 27-2.505);
 - f. Chesapeake Bay Critical Area Overlay (CBCA-O) Zone map amendments (Sec. 27-2.506);
 - g. Special exceptions (Sec. 27-2.507);
 - h. Major site plans (Sec. 27-2.508.E);
 - i. Sign permits (Sec. 27-2.509);
 - j. Use and occupancy permits (Sec. 27-2.511); and
 - k. Grading permits (Sec. 27-2.513);
 - l. Building permits (Sec. 27-2.514); and
 - m. Major adjustments (Sec. 27-2.517.D).
 - n. To make administrative corrections to the Official Zoning Map and Comprehensive Plans.
2. To review and decide the following:
 - a. Minor site plans (Sec. 27-2.508.D);
 - b. Zoning certifications (Sec. 27-2.512);
 - c. Interpretations (text, uses, and zone map) (Sec. 27-2.515);
 - d. Minor adjustments (Sec. 27-2.517.D);
 - e. Minor changes to approved special exceptions (Sec. 27-2.507.E).
 - f. Minor deviations to approved major site plans (Sec. 27-2.508.E.12.c); and
 - g. Alternative compliance to landscaping (See Landscape Manual).
3. To establish development application requirements for development approvals and permits, other than fees;
4. To compile and amend as necessary the Procedures Manual containing all requirements for application

²⁶ See Maryland Land Use Code Ann. § 20-204(c)(4)(i).

contents and forms, submission schedules, application fee information, and any other information the Planning Director determines is relevant to the submittal, review, and decision of development applications under this Ordinance.

5. To ensure that applications for development approvals and permits are processed and reviewed in accordance with this Ordinance.
6. To maintain the Official Zoning Map and other such records and official materials as may relate to the adoption, amendment, or administration of this Ordinance.
7. To make available at the Planning Director's office, upon reasonable request and during normal business hours, copies of all development applications, staff reports, and materials submitted in support of or in opposition to an application, at a reasonable cost.

27-2.307. Department of Permitting, Inspections and Enforcement Director (DPIE Director)

A. Generally

The Department of Permitting, Inspections and Enforcement Director (DPIE Director) may delegate any administrative, decision, or review authority under this Ordinance to any professional-level subordinate under the DPIE Director's supervisory authority.

B. Powers and Duties

In accordance with State law, the DPIE Director shall have the following powers and duties under this Ordinance:

1. To review and make recommendations to the appropriate decision-making body or official on the following:
 - a. Variances (Sec. 27-2.516); and
 - b. Validations of permits issued in error (Sec. 27-2.518).
2. To review and decide the following:
 - a. Sign permits (Sec. 27-2.509);
 - b. Temporary use permits (Sec. 27-2.510);
 - c. Use and occupancy permits (Sec. 27-2.511);
 - d. Grading permits (Sec. 27-2.513); and
 - e. Building permits (Sec. 27-2.514).
3. To enforce all provisions of this Ordinance in accordance with Division 27-7: Enforcement.
4. To receive complaints from persons who allege that violations of this Ordinance have occurred, to properly investigate such complaints, and to initiate action to prevent, enjoin, abate, or remove such violations, in accordance with Division 27-7: Enforcement, and State law.

27-2.308. Historic Preservation Commission

A. Generally

The Historic Preservation Commission is established by Division 3 of Subtitle 29, Historic Preservation Commission, of the County Code.

B. Powers and Duties

The Historic Preservation Commission shall have the following powers and duties under this Ordinance:

1. To review and comment on area master plans and sector plans, if the plan contains either a proposed historic site or resource, or a historic site or resource that is already identified on the Adopted and Approved Historic Sites and Districts Plan;
2. To review and comment on any development application reviewed or decided by the District Council, Planning Board, or ZHE if the development application includes land which contains a historic site or resource identified on the *Adopted and Approved Historic Sites and Districts Plan*, as soon as feasible after the application is submitted and determined complete; and
3. To carry out all other powers conferred to the Historic Preservation Commission by Subtitle 29 of the County Code or other County Ordinances.

Sec. 27-2.400 Standard Review Procedures²⁷

This Section sets forth the standard procedures that generally apply to the review of development applications under this Ordinance. Not all procedures in this Section apply to every development application. Each subsection in Sec. 27-2.300, Application-Specific Review Procedures and Decision Standards, identifies, for a specific type of development application, which standard procedures are required, including any additions or modifications that apply.

²⁷ As discussed in the Evaluation and Recommendations Report (p. VI-9), in the current Zoning Ordinance, a number of the procedures for development applications are set forth in individual permit processes. The modern trend in zoning administration is to consolidate these procedures, which is what this Section does. It establishes development review procedures for all development applications (if there are exceptions, they will be listed). Generally, the standard procedures guide the potential applicant through the rules governing who is authorized to submit applications and what are the application content requirements and fees, through the actual application submittal and review stage (the pre-application conference, pre-application neighborhood meetings, application submittal and completeness determination, staff review, scheduling and providing notice for any required public hearings, any required review and recommendation by an advisory board, and a review and decision on the application by the deciding body or person). Flow charts or tables are included as aids to understanding the review process.

27-2.401. Pre-Application Conference²⁸

A. Purpose

A pre-application conference provides an opportunity for:

1. The applicant to determine the submission requirements, procedures and standards applicable to an anticipated development application; and
2. Staff to become familiar with, and offer the applicant preliminary comments about the scope, features, and impacts of the proposed development as it relates to the standards in this Ordinance.

B. Applicability

1. A pre-application conference is required before any of the following development applications are submitted, unless waived by the Planning Director because development proposed in the application is sufficiently straightforward that the applicant does not need additional staff input on the application:

²⁸ As discussed in the Evaluation and Recommendations Report (p. II-20-21), best practices indicate that conducting a pre-application conference between a potential applicant and staff, especially for a more complex development proposal, is an effective way to expedite the development review process. Encouraging potential applicants to meet informally with staff to present conceptual plans for development and get staff input prior to submittal of an application helps address issues and procedural requirements before significant time and expense are invested in preparing or processing applications. The current Zoning Ordinance does not include any formal requirements for a pre-application conference, though it appears that informal pre-application conferences are taking place as a preliminary step with respect to some applications. This new Subsection establishes a standard procedure for a formal pre-application conference between the applicant and staff, which is required for some types of development application and optional for all others.

- a. Parcel-specific map amendments (Sec. 27-2.504);
 - b. Planned development (PD) map amendments (Sec. 27-2.505);
 - c. Chesapeake Bay Critical Area Overlay (CBCA-O) Zone map amendments (Sec. 27-2.506);
 - d. Special exceptions (Sec. 27-2.507);
 - e. Major site plans (Sec. 27-2.508.E); and
 - f. Major adjustments (Sec. 27-2.517.D).
2. A pre-application conference is optional for any other type of development application.

C. Procedure

1. Submission of Materials Prior to Conference

Before a pre-application conference is held, the applicant shall submit to the Planning Director a narrative describing the scope of the proposed development, a conceptual site drawing of the development proposed in the application, and any other information reasonably requested by the Planning Director.

2. Scheduling

Within a reasonable period of time after receipt of a request for a pre-application conference, the Planning Director shall schedule the pre-application conference and notify the applicant of the conference time and location.

3. Conference Proceedings

The Planning Director shall review the materials submitted by the applicant prior to the conference. At the

conference, the Planning Director shall seek any needed clarification from the applicant regarding the proposed application, and identify any concerns, problems, or other factors the applicant should consider regarding the proposed application.

D. Effect of Conference

1. The pre-application conference is intended to facilitate the application review process. Discussions at the pre-application conference are not binding on the County, and consequently no final or binding decision is made at a pre-application conference.
2. A pre-application conference request does not constitute the filing of an application. Processing times for application review do not begin until an application is submitted and determined to be complete in accordance with Sec. 27-2.404, Determination of Completeness.

27-2.402. Pre-Application Neighborhood Meeting²⁹

A. Purpose

The purpose of the pre-application neighborhood meeting is to inform owners and occupants of nearby lands about a proposed development application to be reviewed under this

²⁹ As discussed in the Evaluation and Recommendations Report (pp. II-18-19), in 2004, the County added pre-application informational mailing requirements for most of its discretionary applications (e.g., map amendments, comprehensive and specific design plans, conceptual and detailed site plans, special exceptions, and variances) (see Sec. 27-125.01 of the current Zoning Ordinance). These mailings are sent to adjacent land owners, parties of record in previous applications, and registered civic associations and contain information about the proposed application, including: the application number; a description of the property and its location; the nature of the applicant's request; any required justification statement; Department contact information to obtain more information about the application after it is filed; a statement to recipients that the applicant will meet to explain the application; an applicant telephone number, for persons wishing to meet; an explanation of the procedures and the necessity for becoming a person-of-record in the pending application; and a statement that no government agency has reviewed the application.

The pre-application neighborhood meeting expands these provisions. Neighborhood meetings are used by an increasing number of local governments throughout the country to provide a framework for a development applicant to get together on a more informal basis with neighbors/land owners surrounding a proposed development to (1) educate the neighbors about the project, (2) hear neighbor concerns, and (3) hopefully resolve these concerns in an informal setting, if appropriate. The timing and requirements for neighborhood meetings vary from community to community. These kinds of meetings keep neighborhoods and applicants informed of one another's perspectives. This new Subsection establishes a neighborhood meeting requirement for a number of application types, so that an applicant can meet with neighbors and land owners surrounding a proposed development prior to the submission of a development application. This procedure provides a means for neighbors to become educated about a potential project and identify their concerns, and the applicant to identify and resolve issues with neighbors before making significant financial commitments to the project.

Ordinance, and to provide the applicant an opportunity to hear comments and concerns about the development proposal to resolve conflicts and outstanding issues, where possible. Pre-application neighborhood meetings are opportunities for informal communication between applicants and the landowners and occupants of nearby lands, and other residents affected by development proposals.

B. Applicability

- 1.** A pre-application neighborhood meeting is required before any of the following development applications are submitted:
 - a.** Parcel-specific map amendments (Sec. 27-2.504);
 - b.** Planned development (PD) map amendments (Sec. 27-2.505);
 - c.** Chesapeake Bay Critical Area Overlay (CBCA-O) Zone map amendments (Sec. 27-2.506);
 - d.** Special exceptions (Sec. 27-2.507);
 - e.** Major site plans (Sec. 27-2.508.E); and
 - f.** Major adjustments (Sec. 27-2.517.D).
- 2.** A pre-application neighborhood meeting may also be held at the applicant's option before the submission of any development application not identified in 27-2.402.B.2 above. Pre-application neighborhood meetings are particularly encouraged as opportunities for informal communication before submitting any application requiring a public hearing in accordance with Sec. 27-2.200, Summary Table of Development Review Responsibilities.

- 3.** The informational mailings and meetings required by this Subsection are in addition to all postings and notices required by this Ordinance and State law.

C. Procedure

If a pre-application neighborhood meeting is conducted, it shall comply with the following requirements:

1. Meeting Location and Time

The meeting shall be held after 6:00 P.M. on a weekday at a location that is convenient and generally accessible to neighbors residing in proximity to the land subject to the proposed application.

2. Notification

a. Informational Mailing

- i.** The applicant shall mail notice of the meeting with the information required by the Procedures Manual at least 10 days before the meeting.³⁰
- ii.** Notice shall be mailed to:
 - (A)** The Planning Director;
 - (B)** All persons to whom mailed notice of a public hearing on the development application is required by Sec. 27-2.407, Scheduling Public Hearing and Public Notice;
 - (C)** Any municipality in which the land subject to the application is located, and every

³⁰ This builds on Sec. 27-125.01(a)(3) of the current Zoning Ordinance.

municipality located within one mile of the land subject to the application; and

- (D) All civic associations registered in accordance with Sec. 27-2.402.D, Civic Association or Resident Registration.
- iii. A civic association entitled to an informational mailing may waive the requirement, and an applicant's filing of a signed waiver constitutes its compliance with the mailing requirement, for the entity signing.

b. Posted Notification

The applicant shall also post notification of the pre-application neighborhood meeting on the land subject to the application at least 10 days before the date fixed for the meeting, in a form established by the Procedures Manual.

c. Notification Contents

The mailed and posted notifications shall state the time and place of the meeting, the purpose of the meeting, the general nature of the development proposal, and the type of development approval or permit sought.

3. Conduct of Meeting and Summary

a. Generally

The pre-application neighborhood meeting shall be open to the public. At the meeting, the applicant shall explain the development proposal and application, inform attendees about the application review process, respond to any questions or concerns

neighbors raise about the proposed application, and discuss ways to resolve any conflicts or concerns.

b. Written Summary of Meeting

The applicant shall prepare a written summary of the pre-application neighborhood meeting that includes a list of meeting attendees, a summary of issues related to the development proposal that were discussed, a compilation of attendee comments and responses, and any other information the applicant deems appropriate. The meeting summary shall be included with the application materials and made available to the public for inspection in accordance with 27-2.416, Examination and Copying of Application/Other Documents.

c. Response to Written Summary

Any person may submit to the Planning Director a written response to the applicant's meeting summary after the application is determined complete. The response may state the person's understanding of attendee comments, discuss issues related to the development proposal, and include any other information deemed appropriate. All written responses to the applicant's summary of the neighborhood meeting shall be included with the application materials and made available to the public for inspection in accordance with 27-2.416, Examination and Copying of Application/Other Documents.

D. Civic Association or Resident Registration³¹

1. Any civic association that maintains a registration with the Planning Director in accordance with this Subsection is entitled to informational mailings and e-mails, for all pre-application neighborhood meetings within the association's defined geographical area.
2. To register to obtain notice of pre-application neighborhood meetings, a civic association shall provide to the Planning Director the information required by the Procedures Manual to ensure notification can be made, along with a fee to defray the costs of notification. To continue to receive notice of applications, an association shall re-register every two years.³²
3. Associations may represent overlapping geographical areas. However, for the purpose of obtaining informational mailings, an association may not represent an area extending beyond two adjoining Council Districts. In addition, the officers of an association must retain their primary residence within the association's delineated area of interest.
4. The Planning Director may decline registration of any association which purports to represent an area of unreasonable description or otherwise does not meet the requirements of this Subsection.
5. For a watershed protection group that is registered as a Section 501(c)(3) environmental organization, the group may designate an area consisting of the watershed whose

protection is the purpose of the organization if the officers of the organization maintain their primary residence within the watershed.

27-2.403. Application Submittal³³

Development applications shall be submitted in accordance with the requirements of this Subsection.

A. Authority to File Applications³⁴

1. Applications for development approvals and permits shall be submitted by:
 - a. The land owner; or
 - b. Any other person or entity having a recognized property interest in the land upon which the development is proposed, or their authorized agent.
2. **Applicant is Not the Owner**

If the applicant is not the owner of the land, or is a contract purchaser of the land, a letter signed by the owner consenting to submission of the application is required.
3. **Applicant is Not the Sole Owner**

If the applicant is not the sole owner of the land, a letter signed by the other owners or an association representing all owners consenting to or joining in the application for development approval or permit shall be submitted.

³¹ This is based on Sec. 125.01(c) of the current Zoning Ordinance, with some modifications.

³² Required information will include the information listed in Sec. 27-125.01(c)(3) of the current Zoning Ordinance.

³³ This Subsection states who can submit an application for a development approval or permit, to whom applications may be submitted, and in what form.

³⁴ This Subsection identifies who can submit an application for development approval or permit.

B. Application Contents and Form

The application contents and form shall comply with requirements established by the Planning Director in the Procedures Manual.³⁵

C. Fees

The District Council shall establish the fees required for each type of development application submitted under this Ordinance,³⁶ as appropriate. The fees shall be included in the Procedures Manual. No application is complete until all required fees are paid in full.

D. Submission Schedule

The Planning Director shall establish the schedule for application submission and review, by application type and by time frames for review. The schedule shall be included in the Procedures Manual.

E. Simultaneous Processing of Applications

Whenever two or more forms of review and approval are required under this Ordinance, the applications for those development approvals or permits may, at the discretion of the Planning Director, be processed simultaneously, so long as all applicable state and local requirements are satisfied. Simultaneous processing of applications may result in additional fees to the applicant.

³⁵ As discussed in the Evaluation and Recommendations Report (p. VI-9), specific nuts and bolts type requirements, like applications content requirements are to be located in a Procedures Manual prepared by the Planning Director. This is done to make the Zoning Ordinance less cumbersome and to allow the County to consolidate and more easily amend detailed requirements for application forms, contents, etc.

³⁶ See Maryland Land Use Code § 22-206.

F. Application Submittal

1. All development applications, except those identified in Sec. 27-2.403.F.2 below, shall be submitted to the Planning Director, along with the fees required for the application.
2. The following development applications shall be submitted to the DPIE Director, along with the fees required for the application:
 - a. Sign permits (Sec. 27-2.509);
 - b. Temporary use permits (Sec. 27-2.510);
 - c. Use and occupancy permits (Sec. 27-2.511);
 - d. Grading permits (Sec. 27-2.513);
 - e. Building permits (Sec. 27-2.514); and
 - f. Validations of permits issued in error (Sec. 27-2.518).

27-2.404. Determination of Completeness³⁷

A. Generally

Upon submittal of a development application, the Planning Director or DPIE Director, whichever the application was submitted to, shall determine if the application is complete within ten business days. A complete application is one that:

1. Contains all application content requirements established for the particular type of application in accordance with Sec. 27-2.403.B, Application Contents and Form, and the Procedures Manual;
2. Is in the form required for the particular type of application in accordance with Sec. 27-2.403.B, Application Contents and Form, and the Procedures Manual;
3. Includes information in sufficient detail to evaluate the application to determine whether it complies with the appropriate substantive standards of this Ordinance; and
4. Is accompanied by the fees established for the particular type of application in accordance with 27-2.403.C, Fees.

³⁷ As discussed in the Evaluation and Recommendations Report (p. II-20), even though the County has procedures for submission and review of development applications, it does not have a formal pre-screening or completeness determination process for the acceptance of applications. Not having such an application review process in place can sometimes slow down the actual review of an application, because missing information discovered later has to be obtained, and then some of the review steps may have to be repeated. “Complete application” requirements are a very important tool to speed up review processes and to build confidence that the County means to enforce its requirements evenhandedly and efficiently. This new Subsection establishes a specific procedure in the review process for determining whether an application submitted is complete. Generally, only applications determined complete are reviewed

5. No application may be deemed complete if it fails to comply with any of the above requirements.

B. Application Incomplete

1. If it is determined the application is incomplete, the Planning Director or DPIE Director, as appropriate, shall send written notice to the applicant of the deficiencies, and review of the application shall not proceed. The applicant may correct the deficiencies and resubmit the application for completeness determination.
2. Notwithstanding the other provisions of this Subsection, after an application is determined incomplete three times, an applicant may request and the Planning Director or DPIE Director, as appropriate, shall process the application in accordance with the requirements of this Division, even though it is not considered a complete application.³⁸

C. Application Complete

1. If the development application is determined complete or if the applicant has requested that the application be processed in accordance with Subsection 27-2.404.B.2 above, it shall be reviewed in accordance with the procedures and standards of this Subsection, this Division and this Ordinance.
2. Applications for minor site plans and all applications reviewed and decided by the District Council, Planning Board, or ZHE, shall be referred to the Historic Preservation Commission at this stage for comment, if the development application includes land which contains a historic resource identified on the *Adopted and Approved*

³⁸ This provision ensures that the applicant has the right be heard.

Historic Sites and Districts Plan, as soon as feasible after the application is submitted and determined complete.

3. The Historic Preservation Commission shall submit its comments for the record within 45 days prior to the first hearing on the application by an advisory board or official or, if no review by an advisory board or official is required, by the decision-making body or official. Failure of the Historic Preservation Commission to submit comments within this time period shall constitute no objection to the application.
4. Any established time frame for review of the application starts on the date it is determined complete, or the date it is requested to be processed in accordance with Subsection 27-2.404.B.2 above.

27-2.405. Application Amendment or Withdrawal

A. Amending an Application

1. An applicant may revise a development application as follows:
 - a. Amendments concerning an error, omission of fact, or other factual change not mentioned below are permitted at any time after receiving initial staff review comments on the application, or upon requesting and receiving permission from an advisory or decision-making body after that body has reviewed but not yet taken action on the application.
 - b. Amendments which involve substantial modifications to the original proposal like changing a significant area or configuration shall require a re-review of the application in accordance with the requirements of this Division.

- c. Amendments concerning a change in a requested use type shall be accompanied by a new (revised) justification statement.
2. Amendments are not permitted after a case is transmitted to the ZHE, unless the amendment is recommended by the Planning Director or the Planning Board.

B. Withdrawal of Application³⁹

1. Withdrawal by Applicant

After an application has been accepted as complete for review, the applicant may withdraw the application at any time by submitting a letter of withdrawal to the Planning Director or DPIE Director, whichever the application was submitted to, or by verbally withdrawing the application at a public hearing for which review of the application is scheduled.

2. Withdrawal through Inaction

If an applicant requests or causes continuing postponement of submissions or actions required to

³⁹ This Subsection provides a uniform withdrawal procedure. Provisions for withdrawal are found in the current Zoning Ordinance in Secs. 27-146 (zoning map amendment-conventional zones), 27-162 (R-P-C map amendment), 27-182 (CDZ map amendment), 27-202 (M-X-T and M-X-C map amendment), 27-213.11(g)(2)(failure to notify Planning Board or Zoning Hearing Examiner of CDZ application within 30 days of an LDO or IDO designation in the Chesapeake Bay Critical Area Overlay Zone, or to provide amended plans, constitutes withdrawal), 27-213.15 (Chesapeake Bay Critical Area Overlay Zone), 27-225 through 225.01 (Sectional Map Amendment), and 27-299 (special exception). This Subsection consolidates withdrawal procedures in one location. It allows the applicant to submit a written request for withdrawal or to verbally request withdrawal at a public hearing. This eliminates the need for additional paperwork and streamlines the process of clearing the docket for applications where the applicant does not wish to go forward.

complete the application review process, and such postponement causes inaction for six or more months in the review of the application, the application may be considered withdrawn, and the Planning Director or DPIE Director, whichever the application was submitted to, shall notify the applicant in writing.

3. Application Fees Refunded

Application fees will be refunded if the application is withdrawn prior the first public hearing on the application.

27-2.406. Staff Review and Action⁴⁰

A. Staff Review and Opportunity to Revise Application

When the development application is determined complete, or is processed in accordance with Subsection 27-2.404.B.2 above, the Planning Director or DPIE Director, whichever the application was submitted to, shall distribute it to all appropriate Planning staff, County staff, the Subdivision and Development Review Committee, and other municipal and public agencies, as appropriate, for review and comment. The Planning Director or DPIE Director, as appropriate, shall then review the application, along with the relevant support material, and any comments. If deficiencies in complying with applicable standards are identified, the Planning Director or DPIE Director, as appropriate, shall notify the applicant of those deficiencies and provide the applicant a reasonable opportunity to discuss the deficiencies and revise the

⁴⁰ This Subsection establishes procedures for review of development applications by staff which vary depending on whether staff makes a recommendation on the application or a final decision. Requirements for staff reports are listed, as are procedures for applications on which the Planning Director makes the final decision.

application to address them, in accordance with Sec. 27-2.405.A, Amending an Application.

B. Application Subject to Staff Recommendation

1. Technical Staff Report

Except for appeals to the BZA (Sec. 27-2.519, Appeal to Board of Zoning Appeals (BZA)), if an application is subject to a decision by the District Council, Planning Board, ZHE, or BZA in accordance with Sec. 27-2.200, Summary Table of Development Review Responsibilities, the Planning Director shall, following completion of staff and agency review, prepare a Technical Staff Report that:

- a. Analyzes whether the application complies with applicable review standards;
- b. Delineates the approximate area of the neighborhood, either on the Official Zoning Map, an aerial photograph, or a sketch map, as appropriate;
- c. Describes land use and zoning in the neighborhood; and
- d. Recommends action on the application, including any recommended conditions of approval.

2. Distribution and Availability of Application and Staff Report

After completion of the Technical Staff Report, the Planning Director shall transmit the application and report to all advisory or decision-making bodies and persons that review or make a decision on the application in accordance with Sec. 27-2.200, Summary Table of Development Review Responsibilities. The Planning Director shall also provide the applicant a copy of the

Technical Staff Report and make a copy of the report available for examination by the public in accordance with Sec. 27-2.416, Examination and Copying of Application/Other Documents, within a reasonable period of time before a public hearing or meeting at which the application is to be considered.

C. Application Subject to Decision by Planning Director or DPIE Director

If an application is subject to a final decision by the Planning Director or DPIE Director in accordance with Sec. 27-2.200, Summary Table of Development Review Responsibilities, the Planning Director or DPIE Director, as appropriate, shall make a decision on the application, consisting of one of the allowed decisions in, and based on the review standards in, Sec. 27-2.500, Application-Specific Review Procedures and Decision Standards, for the specific type of application.

27-2.407. Scheduling Public Hearing and Public Notice⁴¹

A. Public Hearing Scheduling

1. The scheduling of public hearings for applications subject to a public hearing in accordance with Sec. 27-2.200, Summary Table of Development Review Responsibilities, shall be as follows:

⁴¹ As discussed in the Evaluation and Recommendations Report (p. II-21), in the current Zoning Ordinance, the public notification requirements are scattered throughout the document, discouraging uniformity and consistent practices in noticing the public about hearings and meetings. This Subsection consolidates all public notification requirements, including establishing requirements for the initial scheduling of a public hearing and for the deferral of a public hearing when requested by an applicant.

- a. The Planning Director shall schedule public hearings conducted by the Planning Board or Zoning Hearing Examiner (ZHE). The Planning Director shall ensure that the hearing on the application is scheduled for a regularly scheduled meeting of the body conducting the hearing, or a meeting specially called for that purpose by that body.
- b. The Clerk of the County Council shall schedule public hearings conducted by the District Council.
- c. The Board of Zoning Appeals (BZA) staff shall schedule public hearings for the BZA.
- d. Public hearings shall be scheduled so there is sufficient time for any required Technical Staff Report to be prepared and distributed in accordance with Sec. 27-2.406.B.1, Technical Staff Report, and for public notification in accordance with Sec. 27-2.407.B below.

B. Public Notice

1. Generally

Notification shall be provided for all required public hearings on applications in accordance with Table 27-2.407.B: Required Public Notice, all other provisions of this Subsection, and, the Maryland Land Use Code. Computation of the required time periods shall comply with Sec. 27-8.104, Computation of Time. The Procedures Manual may establish more specific public notice standards, if appropriate.

Table: 27-2.407.B: Required Public Notice⁴²

Table: 27-2.407.B: Required Public Notice ⁴²			
	Required Timing and Specific Recipients [1]		
Application Type	Mail	Publication	Posting
Comprehensive Plans			
Comprehensive Plans and Amendments (General Plan, Functional Master Plans, Area Master Plans, and Sector Plans)	30 days prior ⁴³ to the joint hearing, to: <ul style="list-style-type: none"> All owners of land for which a change in zoning is proposed, if a sectional map amendment is included [2] 	30 days prior to the joint hearing(s)	N/A
Amendments and Planned Developments			
Text Amendment	N/A	30 days prior to the hearing	N/A
Sectional Map Amendment	30 days prior to the District Council hearing to: <ul style="list-style-type: none"> All owners of land for which a change in zoning is proposed [2] 	30 days prior to the hearing	N/A
Parcel-Specific Map Amendment Planned Development (PD) Map Amendment⁴⁴		30 days prior to the hearing	30 days prior to the hearing
Chesapeake Bay Critical Area Overlay (CBCA-O) Zone Map Amendment			
Planning Board Hearing	30 days prior to the hearing, to: <ul style="list-style-type: none"> All owners of land within the boundaries of the proposed overlay zones; Any municipality lying, wholly or in part, within, or within one mile of, the boundaries of the proposed overlay zones;⁴⁵ and All persons of record, and all other persons who requested (in writing) a copy of the Technical Staff Report⁴⁶ 	30 days prior to the hearing	30 days prior to the hearing ⁴⁷

⁴² This table is discussed in the Evaluation and Recommendations Report (pp. II-21 to -22, VI-11 to -12). Relevant statutes include Maryland Land Use Code § 21-216 (notice required or plan amendments), § 22-206 (authority to establish notice requirements for zoning laws in Prince George’s County); § 22-214 (authority to establish notice requirements for conditional zoning in Prince George’s County); § 23-105 (notice required for subdivision regulations); and § 23-201 (authority to establish notice requirements for subdivision plats).

⁴³ The current Zoning Ordinance(Sec. 27-644(b)(2)(C)) does not include a timeframe for the required mailed notice.

⁴⁴ Maryland Land Use Code § 22-206(c) provides that Prince Georges County may provide notice by mail or posting, or both, and § 206(a)(2) requires an “advertised” public hearing.

⁴⁵ See Sec. 27-213.10(a)(1) of the current Zoning Ordinance. Sec. 27-213.08(c) provides for an informational this notice to be provided “During the preparation of the proposed Chesapeake Bay Critical Area Overlay Zoning Map Amendment...” The notice is informational only, and does not provide how property owners/municipalities are contacted. This notice is omitted here because there is no penalty for failing to provide it, and it can still be provided without adding code language.

⁴⁶ Sec. 27-213.12(h)(3) of the current Zoning Ordinance provides that the Planning Board shall “notify (in writing)” the specified persons “of the hearing date” but prescribes no other form of notice for the hearing. General mailed notice content requirements are substituted here for the “of the hearing date” requirement.

Table: 27-2.407.B: Required Public Notice ⁴²				
Application Type		Required Timing and Specific Recipients [1]		
		Mail	Publication	Posting
		60 days prior to the hearing, to: <ul style="list-style-type: none"> All public agencies and municipalities with operational or planning responsibilities within the boundaries of the proposed overlay zones; and The Historic Preservation Commission, if any land within the proposed overlay zones is an identified historic resource. [3] 		
	ZHE Hearing	30 days prior to the hearing to persons of record ⁴⁸		30 days prior to the hearing ⁴⁹
	District Council Hearing	30 days prior to the hearing, to: <ul style="list-style-type: none"> All owners of land and any municipality lying, wholly or in part, within, or within one mile of, the boundaries of the proposed overlay zones; and Persons of record.⁵⁰ 	30 days prior to the hearing	30 days prior to the hearing ⁵¹
Use Permits				
	Special Exception	30 days prior to the hearing to: <ul style="list-style-type: none"> Parties of record; Owners of land adjoining, across the street from, on the same block as, or in the general vicinity of the land subject to the application; and Every municipality located within one mile of the land subject to the application. 		30 days prior to the hearing
Site Plans				
	Minor Site Plan	Appeal only: 30 days prior to the hearing to: <ul style="list-style-type: none"> Parties of record; Owners of land adjoining, across the street from, on the same block as, or in the general 		10 days prior to the date of Planning Director's decision

⁴⁷ The CBCA-O Zone regulations (Sec. 27-213.12(i)) simply refer to Part 3, Division 1, Subdivision 2 (District Council), which does not prescribe the required notice. This notice is required for all ZHE and District Council hearings in Sec. 27-125.03.

⁴⁸ The CBCA-O Zone regulations (Sec. 27-213.12(i)) simply refer to Part 3, Division 1, Subdivision 2 (District Council), which does not prescribe the required notice. This notice is required for all ZHE and District Council hearings in Sec. 27-125.04.

⁴⁹ The CBCA-O Zone regulations (Sec. 27-213.12(i)) simply refer to Part 3, Division 1, Subdivision 2 (District Council), which does not prescribe the required notice. This notice is required for all ZHE and District Council hearings in Sec. 27-125.03.

⁵⁰ The CBCA-O Zone regulations (Sec. 27-213.12(i)) simply refer to Part 3, Division 1, Subdivision 2 (District Council), which does not prescribe the required notice. This notice is required for all ZHE and District Council hearings in Sec. 27-125.04.

⁵¹ The CBCA-O Zone regulations (Sec. 27-213.12(i)) simply refer to Part 3, Division 1, Subdivision 2 (District Council), which does not prescribe the required notice. This notice is required for all ZHE and District Council hearings in Sec. 27-125.03.

Table: 27-2.407.B: Required Public Notice ⁴²			
		Required Timing and Specific Recipients [1]	
Application Type		Mail	Publication
Posting			
		vicinity of the land subject to the application; and <ul style="list-style-type: none"> • Every municipality located within one mile of the land subject to the application. 	
Major Site Plan		30 days prior to the hearing to: <ul style="list-style-type: none"> • Parties of record; • Owners of land adjoining, across the street from, on the same block as, or in the general vicinity of the land subject to the application; and • Every municipality located within one mile of the land subject to the application. 	30 days prior to the hearing
Relief Procedures			
Variance		7 days prior to the hearing, to: <ul style="list-style-type: none"> • The appellant; • Owners of all lands contiguous to or opposite the land subject to the application; [4]⁵² and • Any municipality in whose boundaries the property is located. 	7 days prior to the hearing ⁵³
Adjustment (Departure)			
	Minor Adjustment	Appeal only: 7 days prior to the appeal hearing to: <ul style="list-style-type: none"> • Parties of record; • Owners of land adjoining, across the street from, on the same block as, or in the general vicinity of the land subject to the application; and • Every municipality located within one mile of the land subject to the application. 	10 days prior to date of Planning Director's decision
	Major Adjustment	7 days prior to the hearing to: <ul style="list-style-type: none"> • Parties of record; • Owners of land adjoining, across the street from, on the same block as, or in the general 	30 days prior to the hearing ⁵⁴

⁵² See Maryland Land Use Code §22-311(d)(2).

⁵³ There does not appear to be a statutory requirement for posting and the Zoning Ordinance does not generally require posting of BZA hearings, but posting is suggested because it is a low cost way to provide notice, and it makes notice consistent with major adjustments (which involves a less intensive permitting action). Sec. 27-239 of the current Zoning Ordinance requires notice in the same manner as a special exception (when filed with a special exception), and Sec. 27-239.04 provides that notice for a variance attached to other approvals is the same as the notice required for those approvals. The posting requirement aligns with the special exception requirement, while the mailing is prescribed by statute and is binding.

⁵⁴ There does not appear to be a statutory requirement for posting, but the regulations currently require a sign for ZHE hearings (Sec. 27-125.03(a)(6)).

Table: 27-2.407.B: Required Public Notice⁴²

Required Timing and Specific Recipients [1]			
Application Type	Mail	Publication	Posting
	vicinity of the land subject to the application; and <ul style="list-style-type: none"> • Every municipality located within one mile of the land subject to the application. 		
Validation of Permits Issued in Error	7 days prior to the hearing to: <ul style="list-style-type: none"> • Parties of record; • Owners of land adjoining, across the street from, on the same block as, or in the general vicinity of the land subject to the application; and • Every municipality located within one mile of the land subject to the application. 		
Appeal to BZA	7 days prior to the hearing, to: <ul style="list-style-type: none"> • Appellant; • Owners of all lands contiguous to or opposite the land subject to the application; [4] and • Any municipality in whose boundaries the property is located. 		
Other Procedures			
Authorization of Permit Within Proposed Right-of-Way	Prior to the ZHE hearing, to: <ul style="list-style-type: none"> • The applicant; and • Any municipality in whose boundaries the property is located. 	30 days prior to the District Council hearing	
NOTES: [1] Time periods are minimum time periods unless otherwise stated. [2] This mailed notice is for informational purposes only. The adoption or approval of the sectional map amendment or plan shall not be invalidated by the failure to send and/or received the mailed notice. [3] On the <i>Adopted and Approved Historic Sites and Districts Plan of Prince George's County, Maryland</i> . [4] Measured at right angles to the intervening street or streets from the land subject to the application.			

2. Contents

All notices required by this Subsection shall include:

- a. The date, time, and place of the public hearing on the application;
- b. The application number, and the type of application being considered;
- c. The description of the land subject to the application;
- d. A summary of the applicant's request;
- e. A phone number and e-mail address, prominently displayed, to call or e-mail for additional information, along with the website address of the Planning Department;
- f. If a public hearing is required, the word "Hearing" shall be prominently displayed; and
- g. A statement, clearly displayed, that any member of the public is welcome to attend the public hearing and speak either in support or opposition to the public hearing.

3. Registration to Receive Notice by Mail

- a. Any person, civic or neighborhood organization, or other organization in the County may register with the Planning Director to receive notice of applications and public hearings.
- b. To register to obtain notice of applications and public hearings, a person or organization shall provide the Planning Director information in the form required by the Procedures Manual to ensure notification can be

made, along with a fee to defray the costs of notification. To continue to receive notice of applications and public hearings, a person or organization shall re-register every two years.

- c. The notice shall be transmitted by electronic mail or, if requested by the person or organization, by mail.

4. Mailed Notice⁵⁵

- a. The Planning Director or Clerk of the County Council, as appropriate, shall mail notice required by Table 27-2.407.B: Required Public Notice.
 - i. The applicant shall provide the Planning Director, and the Clerk of the County Council, as appropriate, mailing labels and stamps, with the names and mailing addresses for land owners required to be mailed notice as shown on the assessment rolls of the County, unless evidence to the contrary exists that the names and mailing addresses on the assessment roles are not correct.

5. Notice Published in a Newspaper

Where required by Table 27-2.407.B: Required Public Notice, the Planning Director or Clerk of the County Council, as appropriate, shall ensure notice is published at least once in a newspaper of general circulation in the County, or as otherwise required by Table 27-2.407.B and State law.

⁵⁵ This Subsection replaces Sec. 27-125.04 of the current Zoning Ordinance. Some of the requirements in the current section, such as providing a list of applications, identifying the application on a map, etc., are not carried forward, since they can be dealt with administratively, or in the Procedures Manual.

6. Posted Notice⁵⁶

Where required by Table 27-2.407.B: Required Public Notice, the applicant shall ensure notice is posted on the site subject to the application, in accordance with the requirements of this Subsection.

a. Number, Dimensions and Orientation

Posted notice signs shall be displayed as follows:

- i. If the site subject to the application has frontage on one or more improved streets, there shall be one sign posted for each 1,000 feet, or fraction thereof, of frontage on each street. The sign(s) shall be posted on the site near the street right-of-way, and oriented to maximize their visibility to motorists. When more than one sign is required to be posted along a street, the signs shall, where practicable, be evenly spaced along the street.
- ii. The posted notice sign(s) shall be singled-sided if the site occupies frontage on a cul-de-sac, at the end of a dead-end street, or on a one-way street. The sign(s) shall be oriented to maximize their visibility to motorists.
- iii. The posted notice sign(s) shall be double-sided if the site occupies frontage on a street that is visible to two-way traffic. These sign(s) shall be configured in a “V” shape, at a 45-degree angle,

and oriented to maximize their visibility to motorists.

- iv. If the site does not have frontage on an improved public street, then one sign shall be placed on the land subject to the application. The sign shall be near the boundary of the site and visible from adjoining land. Another sign shall be placed near to, and visible from, the improved portion of the nearest, most-traveled street. This sign shall indicate it is not on the land subject to the application.
- v. If the placement of any sign on the land subject to the application is not visible to motorists from adjoining streets, the Planning Director may require placement of an additional sign, as needed, to ensure that notice about the application and public hearing is accessible to the general public.

b. Display and Maintenance of Posted Notice

- i. All signs shall be posted and displayed for a continuous period of time, as required in Table 27-2.407.B: Required Public Notice.
- ii. The sign(s) shall be durable, conspicuous and legible for the length of the required posting period.
- iii. The applicant is responsible for the reasonable maintenance of all signs. If a sign is removed, falls down, or is otherwise not properly located on the site subject to the application, or in the right-of-way, for any portion of the required

⁵⁶ This Section replaces Sec. 27-125.03 of the current Zoning Ordinance. It does not carry forward the distinction in posting requirements for administrative approvals by the Planning Director in Sec. 27-125.03(b).

- posting period, the applicant shall repost the sign.
- iv. The applicant shall remove the signs from the site within 15 days after the public hearing on the application.
 - v. The person posting the sign shall file a written statement in the record of posting. A close-up, legible photograph of each posted sign and additional long-distance photographs depicting the signs and unique, identifiable features of the land subject to the application shall also be submitted and included in the record for the case.
 - vi. The applicant shall inspect the sign(s) at least one time no later than the 15th day of posting to ensure that the signs are maintained. The person conducting the inspection shall file in the record a written statement of the sign's condition. A combined posting and inspection affidavit shall be filed at least 14 days prior to the hearing.
 - vii. Any unauthorized person removing, destroying, defacing, obstructing, or otherwise interfering with a posted sign (directly or indirectly) is in violation of this Ordinance and subject to any penalties provided by this Ordinance and State law.

C. Deferral of Application

1. Request for Deferral

An applicant may request that a review body's consideration of an application at a public hearing be deferred at any time prior to the public hearing by submitting a written request for deferral to the Planning Director.

2. Decision on Request Submitted Prior to Public Notification

- a. If public notice in accordance with Sec. 27-2.407.B above, has not been provided, the Planning Director may grant the request for good cause.
- b. If a deferral is granted, the date of the public hearing at which the application will be heard shall be set at the time the deferral is granted, in accordance with timelines for deferrals set forth in the Procedures Manual.

3. Decision on Request Submitted After Public Notification

- a. If public notification in accordance with Sec. 27-2.407.B above, has been provided, the request for deferral shall be placed on the public hearing agenda on the date the application is to be considered and acted upon by the review body.
- b. The review body may approve the request for deferral, for good cause.
- c. If a deferral is granted, the date of the public hearing at which the application will be heard shall be set in

accordance with timelines for deferrals set forth in the Procedures Manual, at the time the deferral is granted. The applicant may be subject to additional application fees to defray the additional costs of processing the application.

27-2.408. Review and Recommendation by Advisory Board or Official

If a development application is subject to a recommendation by an advisory board or official (either the Planning Board or ZHE, in accordance with Sec. 27-2.200, Summary Table of Development Review Responsibilities), unless stated to the contrary in Sec. 27-2.500, Application-Specific Review Procedures and Decision Standards, the advisory board or official shall review and act on the application in accordance with the requirements in this Subsection.

A. General

The advisory board or official shall hold any required public hearing on the application in accordance with Sec. 27-2.410, General Public Hearing, or Sec. 27-2.411, Quasi-Judicial Public Hearing, as appropriate. At the hearing, the advisory board or official shall consider the application, relevant support materials, the Technical Staff Report, and any public comments, and then recommend one of the decisions authorized for the particular type of application, based on the decision standards applicable for the application type, as set forth in Sec. 27-2.500, Application-Specific Review Procedures and Decision Standards.

B. Timing

The advisory board or official shall take action within any time period specified in this Division or in its Rules of Procedure, for

the type of application; otherwise, if time periods are not specified, action shall be taken as promptly as reasonably possible in consideration of the interests of the applicant, affected parties, and citizens of the County.

C. Conditions of Approval

If permitted for the particular type of application in accordance with Sec. 27-2.500, Application-Specific Review Procedures and Decision Standards, for the specific type of application, the advisory body may recommend conditions of approval in accordance with Sec. 27-2.412, Conditions of Approval.

27-2.409. Review and Decision by Decision-Making Body or Official

If a development application is subject to a final decision by the District Council, the Planning Board, the BZA, or the ZHE in accordance with Sec. 27-2.200, Summary Table of Development Review Responsibilities, the decision-making body or official, unless stated otherwise in Sec. 27-2.500, Application-Specific Review Procedures and Decision Standards, shall review and make a final decision on the application in accordance with the requirements in this Subsection.

A. General

The decision-making body or official shall hold any required public hearing on the application. At the hearing, the decision-making body or official shall consider the application, relevant support materials, the Technical Staff Report, any recommendations by advisory boards or officials, and any public comments. The body or official shall then make one of the decisions authorized for the particular type of application, based on the review standards applicable for the application

type, as set forth in Sec. 27-2.500, Application-Specific Review Procedures and Decision Standards.

B. Timing

The decision-making body or official shall take action within any time specified in this Division or its Rules of Procedure for the type of application; otherwise it shall take action as promptly as reasonably possible in consideration of the interests of the applicant, affected parties, and citizens of the County.

C. Conditions of Approval

If permitted for the particular type of application in accordance with Sec. 27-2.500, Application-Specific Review Procedures and Decision Standards, the decision-making body or official may impose conditions of approval in accordance with 27-2.412, Conditions of Approval.

D. Remand

Before making its decision, the decision-making body or official may remand the application to an advisory board or official, as applicable, for further consideration of the issues identified in the remand order, which shall be based on the record. If the application is remanded, any time limitations established by this Ordinance or State law for the decision shall continue to apply unless waived by the applicant.

27-2.410. General Public Hearing

When a public hearing(s) is required in accordance with Sec. 27-2.200, Summary Table of Development Review Responsibilities, for the following type of type of development applications, the public hearing(s) shall be conducted in accordance with the Rules of

Procedure of the advisory or decision-making body conducting the hearing, any applicable requirements in Sec. 27-2.500, Application-Specific Review Procedures and Decision Standards, and State law:

- A.** Comprehensive plan amendments;
- B.** Text amendments; and
- C.** Sectional map amendments;

27-2.411. Quasi-Judicial Public Hearing⁵⁷

A. Generally

- 1.** This Section applies where a quasi-judicial public hearing is required in accordance with Sec. 27-2.200, Summary Table of Development Review Responsibilities, for the following types of development applications:
 - a.** Parcel-specific map amendments;
 - b.** Planned development (PD) map amendments;
 - c.** CBCA-O Zone map amendments;
 - d.** Special exceptions;
 - e.** Major site plans;
 - f.** Variances;
 - g.** Major adjustments;
 - h.** Validations of permits issued in error; and
 - i.** Appeals.

⁵⁷ This Section consolidates various public hearing requirements in the current Zoning Ordinance. Alternatively, these provisions could be removed from this Ordinance and placed in the the Procedures Manual.

2. If a provision of this Section is inconsistent with a provision of the Maryland Land Use Code, the provision of the Maryland Land Use Code applies.

B. Limitation of Time

The time for presenting cases by parties of record shall generally be limited to one hour for each side. For good cause, the official or review board conducting the hearing may grant additional time.

C. Evidence

1. Testimony at the hearing is limited to facts and information that are relevant to the application under consideration.
2. The official or review board conducting the hearing may take judicial notice of any evidence to the extent permitted by Maryland law. This includes any evidence contained in the record of any earlier phase of the approval process relating to all or part of the same land being considered at the hearing.

D. Order of Presentation

The decision making official or body may establish the order of presentation in its rules of procedure.

E. Participation of Examiners

The official or review board conducting the hearing may:

1. Rule upon procedural matters, questions of law, evidence, motions, or objections;
2. Limit debate; and

3. Ask questions of any witness.

F. Witnesses

1. The decision making official or review board may establish rules for the presentation of testimony by witnesses. Reasonable cross-examination of witnesses is permitted.
2. If required, subpoenas shall be served in the manner provided by the Maryland Rules of Civil Procedure for service in the Circuit Courts of the State. No person shall disobey or fail to answer the subpoena. A witness may be excused from attendance if the witness can show that the placement under subpoena was frivolous or oppressive.

G. Transcripts

A complete transcript containing all record testimony (including exhibits by reference) shall be prepared in each case.

H. Referral for Additional Information

Cases may be referred to any department or official who has processed or commented on an application, for the purpose of clarifying, updating, or completing the record. Unless otherwise provided in the referral, the agency or Department shall respond within 21 calendar days, or it shall be presumed to have no comment on the application.

I. Correspondence and Communications

All Technical Staff Reports, correspondence received, and copies of correspondence sent by Departments or Officials processing applications shall be included in the record. The substance of any oral communication held with a department or official processing applications, regarding the merits of a

pending case, shall be reduced to writing and included in the record of that case.

J. Persons of Record

The official or review board conducting the hearing shall prepare a list of persons of record, which shall be made a part of the record.

K. Continued and Recessed Cases

1. The official or review board conducting the hearing may continue a case.
2. A case may be continued for good cause after it has been advertised for hearing.
3. After a hearing has begun, a case may be continued for the receipt of additional evidence and upon such conditions or limitations or subject to such additional requirements or hearings as due process may require.
4. The People's Zoning Counsel or any person of record may request the continuance of a hearing under this Subsection. The official or review board conducting the hearing shall grant a continuance if a required Technical Staff Report has not been filed within 30 days of the scheduled hearing. If a continuance is granted for this reason, the official or review board conducting the hearing may not hear the case for at least 30 days after the Technical Staff Report is filed.
5. If a new hearing date is not set for a continued case at the time of continuance, all parties of record shall be sent written notice of a new date at least 20 days prior to the new hearing date.

6. The official or review board conducting the hearing may request that the record be held open for no more than 14 days for the receipt of its recommendation on any given case.

L. Case Taken Under Advisement

1. When a case is fully presented, the official or review board conducting the hearing may take it under advisement to render a decision. No new evidence may be entered into the record after this occurs, except:
 - a. If good cause is shown why the evidence was not previously presented into the record; or
 - b. The evidence is presented pursuant to a remand from any department or official with authority to consider an appeal or to make a final decision relating to the decision of the official or review board conducting the hearing; and
 - c. All persons of record are afforded the opportunity to present evidence in rebuttal.
2. The official or review board may deny admission of additional evidence if it finds that it:
 - a. Has little probative value to the outcome of the hearing; and
 - b. Would delay the proceedings.

M. Reconsideration

1. The official or review board's decision may be reconsidered on request filed by either the applicant or other person of record before it becomes final.

2. The official or review board may reconsider the decision only if, in furtherance of substantial public interest, it finds that an error in reaching the original decision was caused by fraud, surprise, mistake, inadvertence, or other good cause.
3. The party filing the request for reconsideration of the case shall, upon filing the request, send a copy to all other persons of record, the applicant (if the applicant is not a person of record), and all municipalities within one mile of the land subject to the application.
4. If the official or review board determines there is grounds to reconsider their final decision, it shall schedule a hearing on the request.
5. After the hearing, the official or review board shall first vote to reconsider their final decision and, if an affirmative motion is adopted, vote on a new decision.
6. After the close of the hearing record, the official or review board shall file a new decision or recommendation.

N. Ex Parte Communications

A person who is (or who may become) a person of record, or anyone appearing on behalf of a person of record in a quasi-judicial proceeding, shall not communicate off the record with any official or review board member conducting the hearing concerning any pending or proposed application. The official or the review board may, however, consider requests regarding scheduling.

O. Dismissal of Cases

1. Applicability

- a. The official or review board conducting the hearing shall dismiss any case that it has the power to hear that is withdrawn through inaction in accordance with Sec. 27-2.405.B.2, Withdrawal through Inaction, or has not reached public hearing by or within three years after the application was filed. The official or review board may (for good cause) grant extensions of that time period. More than one extension may be granted. Each extension may be for not more than six months.

2. Order of Dismissal

An order of dismissal shall be in writing unless the application is withdrawn through inaction. A copy of the order shall be sent to all persons of record.

a. Written Notice to Applicant

At least 30 days prior to dismissal, the official or review board conducting the hearing shall send written notice of the proposed dismissal date to the applicant, the landowner, municipalities within one mile of the land subject to the application, and correspondent (at their addresses of record).

b. Appeals of Dismissal Notice

- i. The order of dismissal terminates all proceedings in the case, unless appealed by the applicant or owner within 30 days after the date of dismissal. If the official or review board is

- charged with issuing a recommendation, the appeal shall be filed with the review board charged with rendering a final decision. If the official or review board is the final decision maker, the official or review board shall treat the appeal as an application to reconsider its decision to dismiss the application.
- ii. Each appeal shall be in writing and shall state specifically why the case should not be dismissed. An appellant shall give notice of the appeal to all persons sent notice of the order.
 - iii. The appellate review board shall consider the appeal within 90 days of its filing. The appellate review board shall give at least ten days notice of the time and place of the meeting at which the appeal or reconsideration will be considered. The notice shall be sent to the appellant and all other persons who were given notice of the order of dismissal.
 - iv. The appellant shall have the opportunity to appear before the appellate review board to show why the case should not be dismissed.
 - v. The appellate review board shall either uphold the order of dismissal, or shall reverse the order and remand the case to the official or review board charged with conducting the hearing for further processing, or (if the application is treated as a reconsideration) shall hear the application.

27-2.412. Conditions of Approval

A. Generally

1. If explicitly permitted for the particular type of application in accordance with Sec. 27-2.500, Application-Specific Review Procedures and Decision Standards, approval of an application may be subject to conditions of approval; otherwise, approval of an application shall not be subject to conditions of approval.
2. Approval of sectional map amendments, Military Installation Overlay Zone map amendments, and Chesapeake Bay Critical Area Overlay (CBCA-O) Zone map amendments shall not be subject to conditions of approval.

B. Limitations on Conditions

Any conditions of approval shall be expressly set forth in the approval, shall be limited to conditions deemed necessary to ensure compliance with the requirements and particular standards of this Ordinance, and shall relate in both type and scope to the anticipated impacts of the proposed development.⁵⁸

C. Requirements

1. Conditions become a permanent part of the development approval or permit, and are binding as long as the zone remains in effect (in the case of parcel specific map amendments) or the development approval or permit remains valid.

⁵⁸ See Maryland Land Use Code § 22-214 and 27-2.302.B, Parcel-Specific Map Amendments for conditional rezoning requirements.

2. A condition of approval imposed is mandatory. Failure to comply with any condition of approval constitutes a violation of this Ordinance, and is grounds for the County to:
 - a. Annul the development approval or permit, including any parcel specific map amendment;
 - b. Revoke a permit;
 - c. Institute appropriate civil or criminal proceedings in accordance with Division 27-7: Enforcement; or
 - d. Institute any other action necessary to obtain compliance.

27-2.413. Notification to Applicant

Within 14 days after a final decision on a development application, the Planning Director or DPIE Director, whichever the application was submitted to, shall notify the applicant of the decision, in writing, and shall make a copy of the decision available to the public on the Planning Department's or DPIE's website and in the Planning Department or DPIE offices during normal business hours, as appropriate.

27-2.414. Appeal

Any appeal of a decision on an application shall be in accordance with State law and Sec. 27-2.500, Application-Specific Review Procedures and Decision Standards.

27-2.415. Post-Decision Actions

A. Effect of Approval

Approval of a development application in accordance with this Division authorizes only the particular use, plan, or other specific activity approved, and not any other development requiring separate application and approval. In the event that one development approval or permit is a prerequisite to another development approval or permit (e.g., variance approval prior to a site plan approval), development may not take place until all required approvals or permits are obtained. Approval of one development application does not necessarily guarantee approval of any subsequent development application.

B. Amendment

Unless specified in the procedure for the particular type of development application in Sec. 27-2.500, Application-Specific Review Procedures and Decision Standards, an amendment of a development approval or permit may only be reviewed in accordance with the procedures and standards established for its original approval.

C. Lapse of Approval⁵⁹

1. Generally

Development approvals and permits expire as provided in Sec. Sec. 27-2.500, Application-Specific Review Procedures and Decision Standards, for each type of development approval or permit. If no expiration period is

⁵⁹ This is a new section.

provided for the specific type of development approval or permit, and if no expiration period is imposed as part of the approval by the decision-making body or person, the development approval or permit expires if a use and occupancy permit authorizing the approved development is not obtained within two years after the effective date of approval.

2. Change in Ownership Does Not Affect Rights

A change in ownership of the land that is the subject of a development approval or permit does not affect the established expiration time period for the development approval or permit.

3. Extension

Unless stated to the contrary in Sec. 27-2.500, Application-Specific Review Procedures and Decision Standards, a one-year extension of the expiration time period for a specific development approval or permit may be granted by the decision-making body or person that granted the development approval or permit upon the applicant's submission of a written request for extension to the Planning Director or DPIE Director, whichever the application was submitted to, before the expiration date, and a showing of good cause.

D. Resubmitting Application⁶⁰

1. Generally

- a. Unless otherwise stated for a specific application type in Sec. 27-2.500, Application-Specific Review Procedures and Decision Standards, no new application for the same development for which an application was denied under this Ordinance may be filed on the same land until two years have elapsed after final action (including appellate review).
- b. The owner of land that is the subject of a development application that was denied, or the owner's authorized agent, may submit a written request for waiver of the time limit established in Subsection 27-2.415.D.1.a above, along with a fee to defray the cost of processing the request, to the Planning Director, who shall transmit the request to the decision-making body. The decision-making body may grant a waiver of the time limit only on a finding by at least two-thirds of its membership of one or more of the following:
 - i. There is a substantial change in circumstances relevant to the issues or facts considered during review of the application that might reasonably affect the application of the relevant review standards to the development proposed in the application;

⁶⁰ This is a new section that creates a default limit on re-applications. These types of provisions prevent applicants from wasting public resources by refile applications that have been denied.

- ii. New or additional information is available that was not available at the time of review that might reasonably affect the application of the relevant review standards to the development proposed in the application;
- iii. The new application proposed to be submitted is not substantially the same as the prior application; or
- iv. The final decision on the application was based on a material mistake of fact.

27-2.416. Examination and Copying of Application/Other Documents

- A. Each development application (including all materials filed with the application) accepted as complete or processed in accordance with Sec. 27-2.404.B.2, and any Technical Staff Report prepared in accordance with Sec. 27-2.406.B.1, Technical Staff Report, shall be published on the Planning Board website.
- B. At any time, upon reasonable request and during normal business hours, any person may examine a development application, a Technical Staff Report, and materials submitted in support of or in opposition to an application in the Planning Director's office. Copies of such materials shall be made available at a reasonable cost.

Sec. 27-2.500 Application-Specific Review Procedures and Decision Standards⁶¹

This Section establishes, for each type of application reviewed for a development approval or permit under this Ordinance, the specific review procedure and decision standards that apply, in accordance with Sec. 27-2.200, Summary Table of Development Review Responsibilities. The following sections identify, for each type of development application:

- The purpose of the type of development approval or permit;
- In what situations application approval is necessary;
- The standard procedures in Sec. 27-2.400, Standard Review Procedures, that are required, and any applicable modifications of or additions to the standard procedures; and
- The standards for making a decision on the application.

⁶¹ This Section includes the specific procedural review requirements and decision standards unique for each type of application. As described in the Evaluation and Recommendations Report (Sec. II.F, Streamline Review Procedures Where Appropriate), it adds, consolidates, and deletes development applications in order to streamline the review process. Each procedure is accompanied by a process flowchart.

27-2.501. Comprehensive Plans and Amendments⁶²

A. Purpose

The purpose of this Subsection is to establish a uniform mechanism to adopt and amend comprehensive plans. Comprehensive plans consist of the General Plan, area master plans, sector plans, and functional master plans.

1. The General Plan is the Prince George's County General Plan approved in accordance with State law.⁶³
2. An area master plan⁶⁴ amends the County's General Plan. It is a planning document that guides the way an area in the County should be developed. An area master plan includes the entirety of one or more planning areas. It combines policy statements, goals, standards, maps, and pertinent data relative to the past, present, and future trends of a particular area (such as population, housing, economic, social patterns, land use, water resources, transportation facilities, and other public facility

conditions and trends). An area master plan amends the County's General Plan.⁶⁵

3. A sector plan is a comprehensive plan for the physical development of part of one or more planning or master plan areas, showing in detail planning features such as type, density and intensity of land uses, pedestrian traffic features, public facilities, and the relationship between the various uses to transportation, other public facilities and services, and amenities within the sector plan area, and where appropriate, to other areas. It may be approved either as part of a new area master plan or as an amendment to an existing area master plan.⁶⁶
4. A functional master plan is the current approved plan for one of the various elements of the General Plan, such as transportation, schools, libraries, hospitals, health centers, parks and other open spaces, police stations, fire stations, utilities, or historic preservation.⁶⁷
5. A minor amendment to an approved area master plan, sector plan, or functional master plan may be initiated to incorporate necessary revisions pertaining to limited geographic areas, specific issues regarding public planning objectives, or to correct errors in the text or maps in the applicable plan.

⁶² This Subsection builds on the proposed staff changes to the master plan and sector plan procedure, and Secs.27-220 through 27-228 (Division 4 of Part 3) of the current Zoning Ordinance for sectional map amendments, but consolidates these provisions into one subsection that establishes one set of review procedures for all comprehensive plans: the General Plan, area master plans, sector plans, and functional master plans.

⁶³ This is a new definition.

⁶⁴ The County Charter (Sec. 701) also defines a "master plan." The Maryland Land Use Code uses terms such as "area master plan" and "functional master plan," and even "master plan," but it does not define the term "master plan."

⁶⁵ This definition is carried forward from Sec. 27-107.01 of the current Zoning Ordinance. See Maryland Land Use Code Ann. § 21-103(c)(2)(District Council may designate an area master plan as an amendment to the General Plan).

⁶⁶ This definition is carried forward from Sec. 27-107.01 of the current Zoning Ordinance, with minor refinements.

⁶⁷ This definition is carried forward from Sec. 27-107.01 of the current Zoning Ordinance.

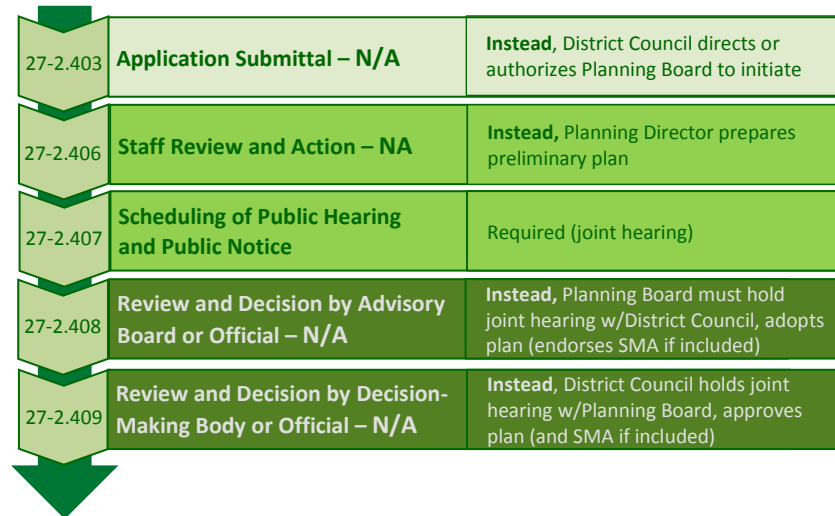
B. Applicability

Comprehensive plans shall be adopted or amended in accordance with the procedures and standards of this Subsection. An area master plan or sector plan may include a sectional map amendment for concurrent review (see Sec. 27-2.503, Sectional Map Amendment (SMA)).

C. Comprehensive Plan Procedure

This Subsection identifies additions or modifications to the standard review procedures in Sec. 27-2.400, Standard Review Procedures, that apply to a comprehensive plan, or an amendment to a plan. Figure 27-2.501 identifies key steps in the comprehensive plan amendment procedure.

Figure 27-2.501: Comprehensive Plan Amendment Procedure



1. Pre-Application Conference

N/A.

2. Pre-Application Neighborhood Meeting

N/A.

3. Application Submittal

N/A. Instead:

- a. A comprehensive plan, or an amendment, shall only be initiated by:
 - i. The District Council, by directing the Planning Board to initiate the process to adopt or amend a comprehensive plan, by resolution; or
 - ii. The Planning Board, with the written authorization of the District Council.
- b. In the case of a minor amendment, the Council's authorization or resolution shall specify the area of the plan to be covered.
- c. At the time of initiation, the Planning Board shall prepare a project description and recommended goals, concepts, guidelines, and a public participation program, and forward it to the District Council for review and approval. Among the items to be considered in developing the public participation program are the area's size, characteristics, and issues. The public participation plan shall:
 - i. Encourage a balance of participation by residents and businesses affected by the plan, including but not limited to land owners, civic associations, local business groups, interest groups, government agencies, and any municipality that is within the area covered by the plan;

- ii. Explain the techniques to facilitate committed public involvement in the preparation of the plan;
 - iii. Include techniques to keep the larger affected community informed; and
 - iv. Contain a timetable that explains the length of time for the preparation of the preliminary plan.
- d. Within 30 days after receipt of the project description and recommended goals, concepts, guidelines, and public participation program from the Planning Board, the District Council shall review it, and after approval direct the Planning Board to prepare the plan. If a sectional map amendment is to be included with either an area master plan or sector plan, the District Council shall also adopt a resolution authorizing and directing the Planning Director to prepare a proposed sectional map amendment.
- e. After receiving direction from the Council to prepare the plan, the Planning Board shall direct the Planning Director to prepare the plan. If a sectional map amendment is to be included with either plan, it shall also be prepared by the Planning Director.

4. Determination of Completeness

N/A.

5. Staff Review and Action

N/A. Instead:

- a. In preparing the plan, and sectional map amendment (with either an area master plan or sector plan only),

if appropriate, the Planning Director shall coordinate efforts with appropriate Federal, State, and County agencies.

- b. After completion of the preliminary plan, the Planning Director shall forward the plan, and sectional map amendment, if included, to the Planning Board for its review. The plan, and amendment, if included, shall be made available for public review and copying in the office of the Planning Director, and placed on the County's website.
- c. A copy of the published plan, and proposed sectional map amendment, if included, shall be transmitted to the County Executive and each municipality whose territorial boundaries are within or abut the area affected by the plan, or are located within one mile of that area. The County Executive and the municipalities shall be advised to refer their comments on the plan, and amendment, if included, to the Planning Board and the District Council at the scheduled joint public hearing(s). The failure of the County Executive to submit comments or a recommendation prior to the close of the public hearing record shall be presumed to indicate no objection.
- d. The District Council and County Executive shall be provided a 60-day review period for functional master plan of transportation.⁶⁸

⁶⁸ See Maryland Land Code § 21-106(b).

6. Scheduling Public Hearing and Public Notice

Required (See Sec. 27-2.407, Scheduling Public Hearing and Public Notice).

- a. The District Council and the Planning Board shall conduct at least one joint public hearing on the published preliminary plan and, if included, the proposed sectional map amendment (with either an area master plan or sector plan only), after a minimum of 30 days notice by publication in a newspaper of general circulation in the County.⁶⁹
- b. The Planning Board shall provide notice of the hearing on the published plan, and proposed sector map amendment, if included, in accordance with See Sec. 27-2.407, Scheduling Public Hearing and Public Notice, except:
 - i. The published notice shall also state:
 - (A) The subject matter of the hearing;
 - (B) The procedures to be followed during the hearing;
 - (C) The Affidavit and *Ex Parte* Disclosure requirements, and location of compliance forms, required by State law, the Procedures Manual, and the County Code; and
 - (D) The period of time during which the hearing record will remain open following

the joint public hearing shall not be less than 15 days.

- ii. The mailed notice shall also include:
 - (A) An invitation to comment on the plan;
 - (B) A statement advising that either after approval of an area master plan or sector plan by the District Council, a sectional map amendment for the area could result in a rezoning of land which could affect property values and property taxes.
- iii. The mailed notice shall be for informational purposes only, and failure of the Planning Board to send, or the landowner to receive, the notice shall not invalidate the adoption or approval of the plan, or sectional map amendment, if included.

7. Review and Recommendation by Advisory Board or Official

N/A. Instead:

- a. The Planning Board shall hold a public hearing (s) on the plan, and proposed sectional map amendment, if included. At least one public hearing shall be a joint hearing with the District Council.
- b. Before adopting or amending the plan or amendment, the Planning Board shall submit its proposals for public facilities in the plan to the District Council and to the County Executive for review and comment.

⁶⁹ See Maryland land Use Code § 21-216

- c. The testimony received at the public hearing shall be made a part of the record. Exhibits introduced at any time prior to the close of the record shall be identified sequentially and maintained as part of the record. The hearing record shall remain open for at least 15 days following the hearing.
 - d. The Planning Board may permit the inclusion of additional evidence in the record, upon motion and majority vote of the members present at any meeting or work session on the plan. New evidence permitted to be presented orally at any meeting or work session shall not be considered as a part of the record unless summarized in writing by the speaker and submitted for the record within the period of time specified by the Planning Board.
 - e. After the conclusion of the public hearing(s) and the close of the record, the Planning Board may either adopt the plan or adopt the plan with amendments in accordance with Sec. 27-2.501.D, Comprehensive Plan Decision Standards, remand the plan back to the Planning Director for further evaluation, or disapprove the plan. If a sectional map amendment is also being considered (with either an area master plan or sector plan only), the Planning Board shall make a recommendation on the sectional map amendment in accordance with Sec. 27-2.503.D, Sectional Map Amendment Decision Standards. The Planning Board's recommendation on the sectional map amendment shall be by resolution.
 - f. The Planning Board shall transmit:
 - i. The adopted plan to the District Council within 30 days of adoption. If the adopted plan includes a sectional map amendment, the Planning Board shall transmit the endorsed sectional map amendment concurrently to the Council, with its recommendations; and
 - ii. A copy of the adopted plan and endorsed sectional map amendment, if included, to the County Executive and to each municipality whose territorial boundaries are within or abut the area affected by the plan or that is within one-half mile of that area.
 - g. Upon transmittal to the District Council of an adopted plan which includes a proposal to change zones, or a proposed sectional map amendment, the Planning Board shall postpone accepting or processing any rezoning applications within the subject plan area (or area of the sectional map amendment, if applicable), until after final action by the District Council on the plan or sectional map amendment.
- 8. Review and Decision by Decision-Making Body or Official**
- N/A. Instead:
- a. Following receipt of the adopted plan and endorsed sectional map amendment (with either an area master plan or sector plan only), if appropriate, the District Council shall decide whether to conduct an additional joint public hearing with the Planning Board on the adopted plan, and endorsed sectional map amendment, if included. If the District Council

considers amendments to the adopted plan that are not based on the record before the Planning Board, then at least one additional joint public hearing shall be held with the Planning Board on the amendments, and endorsed sectional map amendment, if included. Amendments proposed only to retain the existing zone classification on land (with either an area master plan or sector plan only) may be approved by the Council without holding an additional joint public hearing.

- b.** If an additional joint public hearing is held, notice of the hearing shall be given by the Clerk of the Council in the same manner as that prescribed for the initial hearing before the Planning Board.
- c.** All land owners, each municipality whose territorial boundaries are within or abut the area affected by the plan, or are located within one-half mile of that area, and the County Executive shall be invited to submit comments on any amendments to the adopted plan. Failure of the County Executive to present comments or recommendations prior to the close of the public hearing record shall be presumed to indicate no objections to the amendments.
- d.** All proposed amendments proposed by the Council shall be referred to the Planning Board for its written comments, which shall be submitted to the Council prior to its action on the amendments
- e.** The testimony received at the public hearing(s) shall be made a part of the record. Exhibits introduced at any time prior to the close of the record shall be

identified sequentially and maintained as part of the record.

- f.** The District Council may permit the inclusion of additional evidence in the record, upon motion and majority vote of the members present at any meeting or work session on the plan. New evidence permitted to be presented orally at any meeting or work session shall not be considered as a part of the record unless summarized in writing by the speaker and submitted for the record within the period of time specified by the Council.
- g.** Within 60 days following receipt of the adopted plan, and endorsed sectional map amendment, if included, from the Planning Board, or if there is an additional joint public hearing within three months of the decision to hold an additional joint public hearing, the District Council, in accordance with 27-2.501.D, Comprehensive Plan Decision Standards, and, if a sectional map amendment is included, Sec. 27-2.503.D, Sectional Map Amendment Decision Standards, shall:
 - i.** Approve the adopted plan, and, the endorsed sectional map amendment, if included, as submitted by the Planning Board;
 - ii.** Approve the adopted plan with changes, revisions or amendments based upon the record, and the endorsed sectional map amendment (with either an area master plan or sector plan only), if included, with changes, revisions or amendments (this shall not require re-adoption by the Planning Board); or

- iii. Remand the adopted plan and the endorsed sectional map amendment, if included, back to the Planning Board, with specific direction for issues they should consider; or
 - iv. Deny the adopted plan, and the sectional map amendment (with either an area master plan or sector plan only), if included.
- h.** Approval of the adopted plan, and sectional map amendment (with either an area master plan or sector plan only), if included, shall be by a majority of the full District Council.
- i.** A two-thirds majority vote of the full Council shall be required to approve any portion of a sectional map amendment that is contrary to the recommendation of a municipality concerning land within its boundaries. If the Council fails to obtain this two-thirds majority vote, the land may be rezoned to any alternate zone classification recommended by the municipality (in writing), provided that:
- i. The zone classification is consistent with an adopted and approved master plan or endorsed sector plan; or
 - ii. The zone classification is the same as the one existing on the land prior to the endorsed sectional map amendment.
- j.** Failure of the District Council to take action on the adopted plan, and endorsed sectional map amendment (with either an area master plan or sector plan only), if included, within the time periods established in this Subsection shall constitute denial

of the adopted plan, and endorsed sectional map amendment, if included.

9. Conditions of Approval

N/A.

10. Notification to Applicant

N/A.

11. Appeal

N/A.

12. Post-Decision Actions

a. Final Adoption

After approval of a comprehensive plan by the District Council, the full Commission of the M-NCPPC shall take action to adopt the plan.

b. Publication and Filing

After the Commission's final adoption and approval of the approved plan, the Commission shall publish the approved plan and make it available to the public. In addition, an attested copy of every approved plan or sectional map amendment, if adopted, shall be certified by the Planning Board and filed with the Clerk of the Circuit Court for Prince George's County.

c. Minor Plan Amendment

- i. Minor amendments of an area master plan or sector plan may be initiated by the District Council upon adoption of a written resolution, or by the Planning Board with District Council

- approval by written resolution. At the time of initiation of a minor amendment process, a public hearing date shall be scheduled to occur within 60 days. The same requirements in Sec. 27-2.407, Scheduling Public Hearing and Public Notice, that applied to the review and adoption of the plan shall apply to a minor amendment of the plan.
- ii. A minor plan amendment may be utilized to advance defined public objectives, and shall be limited to:
- (A) A geographic area which is not more than 50 percent of the applicable plan area, and not limited to a single parcel of land or land owner; or
 - (B) Specific issues regarding public planning objectives; or
 - (C) An action to correct errors in the text or maps in the applicable plan.
 - (D) In no instance, however, shall a minor amendment process be used for any amendment which would require major transportation analysis and/or modeling, revised water and sewer classifications, or any adequate public facilities analysis.
- iii. The resolution initiating a minor amendment shall set forth the findings required in Sec. 27-2.501.C.12.c.ii(D) above, and specify the purpose and scope of the proposed amendment, and identify the date of the joint public hearing on the amendment.
- iv. The Planning Board shall transmit a draft of the proposed minor plan amendment, a technical staff report analyzing the minor plan amendment, and the Planning Board's recommendation on the amendment within 90 days of the date of the resolution of initiation.
- v. The District Council shall, within 90 days of receipt of the Planning Board's recommendations, at a public meeting, approve, approve with revisions, or disapprove the minor plan amendment and adopt a resolution.
- vi. Failure of the District Council to approve or deny the minor plan amendment within 90 days of receipt of the Planning Board's recommendation shall constitute denial of the minor plan amendment.
- vii. After approval of a minor amendment by the District Council, the Planning Board shall publish the revisions to the plan made in the minor amendment along with the minor amendment, and make it available to the public. In addition, an attested copy of the minor amendment shall be certified by the Planning Board and filed with the Clerk of the Circuit Court for Prince George's County.

d. Amendments

An amendment of a comprehensive plan may only be reviewed in accordance with the procedures and standards established for its original approval.

D. Comprehensive Plan Decision Standards

A comprehensive plan should conform to the principles of orderly, comprehensive land use planning and staged development. The advisability of approving a comprehensive plan, or minor plan amendment, is a matter committed to the legislative discretion of the District Council and is not controlled by any one factor. Prior to the approval of a comprehensive plan, the District Council shall consider all factors relevant to protecting the health, safety, and general welfare of the citizens of the County.

27-2.502. Text Amendment⁷⁰

A. Purpose

This purpose of this Subsection is to establish a uniform mechanism to amend the text of this Ordinance.

⁷⁰ This Section builds on Division 3, Part 3 of the current Zoning Ordinance. It establishes a procedure and review standards for an amendment to the text of the Zoning Ordinance, consistent with the format and structure of the procedures in the rewritten Zoning Ordinance. It specifies that text amendments shall be initiated only by the District Council or the Planning Board, with the written authorization of the District Council. Text amendments are prepared by the Planning Director. The Planning Board reviews and makes recommendations on proposed amendments. The District Council decides whether to adopt proposed text amendments. A text amendment procedure is found in all modern development codes.

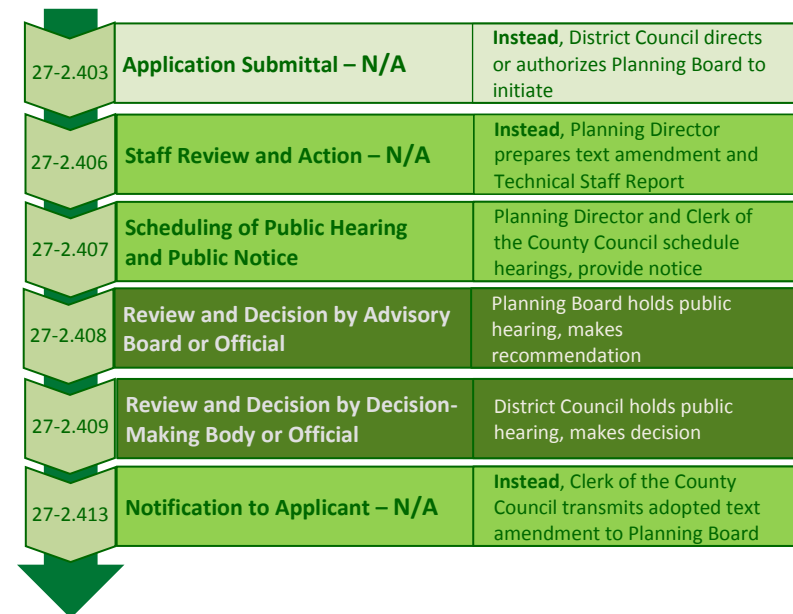
B. Applicability

A text amendment shall be initiated to change the text of this Ordinance. All text amendments shall be introduced as bills. All zoning bills shall be identified as such in the heading of the bill. The enacting clause shall identify the District Council as the "County Council of Prince George's County, Maryland, sitting as the District Council."

C. Text Amendment Procedure

This Subsection identifies additions or modifications to the standard review procedures in Sec. 27-2.400, Standard Review Procedures, that apply to a text amendment. Figure 27-2.502 identifies key steps in the text amendment procedure.

Figure 27-2.502: Text Amendment Procedure



1. Pre-Application Conference

N/A

2. Pre-Application Neighborhood Meeting

N/A.

3. Application Submittal

N/A. Instead, a text amendment shall only be initiated by:

- a. The District Council, by directing the Planning Board to initiate a text amendment, by resolution; or
- b. The Planning Board, with the written authorization of the District Council.

4. Determination of Completeness

N/A.

5. Staff Review and Action

N/A. Instead, the Planning Director shall prepare the proposed amendment and a Technical Staff Report.

6. Scheduling Public Hearing and Public Notice

Required (See Sec. 27-2.407, Scheduling Public Hearing and Public Notice).⁷¹

7. Review and Recommendation by Advisory Board or Official

Required (See Sec. 27-2.408, Review and Recommendation by Advisory Board or Official). At the hearing, the Planning Board shall, following its Rules of Procedure, consider the proposed text amendment, the Technical Staff Report, and any public comments (as appropriate), and make a recommendation, by resolution, on the proposed amendment in accordance with Sec. 27-2.502.D, Text Amendment Decision Standards.

8. Review and Decision by Decision-Making Body or Official

Required (See Sec. 27-2.409, Review and Decision by Decision-Making Body or Official). At the public hearing, the District Council shall, following the Rules of Procedure for the Prince George's County Council and by majority vote of the full Council, make a decision on the proposed text amendment. The decision shall be one of the following:

- a. Adopt by ordinance the proposed text amendment;
- b. Adopt by ordinance the proposed text amendment with revisions; or
- c. Deny the proposed text amendment.

9. Conditions of Approval

N/A.

⁷¹ Maryland Land Use Code § 22-206(c) provides that Prince Georges County may provide notice by mail or posting, or both, and -206(a)(2) requires an “advertised” public hearing. Posted notice is omitted for text amendments because, by definition, they do not relate to specific properties.

10. Notification to Applicant

N/A. Instead the Clerk of the County Council shall transmit a copy of the adopted text amendment to the Planning Board.

11. Post-Decision Actions

a. Effect of Approval

The effect of the adoption of a text amendment shall be as stated in the adopting Ordinance.

b. Lapse of Approval

N/A.

D. Text Amendment Decision Standards

The advisability of amending the text of this Ordinance is a matter committed to the legislative discretion of the District Council and is not controlled by any one factor. In determining whether to adopt or deny the proposed text amendment, the District Council may consider many factors, including but not limited to whether, and the extent to which, the proposed amendment:

1. Is consistent with the goals and policies of the General Plan, area master plans, sector plans, functional master plans, and any other applicable adopted plans;
2. Addresses a demonstrated community need;
3. Is consistent with the purpose and intent of the zones in this Ordinance, or would improve compatibility among uses and ensure efficient development within the County;
4. Is consistent with other related State and local laws and regulations; and

5. Would avoid creating significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

27-2.503. Sectional Map Amendment (SMA)⁷²

A. Purpose

The purpose of this Subsection is to establish a uniform mechanism to amend the Official Zoning Map through a sectional map amendment.

B. Applicability

1. Generally

A sectional map amendment shall be initiated to comprehensively rezone land within Prince George's County. Sectional map amendments shall be limited to planning areas, combinations of planning areas, portions of planning areas, or those areas subject to an area master plan or sector plan. In a sectional map amendment, land may be reclassified to any zone established in this Ordinance, except as provided in Sec. 27-2.503.B.4 below.

⁷² This Subsection carries forward procedures in Division 4 of Part 3 of the current Zoning Ordinance for sectional map amendments, with some changes. It clarifies that the Planning Director (instead of the Planning Board) prepares the proposed amendment upon the authorization and direction of the District Council. Notice of Planning Board and District Council public hearing is published and sent by mail to owners of land within the proposed sectional map amendment boundaries. Provisions in Sec. 27-228 of the current Zoning Ordinance regarding revision of the sectional map amendment based on fraud or mistake are not carried forward.

2. With Area Master Plan or Sector Plan

A sectional map amendment may be prepared and reviewed concurrently with an area master plan or a sector plan, in accordance with Sec. 27-2.501, Comprehensive Plans and Amendments.

3. Military Installation Overlay Zone (MIOZ)

The Military Installation Overlay Zone (MIOZ) shall be amended only in accordance with this Subsection following the issuance of an Air Installation Compatibility Use Zone Study, as amended from time to time, by the Department of Defense.

4. Prohibited Sectional Map Amendments⁷³

A map amendment to the following zones shall not be established through a sectional map amendment:

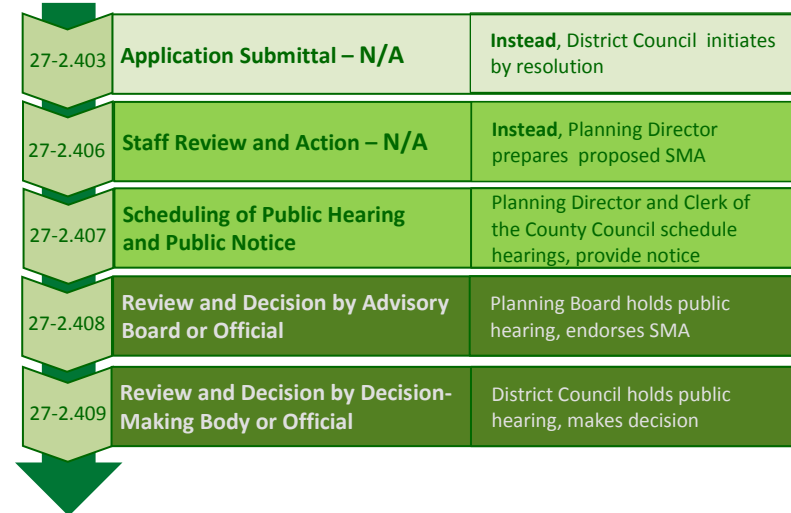
- a. The NCO Zone;
- b. The CBCA-O Zone;
- c. A PD zone;
- d. A more-intense Residential zone, if the land subject to the proposed amendment is wholly or partially within the Safety Zones of the MIOZ Zone;
- e. The PL Zone, if the land subject to the proposed amendment is not publicly-owned, unless the landowner has requested or consented, in writing, to the amendment.

- f. A less intense zone (See Sec. 27-3.102) if the land subject to the proposed amendment has been reclassified by a parcel specific zone map amendment within five years prior to the transmittal of the sectional map amendment to the District Council, and the landowner has not consented, in writing, to the amendment.

C. Sectional Map Amendment Procedure

This Subsection identifies additions or modifications to the standard review procedures in Sec. 27-2.400, Standard Review Procedures, that apply to development applications for a sectional map amendment. Figure 27-2.503 identifies key steps in the sectional map amendment procedure.

Figure 27-2.503: Sectional Map Amendment Procedure



⁷³ This Subsection carries forward many provisions in Sec. 27-223 of the current Zoning Ordinance. Some of those provisions apply to zones that were consolidated or not carried forward in Module 1. This Subsection consolidates and simplifies the provisions where possible, consistent with the revised zone structure in Module 1.

1. Pre-Application Conference

N/A.

2. Pre-Application Neighborhood Meeting

N/A.

3. Application Submittal

N/A. Instead:

- a. A sectional map amendment shall only be initiated by:
 - i. The District Council, by directing the Planning Board or Planning Director to initiate a sectional map amendment, by resolution; or
 - ii. The Planning Board, with the written authorization of the District Council.
- b. Within 30 days after the initiation resolution has been adopted or written authorization given, any person may request that specific zones (except those prohibited in Sec. 27-2.503.B.4, Prohibited Sectional Map Amendments) be considered for specific lands during the sectional map amendment process, unless the sectional map amendment is initiated by or reviewed concurrent with an adopted sector or master plan.

4. Determination of Completeness

N/A.

5. Staff Review and Action

N/A. Instead, the Planning Director shall prepare the proposed sectional map amendment for review in

accordance with this section. If the proposed sectional map amendment amends lands located within the MIOZ, the Planning Director shall prepare a Technical Staff Report that contains a statement of justification describing the following:

- a. If the proposed sectional map amendment would change the MIOZ boundaries, how the proposed MIOZ boundaries comply with the purpose of the MIOZ; and
- b. If the proposed sectional map amendment would change the underlying zone of property within the Safety Zones of the MIOZ, how the proposed change complies with the purpose of the MIOZ.

6. Scheduling Public Hearing and Public Notice

Required (See Sec. 27-2.407, Scheduling Public Hearing and Public Notice).

- a. In addition to the public notification requirements in Sec. 27-2.407, Scheduling Public Hearing and Public Notice, public notice shall include a notice of affidavit and *Ex Parte* disclosure and location of compliance forms, in accordance with State law and the Procedures Manual.
- b. If a sectional map amendment is considered concurrently with an area master plan or a sector plan, scheduling of public hearing(s) and public notice shall be in accordance with Sec. 27-2.501, Comprehensive Plans and Amendments.

7. Review and Recommendation by Advisory Board or Official

Required (See Sec. 27-2.408, Review and Recommendation by Advisory Board or Official), except:

- a. If the proposed sectional map amendment is prepared and reviewed concurrently with an area master plan or sector plan, the Planning Board shall hold a joint public hearing with the District Council in accordance with Sec. 27-2.501, Comprehensive Plans and Amendments, in-lieu of a separate public hearing.
- b. After the conclusion of the public hearing and the close of the record, the Planning Board shall make a recommendation on the proposed sectional map amendment in accordance with Sec. 27-2.503.D, Sectional Map Amendment Decision Standards. The Planning Board's recommendation shall be by resolution. If the Planning Board recommends changes to the underlying zone of property within the Safety Zones of the MIOZ, whether or not the recommended change is based on public testimony, a statement of justification shall be included describing how the proposed reclassification complies with the purpose of the MIOZ.
- c. Within 30 days of the adoption of the resolution, the Planning Board shall transmit the endorsed sectional map amendment to the District Council and to each municipality located either within the area of the endorsed sectional map amendment or within one mile of that area.

- d. Upon transmittal of an endorsed sectional map amendment to the District Council:

- i. The Planning Board shall postpone accepting or processing any parcel-specific map amendment applications within the area of the endorsed sectional map amendment until after final action by the District Council on the endorsed sectional map amendment.
- ii. The Clerk of the County Council shall notify the DPIE Director of the transmittal. DPIE shall postpone the processing and issuance of building permits for land within the area of the endorsed Sectional Map Amendment until after final action by the District Council on the Sectional Map Amendment, if the lot or parcel of land on which construction is proposed is in a Commercial or Industrial Zone, was proposed by the Planning Board for a zone in which the proposed use is not permitted, and is undeveloped. This Subsection shall not apply to a lot or parcel of land for which a grading permit has been issued by Prince George's County, sediment and erosion control devices have been installed by the permittee, and site grading activities have been initiated by the permittee.

8. Review and Decision by Decision-Making Body or Official

Required (See Sec. 27-2.409, Review and Decision by Decision-Making Body or Official), except the following procedures shall apply:

- a. If the proposed sectional map amendment is prepared and reviewed concurrently with an area master plan or sector plan, the District Council shall review and make a decision on the endorsed sectional map amendment in accordance with Sec. 27-2.501, Comprehensive Plans and Amendments, and Sec. 27-2.503.D, Sectional Map Amendment Decision Standards. Otherwise, Within 60 days following receipt of the Planning Board's recommendation on the endorsed sectional map amendment, the District Council shall, by ordinance, and in accordance with Sec. 27-2.503.D, Sectional Map Amendment Decision Standards:
 - i. Approve the sectional map amendment as submitted by the Planning Board;
 - ii. Approve the sectional map amendment, with amendments; or
 - iii. Deny the sectional map amendment.
- b. The District Council may approve the endorsed sectional map amendment with amendments that are not based on the record before the Planning Board, provided:
 - i. The District Council's proposed amendments shall be referred to the Planning Board for the Board's written comments. The comments, if any, shall be submitted to the Council prior to the Council's action on the sectional map amendment.
 - ii. The District Council shall hold an additional public hearing, prior to approving the endorsed sectional map amendment. Notice of the hearing shall be given by the Clerk of the Council in the same manner as that prescribed for the initial hearing before the District Council. Amendments proposed only to retain the existing zone of land may be approved by the Council without holding an additional public hearing.
- c. A two-thirds majority vote of the full Council shall be required to approve any portion of the amendment that is contrary to the recommendation of a municipality concerning land within its boundaries. If the Council fails to obtain this two-thirds majority vote, the land may be rezoned to any alternate zone recommended by the municipality (in writing) if:
 - i. The zone is consistent with the adopted and approved master plan or sector plan; or
 - ii. The zone is the same as the one existing on the land prior to the sectional map amendment.
- d. If the sectional map amendment changes the underlying zone of property within the Safety Zones of the MIOZ, whether or not the recommended change is based on public testimony, a statement of justification shall be included in the ordinance describing how the proposed reclassification complies with the purpose of the MIOZ.
- e. Failure of the District Council to take action on an endorsed sectional map amendment within the time periods established in this Subsection shall constitute denial of the endorsed sectional map amendment.

9. Conditions of Approval

N/A.

10. Notification to Applicant

N/A.

11. Post-Decision Actions

a. Effect of Approval

The approval of a sectional map amendment shall repeal and readopt with amendments that portion of the Official Zoning Map encompassed by the sectional map amendment.

b. Lapse of Approval

N/A.

c. Designation on Official Zoning Map

If a sectional map amendment is adopted by the District Council, the Planning Director shall place the amendment on the Official Zoning Map within a reasonable period of time after its adoption.

d. Resubmittal and Reconsideration

i. Where a sectional map amendment is found by a court of competent jurisdiction to be invalid because of procedural defects in the advertising, processing, or approval, the District Council may (on its own motion) reconsider the sectional map amendment. The Council may then reapprove the sectional map amendment (including amendments) in accordance with the

procedures which apply to the original approval.

ii. Upon resubmission, the records of the previous hearings on the sectional map amendment shall be incorporated into the record of the new hearing.

D. Sectional Map Amendment Decision Standards

1. Sectional map amendments conform to the principles of orderly, comprehensive land use planning and staged development, and shall be based on applicable area master plans, sector plans, and functional master plans. The advisability of a sectional map amendment is a matter committed to the legislative discretion of the District Council and is not controlled by any one factor. Prior to the approval of a sectional map amendment, the District Council shall consider the following:
 - a. The consistency of the proposed amendment with the General Plan and any applicable master plans or sector plans;
 - b. The character of the area under review;
 - c. The suitability of particular uses;
 - d. The protection of natural features in the area;
 - e. The conservation of the value of buildings and communities;
 - f. The most appropriate use of land throughout the County;
 - g. Any adopted current staging policy, or Capital Improvement or Economic Development Program;

Figure 27-2.504: Parcel-Specific Map Amendment Procedure



1. Pre-Application Conference

Required (See Sec. 27-2.401, Pre-Application Conference), except for applications submitted by the District Council, the Planning Board, or the Planning Director.

2. Pre-Application Neighborhood Meeting

Required (See Sec. 27-2.402, Pre-Application Neighborhood Meeting), except for applications submitted by the District Council, the Planning Board, or the Planning Director.

3. Application Submittal^{75 76}

Required (See Sec. 27-2.403, Application Submittal).

- a. In addition, an application may be submitted by the District Council, the Planning Board, or the Planning Director.
- b. No parcel of land shall be the subject of two separate applications for a parcel specific map amendment at the same time. If two or more separate parcels of land are included in one application, they must be adjoining. For the purposes of this Subsection, "adjoining" means those parcels of land which abut or are separated only by a public right-of-way, stream bed, or the like.

4. Determination of Completeness

Required (See Sec. 27-2.404, Determination of Completeness).

⁷⁵ Procedures relating to historic district preservation referral in the existing Zoning Ordinance procedures are omitted, and are placed in Sec. 27-2.404, Determination of Completeness, in the standard procedures.

⁷⁶ A number of provisions addressing the "nuts and bolts" of the application submittal process in the current Zoning Ordinance are not carried forward here, as they will be included in the Procedures Manual.

5. Staff Review and Action

Required (See Sec. 27-2.406, Staff Review and Action). After staff review and evaluation of the application, the Planning Director shall prepare a Technical Staff Report, which shall include a recommendation on the application. The Technical Staff Report shall be submitted and filed with the ZHE at least 30 days before the scheduled hearing before the ZHE, or the matter shall be continued.

6. Scheduling Public Hearing and Public Notice

Required (See Sec. 27-2.407, Scheduling Public Hearing and Public Notice). In addition to the public notification requirements in Sec. 27-2.407, Scheduling Public Hearing and Public Notice, public notice shall include a notice of affidavit and *Ex Parte* disclosure and location of compliance forms, in accordance with State law and the Procedures Manual.

7. Review and Recommendation by Advisory Board or Official

Required (See Sec. 27-2.408, Review and Recommendation by Advisory Board or Official).

- a. The Planning Board shall decide whether it will hold a hearing on the application within 15 days after receipt of the Technical Staff Report, or at its first meeting after the release of the report if no meeting has occurred within the 15 days.
- b. If the Planning Board decides not to conduct a hearing, the recommendation in the Technical Staff Report constitutes the Planning Board's

recommendation, and the Planning Board shall transmit its decision to the ZHE.

- c. If the Planning Board decides to hear the case, it shall set a hearing date which shall be at least 30 days after its decision to hear the case.
 - i. Prior to or at the Planning Board's hearing, the applicant and any other person may submit written responses to the Technical Staff Report, together with any supporting material. The responses shall become a part of the record that will be forwarded to the ZHE.
 - ii. At the hearing, the Planning Board shall, following their Rules of Procedure, consider the application, relevant support materials, the Technical Staff Report, applicant comments, and any public comments, and make a recommendation, by resolution, on the application in accordance with Sec. 27-2.504.D, Parcel Specific Map Amendment Decision Standards. The Planning Board shall transmit its resolution with recommendation to the ZHE.⁷⁷
- d. After the receipt of the Planning Board's decision not to conduct a hearing on the application (and Technical Staff Report recommendation), or resolution with recommendations, the ZHE shall either submit its recommendation or decline to hear the case. The ZHE shall issue its decision not more than 100 days after the date of its last hearing on the

⁷⁷ The current specific procedures for the Planning Board's conduct of the hearing are not carried forward in this draft, since they can be placed in either their Rules of Procedure or the Procedures Manual.

application.⁷⁸ If a hearing is conducted, the ZHE shall, following the ZHE's Rules of Procedure, consider the original application, relevant support materials, the Technical Staff Report, the Planning Board's resolution (if forwarded), the applicant's and any party of record's testimony and materials (if appropriate), and any public comments (as appropriate). At the conclusion of the hearing, the ZHE shall make a recommendation on the application in accordance with Sec. 27-2.504.D, Parcel Specific Map Amendment Decision Standards.

- e. After the hearing is concluded, the ZHE shall prepare and serve upon all persons of record a written decision containing specific findings of basic facts, conclusions of law, and a recommended decision.⁷⁹

8. Review and Decision by Decision-Making Body or Official

Required (See Sec. 27-2.409, Review and Decision by Decision-Making Body or Official).

- a. The District Council shall conduct a public hearing on the application in accordance with Sec. 27-2.411, Quasi-Judicial Public Hearing, and render a final decision in accordance with Sec. 27-2.504.D, Parcel Specific Map Amendment Decision Standards. The District Council shall adopt written findings of material facts and conclusions.

⁷⁸ Maryland Land Use Code § 22-206(d). The statute does not define what is meant by the "date of the last hearing" and a search of case law found no cases interpreting this language.

⁷⁹ Maryland Land Use Code § 22-206(d).

- b. The District Council may approve a less intense zone than that requested by the applicant for any part of the land subject to the application.⁸⁰
- c. A two-thirds majority vote of the full Council shall be required to approve any portion of the amendment that is contrary to the recommendation of a municipality concerning land within its boundaries.

9. Conditions of Approval

Allowed (See Sec. 27-2.412, Conditions of Approval).

- a. The following conditions of approval are allowed:
 - i. Conditions that may be necessary to protect surrounding properties from adverse effects that might accrue from the proposed parcel-specific map amendment; or
 - ii. Conditions that would further enhance the coordinated, harmonious, and systematic development of the regional district.
- b. If conditions of approval are imposed, the applicant has 90 days from the date of District Council's decision to approve the conditions as part of the rezoning, to accept or reject the rezoning as conditionally approved. The applicant shall accept or reject the conditions in writing, to the Council.

⁸⁰ It is suggested the following statutory requirement found in Maryland Land Use Code § 22-206(e), be included in the District Council's Rules of Procedure:

In a year in which a district council is elected, the district council may not approve a parcel-specific map amendment from November 1 and until the newly elected district council has taken office

- c. If the applicant accepts the conditions, the Council shall enter an order acknowledging the acceptance and adopt the parcel specific map amendment by ordinance, at which time the Council's action is final.
- d. Failure of the applicant to advise the Council about acceptance of the conditions is considered a rejection of the conditions.
- e. If the conditions are rejected, the parcel specific map amendment will be denied and voided, and the land subject to the application will maintain its prior zone classification. If this occurs, the Council shall enter an order acknowledging the rejection, voiding its previous decision, and stating the land maintains its prior zone classification. This order shall be the final decision on the application.
- f. All amendments that are approved subject to conditions shall be shown on the Official Zoning Map with the letter “C” after the application number.

10. Notification to Applicant

Required (See Sec. 27-2.413, Notification to Applicant).

11. Post-Decision Actions

a. Designation on Official Zoning Map

If a parcel specific map amendment is adopted by the District Council, the Planning Director shall place the amendment on the Official Zoning Map within a reasonable period of time after its adoption. Designation of a zone on the Official Zoning Map shall note the ordinance approving the zone classification.

b. Lapse of Approval

N/A.

c. Resubmitting Application

If the District Council wholly or partly denies an application for a parcel-specific map amendment, the following limitations apply instead of those in Sec. 27-2.415.D:

- i. The District Council shall not act on a subsequent application for any portion of the same land within 18 months after the date of the first denial and within 24 months after the date of any subsequent denial.
- ii. In any subsequent application for any portion of the same land and for the same zone classification, by the same applicant, the District Council may not base its findings solely on any fact or circumstance that was presented at the hearing on the prior application.
- iii. For purposes of this Subsection, “date of denial” means the date of the District Council’s decision or, in the case of judicial review, the date of the final judgment of the circuit court.

D. Parcel Specific Map Amendment Decision Standards⁸¹

In determining whether to adopt or deny a proposed parcel-specific map amendment, the District Council may consider many factors. No amendment shall be granted without the applicant demonstrating either:

1. There has been a substantial change in the character of the neighborhood; or
2. There was a mistake in the original zone for the land subject to the amendment which has never been the subject of an adopted sectional map amendment; or
3. There was a mistake in the current sectional map amendment.

⁸¹ The decision standards are based on Sec. 27-157(a) of the current Zoning Ordinance, which is consistent with Maryland law. The reference to a sectional map amendment appears rather specific, but this is the vehicle by which the County typically comprehensively rezones an area and would be the reference for a mistake that justifies a parcel specific map amendment.

27-2.505. Planned Development (PD) Map Amendment⁸²

A. Purpose

Planned Developments are developments that are planned and developed under unified control and in accordance with more flexible standards and procedures in order to achieve innovative site design, improved appearance, greater compatibility of uses, increased preservation of natural and scenic features, improved service by community facilities, better functioning of vehicular access and circulation, and otherwise higher-quality development than could be achieved through base zone regulations. The purpose of this Subsection is to provide a uniform mechanism for amending the Official

⁸² As discussed in the Evaluation and Recommendations Report (pp. II- 28-29), the planned development (PD) map amendment involves a consolidated review procedure for all of the discretionary planned development options in Sec. 27-3.300, Planned Development Zones (R-R, PD-L, R- PD, MH- PD, NAC-PD, CAC-PD, TAC-PD, LTO-PD, RTO-PD, MU-PD, and IE-PD). This procedure, in conjunction with the recommendations for the restructuring of the zones, will result in replacement of and a procedural streamlining and simplification of the current comprehensive design zones and mixed use zones.

The procedure requires the submission and approval of a PD Basic Plan (plan for development of the site) with the application, which will be reviewed, processed, and approved by the District Council along with a rezoning approval and PD Conditions of Approval. Instead of the additional development plan reviews that occur with the current CDZs and mixed use zones, the PD procedure requires a second development plan review, major site plan approval, which is reviewed and decided by the Planning Board. At that point the Planning Board will either review the plan for development of the approved PD (or a portion of it) at the site plan and/or subdivision level (potentially both), to ensure it is in substantial conformance with the PD Basic Plan, the PD Conditions of Approval, and all other relevant development standards of the Zoning Ordinance and Subdivision Regulations.

Zoning Map to establish any of the planned development zones established by this Ordinance.

B. Applicability

The procedures and standards in this Subsection apply to the review of applications to amend the Official Zoning Map to establish a planned development (PD) zone (see Sec. 27-3.300, Planned Development Zones). A PD zone is established by an amendment to the Official Zoning Map to a PD zone that is defined by a PD Basic Plan and PD Conditions of Approval. Once the PD zone is approved, the applicant must receive approval of a major site plan (see Sec. 27-2.508.E, Major Site Plan Procedure) and/or major subdivision (see Subtitle 24: Subdivision Regulations), prior to development of the site, to ensure substantial compliance with the approved PD Basic Plan and PD Conditions of Approval.

C. Planned Development (PD) Map Amendment Procedure

This Subsection identifies additions or modifications to the standard review procedures in Sec. 27-2.400, Standard Review Procedures, that apply to development applications for a PD map amendment. Figure 27-2.505 identifies key steps in the planned development map amendment procedure.

Figure 27-2.505: Planned Development (PD) Map Amendment Procedure



1. Pre-Application Conference

Required (See Sec. 27-2.401, Pre-Application Conference).

2. Pre-Application Neighborhood Meeting

Required (See Sec. 27-2.402, Pre-Application Neighborhood Meeting).

3. Application Submittal

Required (See Sec. 27-2.403, Application Submittal). In addition, a proposed PD Basic Plan and proposed PD Conditions of Approval addressing all requirements and standards set forth in Sec. 27-3.300, Planned Development Zones, shall be submitted as a part of the application.

4. Determination of Completeness

Required (See Sec. 27-2.404, Determination of Completeness).

5. Staff Review and Action

Required (See Sec. 27-2.406, Staff Review and Action). After staff review and evaluation of the application, the Planning Director shall prepare a Technical Staff Report, which shall include a recommendation, on the application.

6. Scheduling Public Hearing and Public Notice

Required (See Sec. 27-2.407, Scheduling Public Hearing and Public Notice). In addition to the public notification requirements in Sec. 27-2.407, Scheduling Public Hearing and Public Notice, public notice shall include a notice of affidavit and *Ex Parte* disclosure and location of compliance forms, in accordance with State law and the Procedures Manual.

7. Review and Recommendation by Advisory Board or Official⁸³

Required (See Sec. 27-2.408, Review and Recommendation by Advisory Board or Official). The Planning Board shall make a recommendation on the application in accordance with Sec. 27-2.505.D, Planned Development (PD) Decision Standards. The Planning Board may suggest revisions to the PD Basic Plan and PD Conditions of Approval. The Planning Board's recommendation shall address:

- a. Whether the application complies with Sec. 27-2.505.D, Planned Development (PD) Decision Standards;
- b. The need and justification for the PD zone;
- c. The effect of the PD zone, if any, on the land subject to the proposed PD and on surrounding neighborhoods; and
- d. The relationship of the proposed PD zone to the purposes of this Ordinance and the General Plan, with appropriate consideration as to whether the proposed PD zone will further the purposes of this

⁸³ The Evaluation and Recommendation Report suggests that an amendment to a PD zone also be reviewed in an advisory capacity by the ZHE. After further consideration, we recommend that the ZHE not be included in the review of a PD zone amendment for several reasons. The primary reason is that a decision to adopt a PD zone involves significant discretion and negotiation between the review boards (Planning Board and District Council) and the applicant, about what development and design standards may be modified. The Planning Board and District Council are best suited to do this. Another reason is adding ZHE review to the process adds another review step.

Ordinance, the General Plan, and any applicable area master plan or sector plan.

8. Review and Decision by Decision-Making Body or Official

Required (See Sec. 27-2.409, Review and Decision by Decision-Making Body or Official).

- a. The District Council shall conduct a public hearing on the application in accordance with Sec. 27-2.411, Quasi-Judicial Public Hearing, and make a decision on the application in accordance with Sec. 27-2.505.D, Planned Development (PD) Decision Standards. The District Council may suggest revisions to the PD Basic Plan and PD Conditions of Approval. The District Council's decision shall be one of the following:
 - i. Adopt by ordinance the PD, including the PD Basic Plan and PD Conditions of Approval;
 - ii. After resubmittal to the Planning Board for review and recommendation, adopt by ordinance a revised PD, including the PD Basic Plan and PD Conditions of Approval;
 - iii. Remand the application back to the Planning Board for further consideration; or
 - iv. Deny the PD.
- b. The approved PD Basic Plan and PD Conditions of Approval shall be the zoning text for the PD zone, and any subsequent development approval or permit shall comply with the approved PD Basic Plan and PD Conditions of Approval, except that minor deviations

shall be allowed in accordance with Sec. 27-2.505.C.11.e, Minor Deviations.

- c. The applicant has 90 days from the date of District Council's decision to approve the conditions as part of the PD map amendment, to accept or reject the conditions of approval. The applicant shall accept or reject the conditions in writing, to the Council.
- d. If the applicant accepts the conditions, the Council shall enter an order acknowledging the acceptance, at which time the Council's action is final.
- e. Failure of the applicant to advise the Council about acceptance of the conditions of approval is considered a rejection of the conditions.
- f. If the conditions of approval are rejected, the PD map amendment will be denied and voided, and the land subject to the application will maintain its prior zone classification. If this occurs, the Council shall enter an order acknowledging the rejection, voiding its previous decision, and stating the land maintains its prior zone classification. This order shall be the final decision on the application.

9. Conditions of Approval

Required (See Sec. 27-2.412, Conditions of Approval).

- a. The following conditions of approval are allowed:
 - i. Conditions that may be necessary to protect surrounding properties from adverse effects that might accrue from the proposed parcel-specific map amendment; or

- ii. Conditions that would further enhance the coordinated, harmonious, and systematic development of the regional district.

10. Notification to Applicant

Required (See Sec. 27-2.413, Notification to Applicant).

11. Post-Decision Actions

a. Effect of Approval

Lands within an established PD zone shall be subject to the approved PD Basic Plan and PD Conditions of Approval. The PD Basic Plan and PD Conditions of Approval are binding on the land as an amendment to the Official Zoning Map. The applicant may apply for and obtain subsequent permits and development approvals necessary to implement the PD Basic Plan and PD Conditions of Approval in accordance with the applicable procedures and standards set forth in this Ordinance. All development in an adopted PD zone shall receive approval of a major site plan (Sec. 27-2.508.E, Major Site Plan Procedure) and/or major subdivision (see Subtitle 24: Subdivision Regulations), as appropriate, prior to development. Any permits or development approvals shall be in substantial conformance with the PD Basic Plan and PD Conditions of Approval.

b. Designation on Official Zone Map

If a PD zone is adopted by the District Council, the Planning Director shall place the amendment on the Official Zoning Map within a reasonable period of time after its adoption. Designation of a PD zone on

the Official Zoning Map shall note the ordinance adopting the PD zone classification, the PD Basic Plan, and the PD Conditions of Approval.

c. Completion of Necessary Agreements and Recordation

Prior to the submission of any subsequent development application having as its subject any land in the PD zone, the applicant shall file with the Land Records of Prince George's County, the following:

- i. Copies of the PD Basic Plan and PD Conditions of Approval; and
- ii. Any deed restrictions or other restrictive covenants required by the District Council in its approval of the PD zone, as well as any completed agreements with the County that are necessary for the County to become a party to the deed restrictions or other restrictive covenants.

d. Amendment

Notwithstanding Sec. 27-2.505.C.11.e, Minor Deviations, below, an amendment of an adopted PD zone, including the approved PD Basic Plan or PD Conditions of Approval, may only be approved in accordance with the procedures and standards established for its original approval.

e. Minor Deviations

After the establishment of a PD zone in accordance with 27-2.505, Planned Development (PD) Map

Amendment subsequent applications for development approvals and permits within a PD zone that include minor deviations from the approved PD Basic Plan or PD Conditions of Approval may be reviewed and decided upon by the Planning Director, without the need to amend the PD zone, if the Planning Director determines that such deviations consist of only the following:

- i. Changes that result in a decrease in the density or intensity of development approved for a specific parcel;
- ii. An increase in residential density for any specific parcel of ten percent or less, if the total allowed density with the PD zone does not increase;
- iii. A decrease in height;
- iv. A modification of design of facilities for amenities such as parks, gardens, or open spaces; or
- v. A deviation specifically listed in the approved PD Conditions of Approval as a minor deviation not materially affecting the PD zone's basic concept or the designated general use of the land within the zone.

f. Lapse of Approval

N/A.

D. Planned Development (PD) Decision Standards

The advisability of adopting a PD zone is a matter committed to the legislative discretion of the District Council and is not controlled by any one factor. In determining whether to adopt or deny a PD zone, the District Council shall consider many factors, but shall ensure that the PD zone complies with the General Plan, any applicable area master plan or sector plan, and the standards for the proposed type of PD zone in Sec. 27-3.300, Planned Development Zones.

27-2.506. Chesapeake Bay Critical Area Overlay (CBCA-O) Zone Map Amendment⁸⁴

A. Purpose

The purpose of this Subsection is to establish a uniform mechanism to amend the Official Zoning Map to place land in the Chesapeake Bay Critical Area Overlay (CBCA-O) Zone in a way that complies with State law, protects the sensitive environmental resources of the Chesapeake Bay, and respects the rights of land owners.

B. Applicability

The procedures and standards of this Subsection apply to any amendment to the Official Zoning Map that involves a reclassification of land to the Chesapeake Bay Critical Area Overlay (CBCA-O) Zone, except an amendment initiated by the

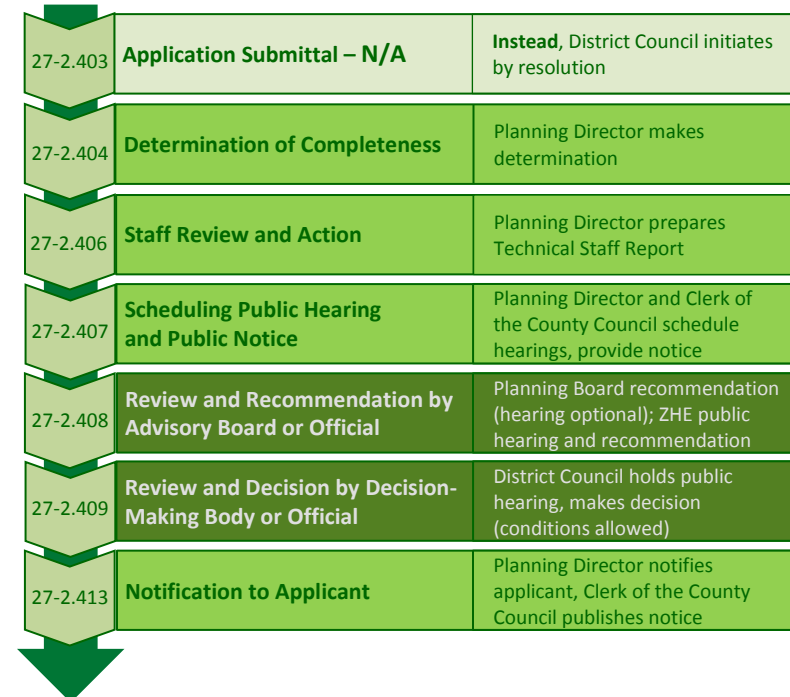
⁸⁴ As discussed in the Evaluation and Recommendations Report (II-28), this carries forward the Chesapeake Bay Critical Area Overlay (CBCA-O) Zone Map Amendment procedure, with revisions to conform it to the structure in the rewritten Zoning Ordinance. The procedure is quasi-judicial in nature. It involves review and recommendation by the Planning Board and ZHE, and then review and decision by the District Council.

owner(s) of the land, which shall be reviewed and decided in accordance with the procedures in Sec. 27-2.504, Parcel-Specific Map Amendment, and the decision standards in Sec. 27-2.506.D, CBCA-O Zone Map Amendment Decision Standards.

C. CBCA-O Zone Map Amendment Procedure

This Subsection identifies additions or modifications to the standard review procedures in Sec. 27-2.400, Standard Review Procedures, that apply to applications for a CBCA-O Zone map amendment. Figure 27-2.506 identifies key steps in the CBCA-O Zone map amendment procedure.

Figure 27-2.506: CBCA-O Zone Map Amendment Procedure



1. **Pre-Application Conference**
N/A.
2. **Pre-Application Neighborhood Meeting**
N/A.
3. **Application Submittal**
N/A. Instead:
 - a. Only the District Council, by resolution, or the Planning Board (with the concurrence, by resolution, of the District Council) may initiate a CBCA-O Zone

map amendment. The initiating resolution shall specify the land to be amended.⁸⁵

- b. If two or more separate parcels of land are included in one application, they shall be adjoining. For the purposes of this Subsection, "adjoining" includes those parcels of land which are separated only by a public right-of-way, stream bed, or the like.
- c. Determination of Completeness

Required (See Sec. 27-2.404, Determination of Completeness).

4. Staff Review and Action

Required (See Sec. 27-2.406, Staff Review and Action).

- a. After staff review and evaluation of the application, the Planning Director shall prepare a Technical Staff Report, which shall include a recommendation, on the application.
- b. If the Planning Board has initiated the application, the Technical Staff Report along with the proposed CBCA-O Zone map amendment and zone boundaries shall be made available for public review 60 days prior to the Planning Board public hearing. In all other instances, the Technical Staff Report shall be submitted and filed with the ZHE at least 30 days before the scheduled public hearing before the ZHE, or the matter shall be continued.

⁸⁵ The provisions requiring the staff to prepare proposed boundary changes and justification for the Planning Board's proposed amendment is not carried forward. It can either be addressed informally, or in the Procedures Manual.

5. Scheduling Public Hearing and Public Notice

Required (See Sec. 27-2.407, Scheduling Public Hearing and Public Notice).

- a. In addition to the public notification requirements in Sec. 27-2.407, Scheduling Public Hearing and Public Notice, public notice shall include a notice of affidavit and *Ex Parte* disclosure and location of compliance forms, in accordance with State law and the Procedures Manual.
- b. In addition, the Planning Director shall, at least 30 days before the Planning Board public hearing:
 - i. Transmit to the District Council the amendment application, plans, maps, specifications, Technical Staff Report, and all other data, materials, and record evidence (to date) pertaining to the amendment; and
 - ii. Transmit to the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays a copy of the amendment application, and the conceptual conservation plan for their initial review and comment.

6. Review and Recommendation of Advisory Board or Official

Required (See Sec. 27-2.408, Review and Recommendation by Advisory Board or Official).

- a. The Planning Board shall decide whether it will hold a public hearing on the application amendment within 15 days after receipt of the Technical Staff Report, or

at its first meeting after the release of the report if no meeting has occurred within the 15 days.

- b. If the Planning Board decides not to conduct a hearing, the recommendation in the Technical Staff Report constitutes the Planning Board's recommendation.
- c. If the Planning Board decides to hear the case, it shall set a hearing date which shall be at least 30 days after deciding to hear the case.
- d. Prior to or at the Planning Board's hearing, the applicant and any other person may submit written responses to the Technical Staff Report, together with any supporting material. The responses shall become a part of the record that will be forwarded to the ZHE.
- e. At the conclusion of the hearing, the Planning Board shall, following its Rules of Procedure, make a recommendation, by resolution, on the application, in accordance with Sec. 27-2.506.D, CBCA-O Zone Map Amendment Decision Standards. The recommendation shall be to either approve, approve with modifications, or deny the application. The Planning Board shall take action on the application within 45 days after the conclusion of the public hearing.
- f. After the receipt of the Planning Board's decision to conduct a hearing on the application, or resolution with recommendations, the ZHE shall conduct a public hearing on the application. The ZHE shall issue its decision not more than 100 days after the date its

last hearing is concluded. The ZHE shall make a recommendation on the application in accordance with Sec. 27-2.506.D, CBCA-O Zone Map Amendment Decision Standards.

- g. The ZHE shall prepare and serve upon all persons of record a written decision containing specific findings of basic facts, conclusions of law, and a recommended decision. The ZHE shall also transmit the same materials to the District Council.
- h. Upon the ZHE's transmittal to the District Council, both the Planning Board and the ZHE shall cease accepting and processing all zone map amendment and special exception applications within the boundaries of the proposed CBCA-O Zone until final action on the application by the District Council.

7. Review and Decision by Decision-Making Body or Official

Required (See Sec. 27-2.409, Review and Decision by Decision-Making Body or Official).

- a. The District Council shall conduct a public hearing on the application in accordance with Sec. 27-2.411, Quasi-Judicial Public Hearing, within 60 days of receipt of the ZHE and Planning Board recommendation, and render a final decision in accordance with Sec. 27-2.506.D, CBCA-O Zone Map Amendment Decision Standards.
- b. The District Council may propose and approve changes to the amendment application, including any changes in the underlying base zones, except that no land within the Resource Conservation Overlay Zone

of the CBCA-O Zone may be amended to a Commercial, Industrial, or Transit-Oriented/Activity Center base zone, or the MU-PD Zone.

- c. The Council shall take final action on the amendment application within 30 days after the final public hearing concludes, but not later than 160 days after receipt of the recommendations from the ZHE and Planning Board. If no final action is taken within this time period, the CBCA-O amendment shall be deemed denied by the District Council.
- d. The District Council's approval of a CBCA-O Zone amendment shall be by ordinance, and shall be by majority vote of the full Council. A two-thirds majority vote of the full Council shall be required to approve any portion of the amendment that is contrary to the recommendation of a municipality concerning land within its boundaries.
- e. Upon approval of an application for growth allocation, the District Council shall within ten working days after the date of issuance, forward a notice of intent to award growth allocation to the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays for approval. The notice of intent must include a statement regarding how the provisions of Sec. 27-2.506.D, CBCA-O Zone Map Amendment Decision Standards, are met and all of the components of the complete application approved.
- f. Approval of the growth allocation by the District Council does not constitute approval of a conservation plan. A separate conservation plan

application in conformance with Subtitle 5B of the County Code is required prior to approval of a conservation plan.

8. Conditions of Approval

Allowed (See Sec. 27-2.412, Conditions of Approval).

- a. Conditions of Approval shall be limited to the following:
 - i. Protecting surrounding lands and lands within the CBCA-O Zone from adverse effects which might accrue from the requested amendment; or
 - ii. Further enhancing the coordinated, harmonious, and systematic development of land within the CBCA-O Zone, including the use of time limitations for the commencement of construction.
- b. The conditions of approval shall not waive or lessen the requirements of, or prohibit uses allowed in the CBCA-O Zone.
- c. All building plans shall list the conditions and shall show how the proposed development complies with them.
- d. If conditions of approval are imposed, the applicant has 90 days from the date of Council's decision to accept or reject the amendment as conditionally approved, by written correspondence to the Council.
- e. If the applicant accepts the conditions, the Council shall enter an order acknowledging the acceptance and adopt the amendment, at which time the

Council's action is final. Failure of the applicant to advise the Council about acceptance of the conditions is considered a rejection of the conditions.

- f. If the conditions are rejected, the amendment shall be denied and voided, and the land subject to the application will maintain its prior zone classification. If this occurs, the Council shall enter an order acknowledging the rejection, voiding its previous decision, and stating the land maintains its prior zone classification. This order then becomes the final decision on the application.
- g. All amendments which are approved subject to conditions shall be shown on the Official Zoning Map with the letter "C" after the application number.

9. Notification to Applicant

Required (See Sec. 27-2.413, Notification to Applicant). In addition, notice shall be published by the Clerk of the County Council at least one time in the County newspaper of record, and shall be sent to the Planning Board, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays, and any municipality lying, wholly or in part within, or within one mile of, the boundaries of the amended CBCA-O Zone.

D. CBCA-O Zone Map Amendment Decision Standards⁸⁶

In determining whether to adopt or deny a proposed CBCA-O Zone amendment, the District Council may consider many

factors, but no amendment shall be granted without the following findings and considerations:

1. Zone Classification Standards

Prior to approving the CBCA-O Zone map amendment, the Council shall make the following findings:

a. Intense Development Overlay Zone

Land placed in the Intense Development Overlay Zone occupies a gross area of at least 20 contiguous acres, or the entire upland portion of the CBCA-O Zone within the boundary of a municipality, whichever is less, and exhibits at least one of the following characteristics:

- i. A concentration of industrial, commercial, or institutional uses;
- ii. Residential density equal to or greater than four dwelling units per gross acre;
- iii. Existing water and sewer systems serving the area, and residential density greater than three dwelling units per gross acre; or
- iv. Rights-of-way of existing roads having a Freeway or higher classification.

b. Limited Development Overlay Zone

Land classified in the Limited Development Overlay Zone exhibits at least one of the following characteristics:

⁸⁶ This Subsection carries forward the decision standards for a CBCA-O zone amendment in the current Zoning Ordinance, with minor refinements.

- i. Residential density ranging from one dwelling unit per five gross acres up to four dwelling units per gross acre;
 - ii. Areas not dominated by agriculture, wetlands, forest, barren land, or surface water;
 - iii. Areas having public water, public sewer, or both; or
 - iv. Areas possessing one or more characteristics of land classified in the Intense Development Overlay zone, regardless of the size of the area.
- c. Resource Conservation Overlay Zone**
- Land classified in the Resource Conservation Overlay Zone exhibits at least one of the following characteristics:
- i. Residential density of less than one dwelling unit per five gross acres; or
 - ii. Areas dominated by agriculture, wetland, forest, barren land, or surface water.
- d. Generally**
- i. Adequate attention has been paid to the recommendations of any area master plans or sector plans, and the General Plan, which are found to be applicable to land within the CBCA-O Zones.
 - ii. The Critical Area Commission for the Chesapeake and Atlantic Coastal Bays has approved the CBCA-O Zone amendment.

2. Map Amendment Standards

a. Mistake rule

Except for changes to expand the boundaries of the Intense Development and Limited Development Overlay zones (Sec. 27-2.506.D.2.b below), no application for the amendment of a CBCA-O zone shall be granted without the applicant demonstrating there was a mistake in the original zone classification or subsequent rezoning.

b. Expansion of Intense Development and Limited Development Overlay Zones

Notwithstanding Sec. 27-2.506.D.2.a above, the boundaries of the Intense Development and Limited Development Overlay zones may be expanded within the CBCA-O Zone in accordance with Subsections 27-2.506.D.2.c through 27-2.506.D.2.e below.

c. Acreage

The maximum area of future additional Intense Development or Limited Development Overlay zones shall be five percent of the total area designated as Resource Conservation Overlay zones at the time of adoption of the Official Zoning Map for the amendment. A maximum of 50 percent of the permissible growth increment may be used to rezone a Resource Conservation Overlay Zone to another Chesapeake Bay Critical Area Overlay Zone.

d. Location

Expanded Intense Development or Limited Development Overlay zones may be approved subject to the following locational standards:

- i. New Intense Development Overlay Zones shall:
 - (A) Be located in existing Limited Development Overlay Zones or contiguous to existing Intense Development Overlay Zones;
 - (B) Be located at least 300 feet from tidal waters or tidal wetlands if the land was originally designated in the Resource Conservation Overlay Zone, except for water-dependent uses; and
 - (C) Be located in a manner that minimizes impacts to the defined land uses of the Resource Conservation Overlay as noted in Division 27-4: Use Regulations.
- ii. New Limited Development Overlay Zones shall be located:
 - (A) Contiguous to existing Limited Development Overlay Zones or Intense Development Overlay Zones;
 - (B) At least 300 feet from tidal waters or tidal wetlands if the land was originally designated in the Resource Conservation Overlay Zone, except for Water-Dependent Uses; and
 - (C) In a manner that minimizes impacts to the defined land uses of the Resource

Conservation Overlay as noted in Division 27-4: Use Regulations.

e. Additional Considerations.

The following factors shall be considered in reviewing map amendments or refinements involving the use of the growth allocation:

- i. Consistency with the General Plan, all applicable area master plans and sector plans, the current water and sewer plan, priority funding areas, and whether the growth allocation would implement the goals, objectives, policies, and strategies of the adopted plans.
- ii. For a map amendment or refinement involving a new Limited Development Overlay, 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) Is to be developed using the conservation subdivision option;
- iii. For a map amendment or refinement involving a new Intense Development Overlay, whether the development is:
 - (A) To be served by a public wastewater system;

- (B)** To have an allowed average density of at least 3.5 units per acre as calculated under Sec. 5-7B-03(h) of the State Finance Procurement article;
- iv.** For a new Intense Development Overlay that is greater than 20 acres, to be located in a Priority Funding Area as described under Sec. 5-7B-02(1) and 5-7B-03 of the State Finance and Procurement article, whether the development is:
 - (A)** To have a demonstrable economic benefit to the area;
 - (B)** Using existing public infrastructure, where practical;
 - (C)** Consistent 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;
 - (D)** To impact a priority preservation area, as defined under § 2-518 of the Agriculture Article;
 - (E)** To have environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater discharges to tidal waters, tidal wetlands, and tributary streams; and
 - (F)** To have environmental impacts associated with location in a coastal hazard area or an

increased risk of severe flooding attributable to the proposed development.

E. Effect on Pending Applications

Approval of the CBCA-O Zone map amendment constitutes final action on all pending such applications within the boundaries of the approved overlay zones.

27-2.507. Special Exception

A. Purpose⁸⁷

A use designated as a Special Exception in a particular zone is a use that may be appropriate in the zone, but because of its

⁸⁷ As discussed in the Evaluation and Recommendations Report (II-30-32, VI-15), the special exception use is defined in the Maryland Land Use Code as “a specific use that: (1) would not be appropriate generally or without restriction; and (2) shall be based on a finding that: (i) the requirements of the zoning law governing the special exception on the subject property are satisfied; and (ii) the use on the subject property is consistent with the plan and is compatible with the existing neighborhood.” Maryland Land Use Code § 22-301 gives the County discretion to assign decision making authority “an administrative office or agency designated by the district council to grant special exceptions...” (Note: § 22-311 (b) (2) (i), relating to Prince George’s County, gives the board of appeals authority to hear special exceptions but “in accordance with regulations adopted by the district council,” which read in tandem with § 22-301 seems to indicate that the District Council may decide whether to assign special exceptions to the board of appeals or another agency, such as the Zoning Hearing Examiner (ZHE).)

A form of a site plan is required to be submitted with a special exception application under the current Zoning Ordinance, showing how the use is to be located and how potential adverse impacts will be mitigated. Also under the current Zoning Ordinance, land owners proposing to develop a special exception are required to have the application reviewed and decided by the ZHE. The ZHE’s decision may be appealed to District Council by persons of record or the People’s Zoning Counsel for a final decision. In addition, even if the ZHE’s decision is not appealed to the District Council, Council may elect to review the decision (see Sec. 27-312(a)(2)(C) of the current Zoning Ordinance), to “upon its own motion, make the final decision on the case.”

As discussed in the Evaluation and Recommendations Report, this Subsection consolidates the procedures in the current Zoning Ordinance for special exceptions and special permits (if appropriate) into a single special exceptions procedure that is reviewed and decided by the ZHE. That decision may be appealed to the District Council.

nature, extent, and external effects, requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the zone and compatible with its surroundings. The purpose of this Subsection is to establish a uniform mechanism to review Special Exceptions to ensure they are appropriate for the location and zone where they are proposed.

B. Applicability

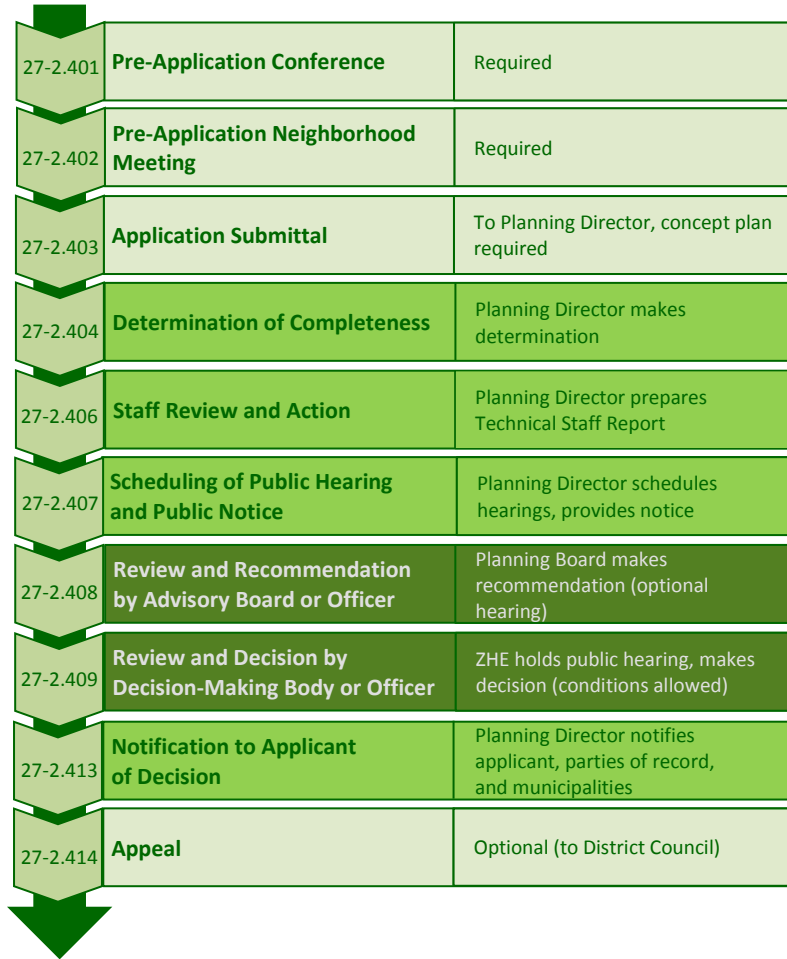
The procedures and standards of this Subsection apply to:

1. Any use that is designated as a Special Exception in a zone in Sec.27-4.202, Principal Use Tables; or
2. Any other development activity that requires Special Exception review by this Ordinance.

C. Special Exception Procedure

This Subsection identifies additions or modifications to the standard review procedures in Sec. 27-2.400, Standard Review Procedures, that apply to development applications for a Special Exception. Figure 27-2.507 identifies key steps in the Special Exception procedure.

Figure 27-2.507: Special Exception Procedure



1. Pre-Application Conference

Required (See Sec. 27-2.401, Pre-Application Conference).

2. Pre-Application Neighborhood Meeting

Required (See Sec. 27-2.402, Pre-Application Neighborhood Meeting).

3. Application Submittal

Required (See Sec. 27-2.403, Application Submittal). In addition, the application shall include a concept plan of the proposed Special Exception.

4. Determination of Completeness

Required (See Sec. 27-2.404, Determination of Completeness).

5. Staff Review and Action

Required (See Sec. 27-2.406, Staff Review and Action).

- a. After staff review and evaluation of the application, the Planning Director shall prepare a Technical Staff Report, which shall include a recommendation, on the application, and transmit it to the Planning Board and the ZHE.
- b. The original application for Special Exception, along with any support materials and the Technical Staff Report, shall be made available for public review and copying at least 30 days prior to the public hearing in the Office of the ZHE. A copy of the application and any support materials shall also be made available for public review and copying 30 days prior to the public hearing in the office of the Planning Director.

6. Scheduling Public Hearing and Public Notice⁸⁸

Required (See Sec. 27-2.407, Scheduling Public Hearing and Public Notice).

7. Review and Recommendation by Advisory Board or Official⁸⁹

Required (See Sec. 27-2.408, Review and Recommendation by Advisory Board or Official). The Planning Board shall review the application and the Technical Staff Report and shall either adopt the Planning Director's recommendation, by resolution, or make a separate recommendation, by resolution, in accordance with Sec. 27-2.504.D, Parcel Specific Map Amendment Decision Standards. The Planning Board shall transmit its recommendation to the ZHE.

⁸⁸ Several provisions in the current Zoning Ordinance that are included to provide neighborhood and civic organizations information about special exception applications are removed from this Ordinance and will be placed in the Procedures Manual (and may be modified to include email, social media, or posting on the County's web site). One such provision involves establishing a mailing list of applications for special exceptions to neighborhood and civic organizations. The current language reads:

Within 10 days after the end of each month, the Planning Director shall provide a list of all applications for special exceptions submitted during that month, arranged according to Election District. The list shall set forth the name of the applicant, the size and description of the land subject to the application, its existing zone classification, and the requested use. The Planning Board shall make the list available free of charge (on an individual and subscription basis), but may establish a fee for mailing the list to cover the costs of postage and handling. One copy of the list shall be mailed by the Planning Board on a subscription basis without charge to a homeowners, neighborhood, or similar association.

⁸⁹ These provisions codify the current procedure for Planning Board review.

8. Review and Decision by Decision-Making Body or Official

Required (See Sec. 27-2.409, Review and Decision by Decision-Making Body or Official).

- a. After the receipt of the Planning Board's recommendation, the ZHE shall conduct a public hearing on the application in accordance with Sec. 27-2.411, Quasi-Judicial Public Hearing, and make a decision in accordance with Sec. 27-2.507.D, Special Exception Decision Standards. The decision shall be in writing and shall include written findings of material facts and conclusions that support one of the following decisions:
 - i. Approve the application as submitted;
 - ii. Approve the application subject to conditions of approval; or
 - iii. Deny the application.
- b. The ZHE's decision on an application is final 30 days after filing the written decision.

9. Conditions of Approval

Allowed (See Sec. 27-2.412, Conditions of Approval).

10. Notification to Applicant

Required (See Sec. 27-2.413, Notification to Applicant). In addition, the Planning Director shall send copies of the decision to all parties of record and to every municipality located within one mile of the land subject to the application.

11. Appeal

Optional (See Sec. 27-2.414, Appeal).

- a. If a case is appealed, the applicant or any aggrieved person may appeal the ZHE's decision by filing a notice of appeal with the District Council within 30 days of the decision.
- b. In addition to an appeal in accordance with Sec. 27-2.507.C.11.a above, the ZHE's decision on a Special Exception application shall be reviewed by the District Council if the ZHE's decision conflicts with the recommendation of a municipality in which any portion of the land subject to the application is located.⁹⁰
- c. The ZHE shall transmit to the District Council within seven days after the appeal is filed or the review required in accordance with Sec. 27-2.507.C.11.b above, the Special Exception application hearing record. This shall constitute the record on appeal.
- d. The Clerk of the County Council shall schedule and provide notice of the public hearing on the appeal or review, as appropriate, in accordance with Sec. 27-2.407, Scheduling Public Hearing and Public Notice. In addition to the public notification requirements in Sec. 27-2.407, Scheduling Public Hearing and Public Notice, public notice shall include a notice of affidavit and *Ex Parte* disclosure and location of compliance forms, in accordance with State law and the Procedures Manual.
- e. The District Council shall hold a public hearing in accordance with Sec. 27-2.411, Quasi-Judicial Public Hearing, within 70 days after the ZHE transmits the hearing record. The District Council may extend the time to hold a hearing for up to 45 additional days, on its own motion, or on request of the appellant or a party of record.
- f. Within 60 days after the close of the hearing, the District Council shall render a final decision. The decision shall be based on the standards in Subsection 27-2.507.C.11.g below.
- g. The District Council may modify or reverse the decision on appeal if the decision is not supported by substantial evidence, is arbitrary and capricious, or is predicated on an error of law.
 - i. If the District Council fails to act within the specified time, the ZHE's decision is automatically affirmed.
- h. If the decision is reviewed in accordance with Sec. 27-2.507.C.11.b above, approval of the Special Exception shall require a two-thirds majority vote of the full Council.
- i. The District Council may remand the matter to the ZHE in accordance with State law.
- j. The District Council shall provide its decision in writing, stating the reasons for its action. Copies of the decision shall be sent to all persons of record, the ZHE, and every municipality located within one mile of the land subject to the application.

⁹⁰ See Maryland Land Use Code 22-310(a). Subsection (a) requires an appeal except as provided in subsection (b), which refers to municipal objections.

12. Post-Decision Actions

a. Effect

- i. No use approved as a Special Exception in accordance with this Subsection, and no building or structure used in connection with an approved Special Exception use, shall be erected, enlarged, altered, or extended beyond the terms and conditions authorized in the Special Exception approval.
- ii. If a building permit authorized by an approved Special Exception was issued prior to October 16, 1975, existing development may continue and new development may proceed in accordance with that Special Exception approval, regardless of whether there is an approved application in the record. A graphic illustration of the actual development pursuant to the approval is considered the application.⁹¹

b. Tracking Procedures

- i. Within a reasonable period of time after approval of a Special Exception, the Planning Director shall identify it on the Official Zoning Map.
- ii. If a Special Exception approval is ever nullified or expires, its nullification shall be noted on the Official Zoning Map and all other relevant County files, by the Planning Director.

c. Effect of Rezoning On Approved Special Exception⁹²

If land subject to an approved Special Exception is reclassified to a new zone that is different from the zone in which the Special Exception was approved, the following rules apply to the approved Special Exception:

- i. If the new zone requires approval of the Special Exception, and the specific Special Exception requirements in the new zone for the use are the same as the old zone, the approved Special Exception remains valid.
- ii. If a building permit has been approved for the Special Exception, and construction commenced, the Special Exception approval remains valid and shall be allowed to develop consistent with its conditions of approval. If it fails to comply with the requirements of the new zone, it shall be considered a nonconformity, and shall be subject to Division 27-6: Nonconformities.
- iii. If a building permit has not been issued and construction has not commenced on the approved Special Exception, the Special Exception use shall automatically expire, and development of the land shall comply with the requirements of the new zone.
- iv. If the land is rezoned to a PD zone, the approved Special Exception automatically

⁹¹ This provision carries forward Sec. 27-319(c) of the current Zoning Ordinance.

⁹² This provision carries forward Sec. 27-320 of the current Zoning Ordinance, revised for clarity.

expires, and the development of the land shall comply with the terms and conditions of the PD zone.

- v. If the approved use is permitted in the new zone without approval of a Special Exception, the Special Exception shall terminate, and all provisions of the new zone shall apply to further use and development of the property.

d. Effect of Text Amendment on Approved Special Exception⁹³

If a text amendment is adopted that negates the need for an approved Special Exception, the approved Special Exception automatically expires, and further development shall comply with the requirements of this amended Ordinance.

D. Special Exception Decision Standards⁹⁴

A Special Exception shall be approved only upon a finding that all of the following standards are met:

1. The proposed Special Exception complies with all applicable zone-specific standards in Division 27-3: Zones and Zone Regulations;⁹⁵
2. The proposed Special Exception complies with all applicable use-specific standards in Division 27-4: Use Regulations;⁹⁶

3. The proposed Special Exception complies with all applicable development and design standards in Division 27-5: Development Standards;⁹⁷
4. The proposed Special Exception is consistent with the character and intent of the base zone in which it will be located, as indicated in the zone purpose statement;⁹⁸
5. The proposed Special Exception will not have a substantial adverse impact on vehicular traffic or vehicular and pedestrian safety;⁹⁹
6. The proposed Special Exception will not have a substantial adverse impact on public health, safety, or welfare;¹⁰⁰
7. The proposed Special Exception is in harmony with the general purposes of this Ordinance;
8. The proposed Special Exception will not substantially impair the integrity of any validly approved area master plan, sector plan, or functional master plan, or, in the absence of an area master plan, sector plan, or functional master plan, the General Plan;
9. The proposed Special Exception will not be detrimental to the use or development of adjacent lands or the general neighborhood within which it is proposed to be located;
10. The proposed Special Exception conforms to an approved Type 2 Tree Conservation Plan;

⁹³ This carries forward Sec. 27-320.01(a) of the current Zoning Ordinance, revised for clarity. There are no substantial changes.

⁹⁴ This carries forward Sec. 27-317 of the current Zoning Ordinance, with new standards as indicated.

⁹⁵ This is a new standard.

⁹⁶ This is a new standard.

⁹⁷ This is a new standard.

⁹⁸ This is a new standard.

⁹⁹ This is a new standard.

¹⁰⁰ This is a new standard.

11. The proposed Special Exception demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible in accordance with the requirements of Sec. 24-3.303(C)(4) of Subtitle 24: Subdivision Regulations; and
12. If any land subject to the application is located in the CBCA-O Zone, the existing lot coverage in the CBCA-O Zone does not exceed that allowed by this Ordinance, and approving the proposed Special Exception would not result in a net increase in the existing lot coverage in the CBCA-O Zone.

E. Minor Changes to Approved Special Exception ¹⁰¹

The ZHE and Planning Director may approve minor changes to an approved Special Exception, in accordance with the following:

1. Posted Notice

The land subject to the minor change shall be posted with notice within ten days of the date the application is determined complete (see Sec. 27-2.404, Determination of Completeness), in accordance with Sec. 27-2.407.B.6, Posted Notice. The Planning Director may waive posting after determining, in writing, that the proposed minor change is so limited in scope and nature that it has no

appreciable impact on adjacent lands. On and after the first day of posting, the application may not be amended.

2. Changes Approved by ZHE

- a. The ZHE may review and approve, approve with conditions, or deny the following minor changes:
 - i. An increase of no more than 15 percent in the gross floor area of a building; or
 - ii. An increase of no more than 15 percent in the land area covered by a structure other than a building.
 - iii. The ZHE shall review and make a decision on the application for minor change in accordance with Sec. 27-2.507.D, Special Exception Decision Standards.
- b. A copy of the ZHE's decision shall be sent to all persons of record, the Clerk of the Council, and every municipality located within one mile of the land subject to the application.

3. Changes Approved by Planning Director

- a. The Planning Director may review and approve, approve with conditions, or deny a minor change that involves:
 - i. An increase in gross floor area or land covered by a structure (other than a building) up to ten percent, if the change does not have a significant impact on adjacent lands;
 - ii. A minor change required to allow for an approved Special Exception to comply with the

¹⁰¹ This Subsection is revised to eliminate the public hearing requirement for a minor special exception, which is not required under State law. Maryland Land Use Code § 22-301 gives the District Council broad authority to craft the procedures for a special exception decided by the ZHE (as opposed to a variance within the jurisdiction of the BZA, which has different procedural requirements).

- requirements of Subtitle 32, Division 2: Grading, Drainage and Erosion and Sediment Control, of the County Code of Ordinances;
- iii. The redesign of parking or loading areas; or
 - iv. The redesign of a landscape plan.
- b. The Planning Director shall review and make a decision on the application for minor change in accordance with Sec. 27-2.507.D, Special Exception Decision Standards, and Sec. 27-2.507.E.3.c below.
- c. With respect to the minor change identified in Sec. 27-2.507.E.3.a.ii above, the Planning Director shall review and make a decision on the application for minor change in accordance with the following standards:
- i. The changes are the minimum necessary to conform to the approved plans for the required erosion/sediment control or stormwater management facilities;
 - ii. The changes do not include the relocation of stormwater management facilities onto land not proposed for development; and
 - iii. The agency having jurisdiction over approval of the erosion/sediment control or stormwater management plans have advised, in writing, that development in accordance with the approved Special Exception would result in a violation of erosion/sediment control or stormwater management regulations.

- d. A copy of the Planning Director's decision shall be sent to all persons of record, the Clerk of the Council, and every municipality located within one mile of the land subject to the application.

27-2.508. Site Plan (Minor and Major)¹⁰²

A. Purpose

The purpose of this Subsection is to establish a uniform mechanism to ensure that the layout and general design of proposed development complies with the standards of this Ordinance and all other applicable County regulations.

B. Applicability

1. The procedures and standards in this Subsection apply to the review of and decision on applications for site plan approval. Site plan approval is required prior to the issuance of a use and occupancy permit for any development, unless exempted in accordance with Sec. 27-2.508.B.2 below.
2. The following types of development are exempt from the requirements of minor or major site plan review but shall be required to file for appropriate permits and demonstrate compliance with the regulations of this Zoning Ordinance:

¹⁰² This Subsection consolidates the conceptual and detailed site plan review processes, as discussed in Evaluation and Recommendations Report (p. II-15 and Section II.F.6, pp. II-39-II-42). It creates two tiers of site plan review: minor site plan review and major site plan review. Minor site plans are reviewed and approved by the Planning Director. The Planning Director's decision may be appealed to the Planning Board, and then the District Council. Major site plans are reviewed and approved by the Planning Board after a public hearing. The Planning Board's decision may be appealed to the District Council.

- a. Permits for alteration or rehabilitation with no increase in the gross floor area;
- b. Canopies attached to a building and freestanding canopies;
- c. Fences and walls;
- d. Decks, gazebos, patios, or other improvements typically associated with residential development;
- e. Generators or other mechanical equipment for operation of permitted uses on-site;
- f. Ordinary maintenance;
- g. Signage;
- h. Resurfacing, restriping, or adding landscaping and/or stormwater management facilities to existing parking and loading facilities;
- i. Restoration or reconstruction of a nonconforming building or structure (a Special Exception shall be required to restore or reconstruct a nonconforming building or structure);
- j. Changes in use or occupancy and/or ownership, including but not limited to exemptions contained in Section 27-2.511.B.2.;
- k. All uses in the Agriculture/Forestry Uses Category and the Open Space Uses Category;
- l. Construction, expansion, or alteration of single-family detached, single-family attached, two-family, and/or three-family dwellings;

- m. Construction, expansion, or alteration of townhouse and/or multifamily dwelling development of less than ten units;
- n. Construction, expansion, or alteration of nonresidential development consisting of less than a total of 100,000 square feet of gross floor area;
- o. Construction, expansion, or alteration of mixed-use development with less than 50,000 square feet of gross floor area and/or 50 dwelling units; and
- p. Permits for grading that include the installation of infrastructure which is essential to the future development of the site, including streets, utilities, or stormwater management facilities.

C. Minor and Major Site Plans Distinguished

There are two types of site plan review under this Ordinance: minor site plan review and major site plan review.

1. Minor Site Plan

- a. Minor site plans are reviewed and decided by the Planning Director in accordance with Sec. 27-2.508.D, Minor Site Plan Procedure. Appeals may be taken on the Planning Director's decision to the Planning Board. Appeals from the Planning Board's decision may be taken to the District Council.
- b. The following development, unless exempted in accordance with Sec. 27-2.508.B.2 above, shall receive minor site plan approval prior to the issuance of a use and occupancy permit:

- i. Construction, expansion, or alteration of townhouse and multifamily developments of between 10 units and 75 units;
- ii. Construction, expansion, or alteration of nonresidential development between 100,000 and 150,000 square feet of gross floor area; and
- iii. Construction, expansion, or alteration of mixed-use development between 50,000 and 250,000 square feet of gross floor area and fewer than 90 dwelling units.

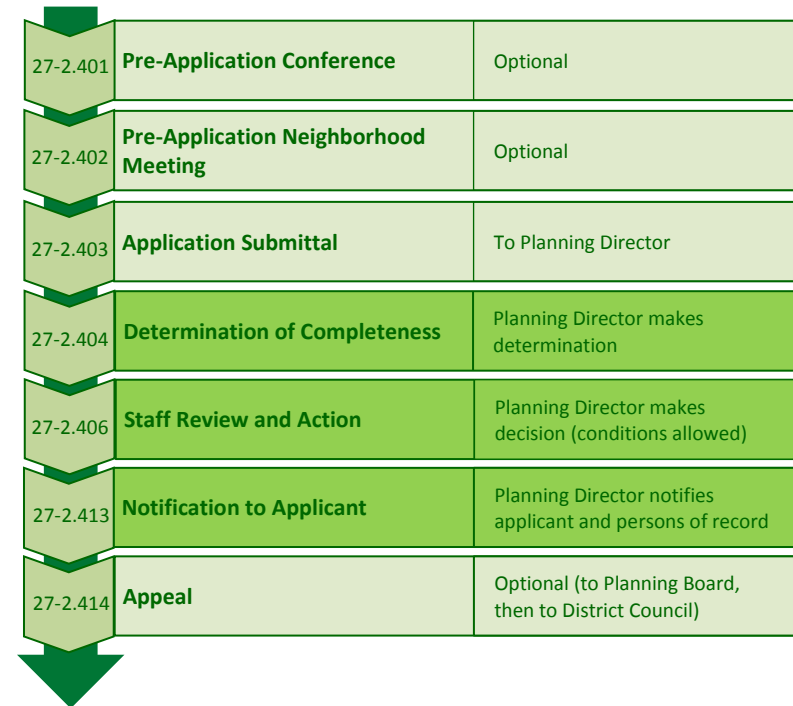
2. Major Site Plan

- a. Major site plans are reviewed and decided by the Planning Board in accordance with Sec. 27-2.508.E, Major Site Plan Procedure. Appeals may be taken on the Planning Board’s decision to the District Council.
- b. All development that is not subject to minor site plan approval in accordance with Sec. 27-2.508.C.1.b above, or exempted in accordance with Sec. 27-2.508.B.2 above, shall receive major site plan approval prior to the issuance of a use and occupancy permit.

D. Minor Site Plan Procedure

This Subsection identifies additions or modifications to the standard review procedures in Sec. 27-2.400, Standard Review Procedures, that apply to development applications for a minor site plan. Figure 27-2.508.D identifies key steps in the minor site plan procedure.

Figure 27-2.508.D: Minor Site Plan Procedure



- 1. Pre-Application Conference**
Optional (See Sec. 27-2.401, Pre-Application Conference).
- 2. Pre-Application Neighborhood Meeting**
Optional (See Sec. 27-2.402, Pre-Application Neighborhood Meeting).
- 3. Application Submittal**
Required (See Sec. 27-2.403, Application Submittal).

4. Determination of Completeness

Required (See Sec. 27-2.404, Determination of Completeness).

5. Staff Review and Action

Required (See Sec. 27-2.406, Staff Review and Action). After staff review and evaluation of the application, the Planning Director shall review the application and make a decision in accordance with Sec. 27-2.508.F, Site Plan (Minor and Major) Decision Standards. The decision shall be one of the following:

- a. Approve the application;
- b. Approve the application, subject to conditions of approval; or
- c. Deny the application.

6. Scheduling Public Hearing and Public Notice

N/A. Instead, the applicant shall ensure notice is posted on the site subject to the application at least ten days prior to the Planning Director's decision, in accordance with the requirements of Sec. 27-2.407.B.6, Posted Notice.

7. Review and Recommendation by Advisory Board or Official

N/A.

8. Review and Decision by Decision-Making Body or Official

N/A.

9. Conditions of Approval

Allowed (See Sec. 27-2.412, Conditions of Approval).

10. Notification to Applicant

Required (See Sec. 27-2.413, Notification to Applicant). A copy of the Planning Director's decision shall be sent to the applicant, all persons of record, and any municipality within one mile of the subject property.

11. Appeal

Optional (See Sec. 27-2.414, Appeal).

a. Planning Board Appeal¹⁰³

- i. The applicant or any aggrieved person may appeal the Planning Director's decision on a minor site plan to the Planning Board by filing a notice of appeal within ten days of the Planning Board's decision.
- ii. The Planning Director shall transmit to the Planning Board after the appeal is filed, the minor site plan application and all written materials and other evidence related to its review, and any additional information or explanatory material deemed appropriate. This shall constitute the record on appeal.

¹⁰³ The appeal process preserves the Planning Board's involvement in the site plan review process, pursuant to Maryland Land Use Code § 25-210(e). The decision to consider an appeal and the specific time lines that apply to the District Council pursuant to Maryland Land Use Code § 25-210(b) through (d) do not apply to the Planning Board, and are removed here.

- iii. The Planning Board shall schedule and provide notice of a public hearing on the appeal in accordance with Sec. 27-2.407, Scheduling Public Hearing and Public Notice, and conduct a public hearing in accordance with Sec. 27-2.411, Quasi-Judicial Public Hearing. The Planning Board shall hold a hearing within 70 days after the appeal is filed. The Planning Board may extend the time to hold a hearing for up to 45 additional days on its own motion or on request of the appellee. Within 60 days after the close of the hearing, the Planning Board shall render a final decision. The Planning Board's decision shall be in accordance with the standards in Sec. 27-2.508.D.11.c, Appeal Standards.
- iv. The Planning Board shall provide its decision in writing, stating the reasons for its action. Copies of the decision shall be sent to all persons of record, municipalities within one mile of the land subject to the appeal, and the Planning Director.

b. District Council Appeal

- i. After the Planning Board renders a decision on appeal, the applicant or any aggrieved person may appeal that decision to the District Council¹⁰⁴ by filing a notice of appeal with the

Clerk of the Council within ten days of the Planning Board's decision.

- ii. The Planning Director shall immediately transmit to the District Council after the appeal is filed, the minor site plan application and all written materials and other evidence related to its review, and any additional information or explanatory material deemed appropriate. This shall constitute the record on appeal.
- iii. The Clerk of Council shall schedule and provide notice of a public hearing on the appeal in accordance with Sec. 27-2.407, Scheduling Public Hearing and Public Notice. In addition to the public notification requirements in Sec. 27-2.407, Scheduling Public Hearing and Public Notice, public notice shall include a notice of affidavit and *Ex Parte* disclosure and location of compliance forms, in accordance with State law and the Procedures Manual.
- iv. The District Council shall hold a hearing in accordance with Sec. 27-2.411, Quasi-Judicial Public Hearing, within 70 days after the filing of the notice of appeal. The District Council may extend the time to hold a hearing for up to 45 additional days on its own motion or on request of the applicant. Within 60 days after the close of the hearing, the District Council shall render a final decision or remand the appeal to the Planning Board to take further testimony or consider or reconsider specific issues that are expressly stated in writing in the remand. The Planning Board's action on the remand shall

¹⁰⁴ Maryland Land Use Code § 25-210 provides for appeal of a detailed site plan and a "site plan" to the District Council. The statute is silent about how long a party of record has to appeal, or how long the planning director has to transmit the materials to the district council.

become part of the record on appeal. The Council’s decision on the appeal shall be based on the record on appeal, and be in accordance with the standards in Sec. 27-2.508.D.11.c, Appeal Standards. The District Council shall provide its decision in writing, stating the reasons for its action. Copies of the decision shall be sent to all persons of record, municipalities within one mile of the land subject to the appeal, and the Planning Director.

- v. If the District Council fails to act within the specified time, the Planning Board’s decision is automatically affirmed.

c. Appeal Standards

The Planning Board or District Council may modify or reverse the decision on appeal if the decision is not supported by substantial evidence, is arbitrary and capricious, or is predicated on an error of law.

12. Post-Decision Actions

a. Effect of Approval

After a minor site plan is approved, the applicant may:

- i. Apply for subdivision approval in accordance with Subtitle 24: Subdivision Regulations, if subdivision approval is required and has not occurred; and

- ii. Apply for any other development approvals and permits required by this Ordinance and the County Code.

b. Lapse of Approval

- i. An approved minor site plan is valid for six years. If construction has not occurred at the end of this period, the minor site plan lapses and has no effect. For the purposes of this Subsection, “construction” is considered to have begun when all necessary excavation and piers and footings (of at least one building included in the plan) is completed.¹⁰⁵
- ii. The Planning Director may approve one extension of time for a period of up to two years, for good cause, if the permittee submits a request prior to the time the minor site plan will expire.
- iii. If the minor site plan approval lapses, the applicant may resubmit an application for a minor site plan, which shall be reviewed as a new application.

c. Amendment

Unless exempted in accordance with Sec. 27-2.508.B above, an amendment of an approved minor site plan may only be reviewed in accordance with the procedures and standards established for its original approval.

¹⁰⁵ Construction thresholds are carried forward from Sec. 27-287

E. Major Site Plan Procedure

This Subsection identifies additions or modifications to the standard review procedures in Sec. 27-2.400, Standard Review Procedures, that apply to development applications for a major site plan. Figure 27-2.508.E identifies key steps in the major site plan procedure.

Figure 27-2.508.E: Major Site Plan Procedure



1. Pre-Application Conference

Required (See Sec. 27-2.401, Pre-Application Conference).

2. Pre-Application Neighborhood Meeting

Required (See Sec. 27-2.402, Pre-Application Neighborhood Meeting).

3. Application Submittal

Required (See Sec. 27-2.403, Application Submittal). A major site plan application may be filed concurrent with a subdivision application (See Subtitle 24: Subdivision Regulations).

4. Determination of Completeness

Required (See Sec. 27-2.404, Determination of Completeness).

5. Staff Review and Action

Required (See Sec. 27-2.406, Staff Review and Action). After staff review and evaluation of the application, the Planning Director shall prepare Technical Staff Report, which shall include a recommendation, on the application.

6. Scheduling Public Hearing and Public Notice

Required (See Sec. 27-2.407, Scheduling Public Hearing and Public Notice).

7. Review and Recommendation by Advisory Board or Official

N/A.

8. Review and Decision by Decision-Making Body or Official

Required (See Sec. 27-2.409, Review and Decision by Decision-Making Body or Official).

- a. The Planning Board shall conduct a public hearing on the application in accordance with Sec. 27-2.411, Quasi-Judicial Public Hearing and make a decision in accordance with Sec. 27-2.508.F, Site Plan (Minor and Major) Decision Standards.
- b. The decision shall be one of the following:
 - i. Approve the major site plan;
 - ii. Approve the major site plan, subject to conditions of approval; or
 - iii. Deny the major site plan.
- c. The Planning Board's decision shall be by resolution. The resolution shall set forth the Planning Board's findings and conclusions upon which the decision is based.

9. Conditions of Approval

Allowed (See Sec. 27-2.412, Conditions of Approval).

10. Notification to Applicant

Required (See Sec. 27-2.413, Notification to Applicant). A copy of the Planning Board's resolution shall be sent to the applicant and all persons of record.

11. Appeal

Optional (See Sec. 27-2.414, Appeal).

- a. The applicant or any aggrieved person may appeal the Planning Board's decision to the District Council, by filing a notice of appeal with the Clerk of the Council within 30 days of notice of the Planning Board's decision.
- b. The Planning Board shall transmit to the District Council within seven calendar days after the appeal is filed, the major site plan application and all material and evidence submitted for consideration by the Planning Board, a transcript of the public hearing on the application, and any additional information or explanatory material deemed appropriate. This shall constitute the record on appeal.
- c. The Clerk of the County Council shall schedule and provide notice of a public hearing on the appeal in accordance with Sec. 27-2.407, Scheduling Public Hearing and Public Notice. In addition to the public notification requirements in Sec. 27-2.407, Scheduling Public Hearing and Public Notice, public notice shall include a notice of affidavit and *Ex Parte* disclosure and location of compliance forms, in accordance with State law and the Procedures Manual.
- d. The District Council shall hold a hearing in accordance with Sec. 27-2.411, Quasi-Judicial Public Hearing, within 70 days after of the date the notice of appeal is filed. The District Council may extend the time to hold a hearing for up to 45 additional days on its own motion or on request of the applicant. Within 60 days after the close of the hearing, the District Council shall render a final decision to affirm, reverse, or

modify the decision of the Planning Board, or remand the major site plan application to the Planning Board to take further testimony or consider or reconsider specific issues that are expressly stated in writing in the remand and based on the record. The Planning Board's action on the remand request shall become part of the record on appeal. In considering the remand, the District Council may only base its decision upon the issues that were remanded to the Planning Board. The Council's decision on the appeal shall be based on the record on appeal, and be in accordance with the standards in Sec. 27-2.508.E.11.e below.

- e. The District Council may only reverse the action of the Planning Board if the Planning Board's decision is not supported by substantial evidence, is arbitrary and capricious, or is predicated on an error of law.
- f. If the Council fails to act within the time limits in Sec. 27-2.508.E.11.c above, the Planning Board's decision is automatically affirmed.
- g. The Council shall provide its decision in writing, stating the reasons for its action. Copies of the decision shall be sent to all persons of record, the Planning Board, municipalities within one mile of the land subject to the appeal, and the Planning Director.

12. Post-Decision Actions

a. Effect of Approval

After a major site plan is approved, the applicant may:

- i. Apply for subdivision approval in accordance with Subtitle 24: Subdivision Regulations, if subdivision approval is required and has not occurred; and
- ii. Apply for any other development approvals or permits required by this Ordinance and the County Code.

b. Amendment

An amendment of an approved major site plan may only be reviewed in accordance with the procedures and standards established for its original approval.

c. Minor Deviations¹⁰⁶

- i. The Planning Director may approve minor deviations to approved major site plans in accordance with this Subsection and Sec. 27-2.508.F, Site Plan (Minor and Major) Decision Standards.
- ii. Minor deviations to approved major site plans shall consist of the following:
 - (A) An increase of up to ten percent in the gross floor area of a building over the life of the development approval;
 - (B) An increase of up to ten percent in the land area covered by a structure other than a building;

¹⁰⁶ This is a new section allowing minor changes without invoking the full site plan review process. Some of the standards are based on the minor change provisions for special exceptions (see Sec. 27-325(b)(1)).

- (C) The redesign of parking or loading areas;
- (D) The redesign of a landscape plan;
- (E) New or alternative architectural plans that are equal or superior to those originally approved, in terms of overall size and quality;
- (F) Changes required by engineering necessity to grading, utilities, stormwater management, or related plan elements;
- (G) Home improvements; or
- (H) Changes to any other plan element determined by the Planning Director to have minimal effect on the overall design, layout, quality, or intent of the approved site plan.

d. Lapse of Approval

- i. An approved major site plan is valid for six years.
 - (A) If construction has not begun at the end of this period, the major site plan lapses and has no effect. For the purposes of this Subsection, construction is considered to have begun when all necessary excavation and piers and footings (of at least one building included in the plan) is completed.
 - (B) The Planning Director may approve one extension of time for a period of up to two years, for good cause, if the permittee

submits a request prior to the time the major site plan will expire.

- ii. If the major site plan approval lapses, the applicant may resubmit an application for a major site plan, which shall be reviewed as a new application.

F. Site Plan (Minor and Major) Decision Standards

A site plan (minor or major) may only be approved upon a finding that all of the following standards are met:

1. The proposed development complies with Division 27-3: Zones and Zone Regulations;
2. The development and uses in the site plan comply with Division 27-4: Use Regulations;
3. The development proposed in the site plan and its general layout and design comply with all applicable standards in Division 27-5: Development Standards;
4. The development proposed in the site plan complies with all conditions of approval in any development approvals and permits to which the site plan is subject;
5. The development proposed in the site plan can exist as a unit capable of sustaining an environment of continuing quality and stability;
6. The development proposed in the site plan and its general layout and design comply with all applicable standards in Subtitle 24: Subdivision Regulations;
7. The development proposed in the site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest

extent possible in accordance with the requirements of Sec. 24-3.303(C)(4) of Subtitle 24: Subdivision Regulations;

8. The development in the site plan conforms to an approved Tree Conservation Plan, if applicable; and
9. The development proposed in the following types of site plans are in substantial conformance with the applicable area master plan or sector plan, and applicable functional master plans, unless the decision-making body finds that events have occurred to render the relevant plan recommendations no longer appropriate or the District Council has not imposed the recommended zoning:
 - a. A single-use development in Transit-Oriented/Activity Center zones and the GCO base zone; and
 - b. Residential development in a commercial base zone (NC, GCO, and SC);
10. The development proposed in a Detailed Site Plan for Infrastructure complies with Division 27-5: Development Standards, prevents offsite property damage, and prevents environmental degradation to safeguard the public's health, safety, welfare, and economic well-being for grading, reforestation, woodland conservation, drainage, erosion, and pollution discharge; and
11. The development proposed in the site plan is consistent with all other applicable standards of this Ordinance and the County Code.

27-2.509. Sign Permit¹⁰⁷

A. Purpose

The purpose of this Subsection is to establish a uniform mechanism for ensuring that all signs comply with the standards in Sec. 27-5.1300, Signage.

B. Applicability

1. The procedures and standards in this Subsection apply to the review of and decision on applications for sign permits.
2. Unless exempted in accordance with Sec. 27-5.1302.B, Exemptions, or unless a sign permit is not required in accordance Sec. 27-5.1303, Signs Not Requiring a Sign Permit, approval of a sign permit is required before any sign is erected, installed, displayed, structurally altered, or otherwise changed.

C. Sign Permit Procedure

This Subsection identifies additions or modifications to the standard review procedures in Sec. 27-2.400, Standard Review Procedures, that apply to development applications for a sign permit. Figure 27-2.509 identifies key steps in the sign permit procedure.

¹⁰⁷ This is a new Subsection that was not discussed in the Evaluation and Recommendations Report but is included in this draft. It establishes a permit procedure to ensure all signs comply with the sign standards in Sec. 27-5.1300, Signage (drafted in Module 2). Sign permit applications are reviewed and approved by the DPIE Director.

Figure 27-2.509: Sign Permit Procedure



1. Pre-Application Conference

N/A.

2. Pre-Application Neighborhood Meeting

N/A.

3. Application Submittal

Required (See Sec. 27-2.403, Application Submittal). Applications for sign permits shall be submitted to the DPIE Director.

4. Determination of Completeness

Required (See Sec. 27-2.404, Determination of Completeness). The DPIE Director determines whether the application is complete.

5. Staff Review and Action

Required (See Sec. 27-2.406, Staff Review and Action). After staff review and evaluation of the application, and referral to the Planning Director for comment, the DPIE Director shall review and make a decision on the application in accordance with Sec. 27-2.509.D, Sign Permit Decision Standards. The decision shall be one of the following:

- a. Approve the application as submitted;
- b. Approve the application subject to conditions of approval; or
- c. Deny the application. If the application is denied, a written statement shall be included with the application stating the reasons why the application does not comply with the decision standards.

6. Scheduling Public Hearing and Public Notice

N/A.

7. Review and Recommendation by Advisory Board or Official

N/A.

8. Review and Decision by Decision-Making Body or Official

N/A.

9. Conditions of Approval

Allowed (See Sec. 27-2.412, Conditions of Approval).

10. Notification to Applicant

Required (See Sec. 27-2.413, Notification to Applicant).

11. Appeal

Optional (See Sec. 27-2.414, Appeal). The applicant may appeal the DPIE Director's decision on an application for a sign permit to the BZA in accordance with Sec. 27-2.519, Appeal to Board of Zoning Appeals (BZA).

12. Post-Decision Actions

a. Lapse of Approval

- i. If the work described in any sign permit has not begun within six months from the date of its approval, the sign permit shall expire and be void.
- ii. Upon written application submitted by the applicant at least 30 days prior to the expiration of an approved sign permit and upon a showing of good cause, the DPIE Director may grant one extension of time, not to exceed six months.

D. Sign Permit Decision Standards

An application for a sign permit shall be approved upon a finding the applicant demonstrates the proposed sign complies with all applicable standards in Sec. 27-5.1300, Signage, all other relevant requirements of this Ordinance, and all development approvals and permits to which the proposed sign is subject.

27-2.510. Temporary Use Permit¹⁰⁸

A. Purpose

The purpose of this Subsection is to establish a uniform mechanism for ensuring that proposed temporary uses comply with the standards in Sec. 27-4.400, Temporary Uses and Structures.

B. Applicability

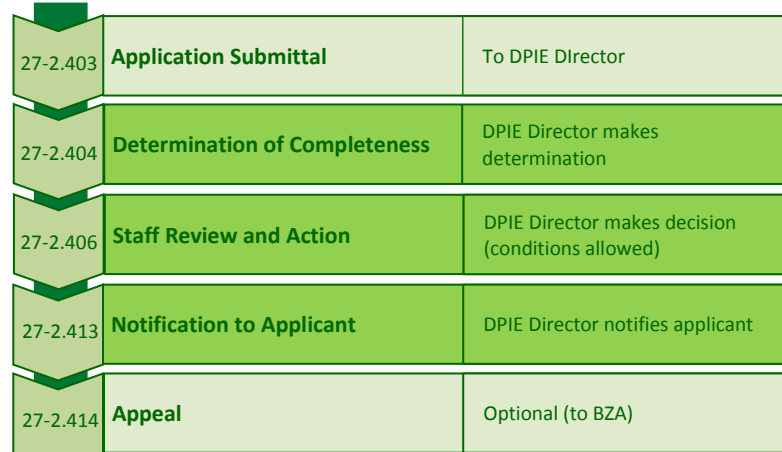
1. The procedures and standards in this Subsection apply to the review of and decision on applications for temporary use permits.
2. A temporary use permit is required prior to the establishment or commencement of any temporary use for which a temporary use permit is required in Sec. 27-4.400, Temporary Uses and Structures.

C. Temporary Use Permit Procedure

This Subsection identifies additions or modifications to the standard review procedures in Sec. 27-2.400, Standard Review Procedures, that apply to development applications for a temporary use permit. Figure 27-2.510 identifies key steps in the temporary use permit procedure.

¹⁰⁸ As discussed in the Evaluation and Recommendations Report (p. VI-16), this Subsection carries forward Sec. 27-260 in the current Zoning Ordinance, with modest changes to improve efficiency.

Figure 27-2.510: Temporary Use Permit Procedure



1. Pre-Application Conference

N/A.

2. Pre-Application Neighborhood Meeting

N/A.

3. Application Submittal

Required (See Sec. 27-2.403, Application Submittal). Applications for temporary use permits shall be submitted to the DPIE Director. In addition, an application for a temporary use permit for temporary sales trailers, temporary construction trailers and temporary office trailers shall include either a copy of an approved Type 2 Tree Conservation Plan showing the areas of disturbance proposed with the permit, or an approved letter of exemption in conformance with Division 2 of Subtitle 25:

Woodland and Wildlife Habitat Conservation Ordinance, of the County Code of Ordinances, referencing the land subject to the application, the proposed area of disturbance, and the proposed use.

4. Determination of Completeness

Required (See Sec. 27-2.404, Determination of Completeness). The DPIE Director determines whether the application is complete.

5. Staff Review and Action

Required (See Sec. 27-2.406, Staff Review and Action). After staff review and evaluation of the application, the DPIE Director shall review and make a decision on the application in accordance with Sec. 27-2.510.D, Temporary Use Permit Decision Standards. The decision shall be one of the following:

- a. Approve the application as submitted;
- b. Approve the application subject to conditions of approval; or
- c. Deny the application. If the application is denied, a written statement shall be included with the application stating the reasons why the application does not comply with the decision standards.

6. Scheduling Public Hearing and Public Notice

N/A.

7. Review and Recommendation by Advisory Board or Official

N/A.

8. Review and Decision by Decision-Making Body or Official

N/A.

9. Conditions of Approval

Allowed (See Sec. 27-2.412, Conditions of Approval).

10. Notification to Applicant

Required (See Sec. 27-2.413, Notification to Applicant).

11. Appeal

Optional (See Sec. 27-2.414, Appeal). The applicant or aggrieved party may appeal the DPIE Director's decision on an application for a temporary use permit to the BZA in accordance with Sec. 27-2.519, Appeal to Board of Zoning Appeals (BZA).

12. Post-Decision Actions

a. Lapse of Approval

A temporary use permit shall be effective beginning on the date specified in the permit approval, and shall remain effective for the period indicated on the permit.

D. Temporary Use Permit Decision Standards

An application for a temporary use permit shall be approved upon a finding that:

1. The application complies with all applicable standards in Sec. 27-4.400, Temporary Uses and Structures;

2. Any disturbance proposed will not violate the provisions of Division 2 of Subtitle 25: the Woodland and Wildlife Habitat Conservation Ordinance, of the County Code; and
3. If the proposed temporary use is to be located in a Safety Zone of the Military Installation Overlay Zone, the temporary use conforms with the requirements of the Military Installation Overlay Zone.¹⁰⁹

27-2.511. Use and Occupancy Permit¹¹⁰

A. Purpose

The purpose of this Subsection is to provide a uniform mechanism for the review of proposed development prior to issuance of a building permit or other permit that allows development to occur, to ensure it complies with this Ordinance and any conditions of approval imposed as part of any required development approvals or permits.

B. Applicability

1. Unless exempted in accordance with Sec. 27-2.511.B.2 below, a use and occupancy permit shall be approved in accordance with the procedures and standards of this Subsection, prior to any of the following development activities:

¹⁰⁹ The current provisions authorize the Planning Board to determine whether a proposed temporary use conforms with the requirements of the Military Installation Zone. To provide greater efficiency in the review of an application for a temporary use permit, this now allows the DPIE Director to make this review when making a decision on the application.

¹¹⁰ As discussed in the Evaluation and Recommendation Report (p. VI-18), this Subsection carries forward the procedures for a use and occupancy permit in Sec. 27-254 of the current Zoning Ordinance, but refines the provisions to conform to the format of the rewritten Zoning Ordinance.

- a. Use of a building, structure, or land;
 - b. Conversion of a building, structure, or land from one use to another use;
 - c. Construction of a building or structure, or placement of a new use on land; or
 - d. Construction of an accessory dwelling unit;
 - e. Conversion of a single-family detached dwelling to include additional dwelling units.¹¹¹
2. The following development is exempted from the requirements of this Subsection:
- a. Development in the Agriculture/Forestry Uses Category and the Open Spaces Uses Category (except cemeteries);
 - b. Home occupations for which no permit is required by this Ordinance.¹¹²

C. Use and Occupancy Permit Procedure

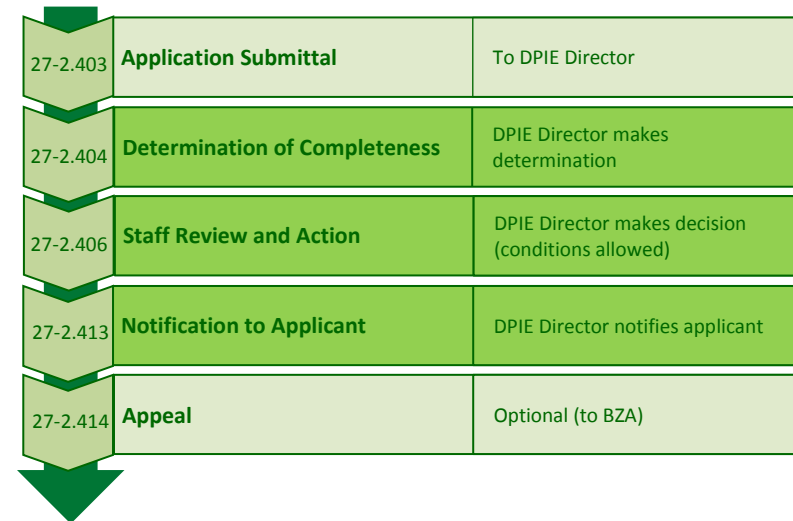
This Subsection identifies additions or modifications to the standard review procedures in Sec. 27-2.400, Standard Review Procedures, that apply to development applications for a use and occupancy permit. Figure 27-2.511 identifies key steps in the use and occupancy permit procedure.

¹¹¹ We have deleted reference to medical practitioner's, insurance sales, and real estate sales offices and to special exceptions for single-family residences, which are dealt with separately in the use provisions in Division 27-4: Use Regulations.

¹¹² The following has also been deleted, since change in occupancy is not related to development (including a change in use).

When an occupant vacates a premises, and a different occupant assumes possession of that premises, the new occupant is required to obtain a use and occupancy permit regardless of whether the use changes.

Figure 27-2.511: Use and Occupancy Permit Procedure



1. Pre-Application Conference

N/A.

2. Pre-Application Neighborhood Meeting

N/A.

3. Application Submittal

Required (See Sec. 27-2.403, Application Submittal). Applications for use and occupancy permits shall be submitted to the DPIE Director.

4. Determination of Completeness

Required (See Sec. 27-2.404, Determination of Completeness). The DPIE Director determines whether the application is complete.

5. Staff Review and Action

Required (See Sec. 27-2.406, Staff Review and Action).

- a. After staff review and evaluation of the application, and referral to the Planning Director for comment, the DPIE Director shall make a decision on an application for a use and occupancy permit in accordance with the standards in Sec. 27-2.511.D, Use and Occupancy Permit Decision Standards. The decision shall be one of the following:
 - i. Approve the application as submitted;
 - ii. Approve the application subject to conditions of approval; or
 - iii. Deny the application.
- b. If the application is denied, a written statement shall be included with the application stating the reasons why the application does not comply with the decision standards.
- c. If the application involves a commercial or industrial use located within the boundaries of a municipality, the DPIE Director shall provide notice, in writing, to the municipality, that the application has been submitted and is being reviewed in accordance with the requirements of this Subsection.

6. Scheduling Public Hearing and Public Notice

N/A.

7. Review and Recommendation by Advisory Board or Official

N/A.

8. Review and Decision by Decision-Making Body or Official

N/A.

9. Conditions of Approval

Allowed (See Sec. 27-2.412, Conditions of Approval).

10. Notification to Applicant

Required (See Sec. 27-2.413, Notification to Applicant).

11. Appeal

Optional (See Sec. 27-2.414, Appeal). The applicant may appeal the DPIE Director's decision on an application for a use and occupancy permit to the BZA in accordance with Sec. 27-2.519, Appeal to Board of Zoning Appeals (BZA).

12. Post-Decision Actions

Development of the land subject to a use and occupancy permit shall comply with the approved use and occupancy permit, any accompanying plans, and all conditions of approval.

D. Use and Occupancy Permit Decision Standards

An application for a use and occupancy permit shall be approved upon a finding the applicant demonstrates the development proposed in the application complies with all relevant requirements of this Ordinance, all applicable

conditions of approval, and all development approvals and permits to which the development is subject.

27-2.512. Zoning Certification¹¹³

A. Purpose

The purpose of this Subsection is to establish an optional mechanism by which the County can provide landowners written documentation of compliance with the use requirements of this Ordinance.

B. Applicability

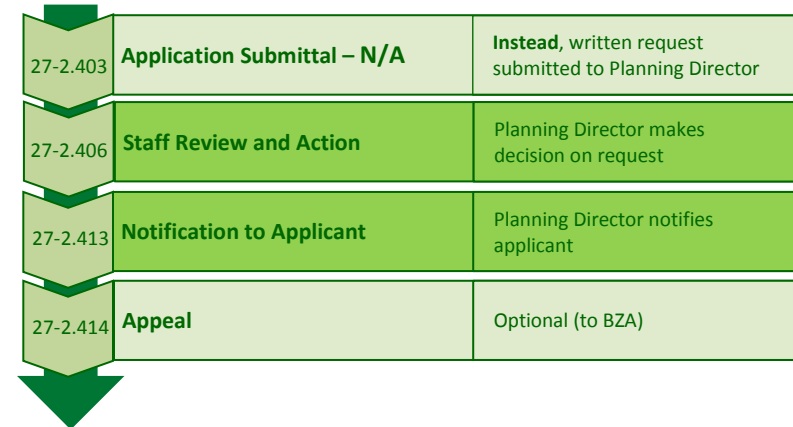
A zoning certification is an optional procedure that allows any landowner to request and obtain written confirmation from the Planning Director that a specific use (or uses) on a parcel of land is permitted in accordance with this Ordinance.

C. Zoning Certification Procedure

This Subsection identifies additions or modifications to the standard review procedures in Sec. 27-2.400, Standard Review Procedures, that apply to development applications for a zoning certification. Figure 27-2.512 identifies key steps in the zoning certification procedure.

¹¹³ As discussed in the Evaluation and Recommendations Report (p. VI-15), this Subsection consolidates the zoning certification and buildable lot letter procedures in Sec. 27-125.02(k) of the current Zoning Ordinance – calling it zoning certification. There are no changes in procedures and substantive purpose of the provisions. They establish an optional mechanism by which the County can provide landowners/applicants written documentation that a specific use (or uses) on a parcel of land is permitted in accordance with this Ordinance.

Figure 27-2.512: Zoning Certification Procedure



1. Pre-Application Conference

N/A.

2. Pre-Application Neighborhood Meeting

N/A.

3. Application Submittal

N/A. Instead, the applicant shall submit a written request to the Planning Director for a zoning certification that a specific use (or uses) on a parcel of land is permitted in accordance with this Ordinance.

4. Determination of Completeness

N/A.

5. Staff Review and Action

Required (See Sec. 27-2.406, Staff Review and Action). After staff review and evaluation, the Planning Director shall make a decision on the request for a zoning

certification in accordance with the standards in Sec. 27-2.512.D, Zoning Certification Decision Standards. The decision shall be one of the following:

- a. Issuance of a written zoning certification stating that a specific use (or uses) on a parcel of land is permitted under this Ordinance; or
- b. Issuance of a letter to the applicant that a specific use (or uses) on a parcel of land is not permitted under this Ordinance. The letter shall also include the reasons for noncompliance.

6. Scheduling Public Hearing and Public Notice

N/A.

7. Review and Recommendation by Advisory Board or Official

N/A.

8. Review and Decision by Decision-Making Body or Official

N/A.

9. Conditions of Approval

N/A.

10. Notification to Applicant

Required (See Sec. 27-2.413, Notification to Applicant).

11. Appeal

Optional (See Sec. 27-2.414, Appeal). The applicant may appeal the Planning Director's decision on a zoning

certification to the BZA in accordance with Sec. 27-2.519, Appeal to Board of Zoning Appeals (BZA).

12. Post-Decision Actions

A zoning certification does not expire, but it is limited by its terms to the specific parcel of land referenced in the certification. If this Ordinance is ever amended resulting in the use no longer being allowed on the parcel of land, the zoning certification shall automatically become null and void.

D. Zoning Certification Decision Standards

Prior to approving a zoning certification, the Planning Director shall find that the specific use (or uses) on a parcel of land is permitted in accordance with the requirements of this Ordinance.

27-2.513. Grading Permit¹¹⁴

- A. Grading permits shall be required in accordance with Subtitle 32, Division 2: Grading, Drainage and Erosion and Sediment Control, of the County Code of Ordinances.
- B. For land located within Priority Funding Areas of the County and subject to a site plan (see Sec. 27-2.508), a grading permit may be issued by DPIE authorizing commencement of rough grading activities on the site (including removal of utilities and structures, basic excavation, and installation of temporary

¹¹⁴ This Subsection carries forward grading permit provisions in Sec. 27-252 of the current Zoning Ordinance, and directs the user to the grading permit procedure in Subtitle 32, Division 2: Grading, Drainage and Erosion and Sediment Control, that is administered by the DPIE Director (see Evaluation and Recommendations Report, p. VI-16).

stormwater controls) prior to approval of the site plan, provided:

1. The site plan application has been determined complete in accordance with Sec. 27-2.404, Determination of Completeness;
 2. The land is exempt from the requirements of the Woodland and Wildlife Habitat Conservation Ordinance within Division 2, Subtitle 25 of the County Code; and
 3. The permittee provides documentation demonstrating that the subject land contains no regulated environmental features, as defined by Subtitle 24: Subdivision Regulations, of the County Code, or the grading permit proposes no disturbance to any such features.
- C.** Prior to the approval of a grading permit within the Chesapeake Bay Critical Area Overlay Zone, unless previously submitted prior to the approval of a preliminary plan of subdivision, a Conservation Plan shall be submitted in accordance with Subtitle 5B for approval by the Planning Board or its authorized representative. The Planning Board shall approve the Conservation Plan prior to the issuance of a grading permit, unless waived in accordance with the provisions of Subtitle 5B of the County Code.
1. Where a Conservation Plan and Conservation Agreement are required, the approved Conservation Agreement shall be recorded among the land records of Prince George's County prior to the issuance of a grading permit, if not previously approved and recorded prior to final plat approval of subdivision.
- D.** Grading permit applications shall be reviewed and decided in accordance with Subtitle 32, Division 2: Grading, Drainage and

Erosion and Sediment Control, of the County Code, and Sec. 27-2.513.E below. Grading permit applications shall be referred to the Planning Director for comment before a decision is made on the application.

- E.** DPIE shall not issue a grading permit:
1. For land that is the subject of an approved preliminary plan of subdivision, unless the permit is in conformance with the approved preliminary plan;
 2. Prior to the expiration of the specified appeal period from a Planning Board decision concerning the subject property of the permit, unless the right of appeal has been waived, or during the pendency of any appeal to, or review by, the District Council;
 3. If a permit for infrastructure improvements including streets, utilities, or stormwater management facilities has not been issued for the land, except for an unsubdivided parcel of land that contains less than three acres, is located in a Residential base zone, and does not require site plan approval in accordance with Sec. 27-2.508, Site Plan (Minor and Major)

27-2.514. Building Permit¹¹⁵

A. Purpose

The purpose of a building permit is to provide a uniform mechanism to ensure compliance with Subtitle 4: Building, of the County Code.

¹¹⁵ This Subsection carries forward building permit provisions in Sec. 27-252 of the current Zoning Ordinance. It references Subtitle 4: Building, of the County Code of Ordinances, (see Evaluation and Recommendations Report, p. VI-16).

B. Applicability

1. Unless exempted in accordance with Subtitle 4: Building, of the County Code, or Sec. 27-2.514.B.2 below, prior to any of the following activities, a building permit issued for the activity by DPIE is required:
 - a. Erecting a building or structure;
 - b. Enlarging, structurally altering, moving, or adding to an existing building or structure; or
 - c. Excavating for any building or structure.
2. Buildings and structures to be used exclusively for agricultural purposes on land used only for agriculture, except for farm tenant dwellings, are exempt from the building permit requirements in Sec. 27-2.514.B.1 above.
3. For purposes of this Subsection, trailers (designed for human occupancy) and mobile homes used for business purposes in any Commercial or Industrial zone, and mobile home dwellings, are “buildings.”
4. Prior to the approval of a building permit within the Chesapeake Bay Critical Area Overlay Zone, unless previously submitted prior to the approval of a preliminary plan of subdivision, a Conservation Plan shall be submitted in accordance with Subtitle 5B for approval by the Planning Board or its authorized representative. The Planning Board shall approve the Conservation Plan prior to the issuance of a building permit, unless waived in accordance with the provisions of Subtitle 5B of the County Code.
 - a. Where a Conservation Plan and Conservation Agreement are required, the approved Conservation

Agreement shall be recorded among the land records of Prince George's County prior to the issuance of a building permit, if not previously approved and recorded prior to final plat approval of subdivision.

C. Building Permit Procedure and Decision Standards

1. Building permit applications shall be reviewed and decided in accordance with Subtitle 4: Building, of the County Code and Sec. 27-2.514.C.2 below. Building permit applications shall be referred to the Planning Director for comment before a decision is made on the application.
2. DPIE shall not issue a building permit:
 - a. For land that is not a record lot;
 - b. For land within the area of an endorsed Sectional Map Amendment (see Sec. 27-2.503.C, Sectional Map Amendment Procedure) until after final action by the District Council on the Sectional Map Amendment, if the lot or parcel of land on which construction is proposed is in a Commercial or Industrial zone, was proposed by the Planning Board for a zone in which the proposed use is not permitted, and is undeveloped; this paragraph shall not apply to a lot or parcel of land for which a grading permit has been issued by Prince George's County, sediment and erosion control devices have been installed by the permittee, and site grading activities have been initiated by the permittee;
 - c. Prior to the expiration of the specified appeal period from a Planning Board decision concerning the subject property of the permit, unless the right of

appeal has been waived, or during the pendency of any appeal to, or review by, the District Council;

27-2.515. Interpretation (Text, Uses, and Zone Map)¹¹⁶

A. Purpose

The purpose of this Subsection is to establish a uniform mechanism for rendering formal written interpretations of any provision of this Ordinance.

B. Applicability

The Planning Director is responsible for making interpretations of all provisions of this Ordinance, including, but not limited to:

1. Interpretations of the text;
2. Interpretations of the zone boundaries;
3. Interpretations of whether an unlisted use is comparable to a listed use or not, and should be allowed in a zone or prohibited in that zone; and
4. Interpretations of compliance with a condition of approval.

C. Interpretation (Text, Uses, and Zone Map) Procedure

This Subsection identifies additions or modifications to the standard review procedures in Sec. 27-2.400, Standard Review Procedures, that apply to applications for an interpretation (text, uses, and zone map). Figure 27-2.515 identifies key steps in the interpretation (text, uses, and zone map) procedure.

¹¹⁶ As discussed in the Evaluation and Recommendations report (II-29), the current Zoning Ordinance does not have an established procedure for making an interpretation to the ordinance's text, use tables and uses, and the zone map boundaries. Additionally, no clear procedure is established for determining how to classify an unlisted use, or what analysis should be conducted to determine whether an unlisted use is allowed in a zone. The current practice (even though it is not set down in the current Zoning Ordinance) is that the Planning Department's Development Review Division interprets the use tables and whether an unlisted use is allowed in a zone. The current Zoning Ordinance is also unclear about who is responsible for interpreting questions about zone map boundaries. No formal records of these interpretations are kept, so the potential for a patchwork quilt of different "interpretations" of similar provisions can occur. To ensure an orderly and consistent administration of their zoning regulations, almost all modern codes establish a clear procedure for making interpretations to the code's text, use tables and uses, and the zone map boundaries. It is recommended in the Evaluation and Recommendations Report that a formal process be established in the rewritten Zoning Ordinance allowing the Planning Director to make such interpretations. An appeal of an interpretation is proposed to be decided by the BZA. This Section establishes those provisions. It should help ensure consistent application of the Zoning Ordinance over time, and serve as a resource for future amendments. (Also see Evaluation and Recommendations Report, p. VI-16).

Figure 27-2.515: Interpretation (Text, Uses, and Zone Map) Procedure



- 1. Pre-Application Conference**
Optional (See Sec. 27-2.401, Pre-Application Conference).
- 2. Pre-Application Neighborhood Meeting**
N/A.
- 3. Application Submittal**
Required (See Sec. 27-2.403, Application Submittal). In addition, an application for a formal written interpretation may be initiated by the District Council, the Planning Board, or any person having a contractual interest in land in the County.

4. Determination of Completeness

Required (See Sec. 27-2.404, Determination of Completeness).

5. Staff Review and Action

Required (See Sec. 27-2.406, Staff Review and Action).

- a. The Planning Director shall review the request, consult with the M-NCPPC Attorney and other M-NCPPC and County staff, and render a formal written interpretation in accordance with Sec. 27-2.515.D, Interpretation Decision Standards. The interpretation shall be in a form approved by the M-NCPPC Attorney and shall constitute the formal written interpretation.
- b. A formal written interpretation shall be binding on subsequent decisions by the Planning Director and M-NCPPC and County staff in applying the same provision(s) of this Ordinance.

6. Scheduling Public Hearing and Public Notice

N/A.

7. Review and Recommendation by Advisory Board or Official

N/A.

8. Review and Decision by Decision-Making Body or Official

N/A.

9. Conditions of Approval

N/A.

10. Notification to Applicant

Required (See Sec. 27-2.413, Notification to Applicant).

11. Appeal

The applicant may appeal the Planning Director's decision on an interpretation to the BZA in accordance with Sec. 27-2.519, Appeal to Board of Zoning Appeals (BZA).

12. Post-Decision Actions

a. Effect of Approval

A written interpretation is binding on subsequent decisions by the Planning Director or other M-NCPPC or County administrative officials in applying the same provision of this Ordinance or the Official Zoning Map in the same circumstance, unless the interpretation is modified in accordance with this Subsection, or the text of this Ordinance is amended.

b. Tracking Interpretations

The Planning Director shall maintain a copy of all written interpretations in one document, which shall be available in the offices of the Planning Director for public inspection, during normal business hours, and place the written interpretation on the M-NCPPC's website.

c. Amendment of Formal Written Interpretations

The Planning Director may amend or repeal a formal written interpretation on the Director's own initiative, or upon a request for interpretation submitted in accordance with this Subsection, based

upon new evidence or discovery of a mistake in the original interpretation, a change in State or Federal law, an amendment to this Ordinance, or any other provision of the County Code that relates to the original formal written interpretation.

D. Interpretation Decision Standards

1. Text Provisions

Interpretation of a provision's text, and its application shall be based on Sec. 27-8.100, General Rules for Interpretation, Sec. 27-1.600, Relationship with Other Laws, Covenants, or Deeds, and considerations including, but not limited to, the following:

- a. The plain meaning of the provision's wording, considering any terms specifically defined in Sec. 27-8.300, Use Classifications and Interpretation, and Sec. 27-8.400, Terms and Uses Defined, and the common and accepted usage of terms; and
- b. The purpose of the provision, as indicated by:
 - i. Any purpose statement in the section(s) where the text is located;
 - ii. The provision's context and consistency with surrounding and related provisions;
 - iii. Any legislative history related to the provision's adoption;
 - iv. The general purposes served by this Ordinance, as set forth in Sec. 27-1.300, General Purpose and Intent; and
 - v. The applicable comprehensive plans.

2. Unspecified Uses

Interpretation of whether an unspecified use is similar to a use identified in Division 27-4, Tables 27-4.202.C through 27-4.202.E, and Sec. 27-8.300, Use Classifications and Interpretation, or is prohibited in a zone, shall be based on Sec. 27-8.302, Interpretation of Unlisted Uses and Zone Boundaries, and consistency with the General Plan and the applicable area master plan or sector plan.

3. Zone Boundaries

Interpretation of zone boundaries shall be in accordance with Sec. 27-8.302.E, Rules of Interpretation of Zone Boundaries.

27-2.516. Variance¹¹⁷

A. Purpose

The purpose of this Subsection is to establish a uniform mechanism to allow certain variances from the dimensional and development standards of this Ordinance (such as height, yard setback, lot area, or similar numerical standards) when their strict application would result in unnecessary hardship.

¹¹⁷ As discussed in the Evaluation and Recommendations Report (p. VI-16 and II-42-43), this Subsection carries forward the variance provisions in the current Zoning Ordinance, with one change in procedural review. All variance applications are reviewed and decided by the BZA. An appeal of the BZA's decision may be made to the Circuit Court. The provision in the current Zoning Ordinance that requires a use and occupancy permit be denied before a variance application is submitted by the applicant, is not carried forward in order to streamline the process.

B. Applicability

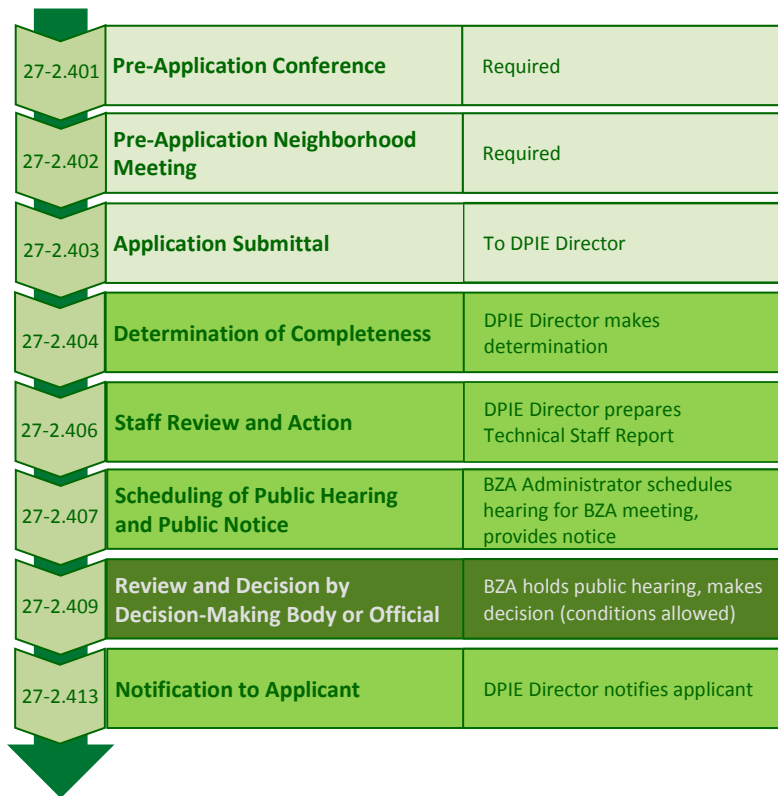
1. The procedures and standards in this Subsection apply to the review of and decision on applications for a variance from the following standards:
 - a. The dimensional standards in Division 27-3: Zones and Zone Regulations; and
 - b. The standards in Division 27-5: Development Standards.
2. Variances are not allowed for requests to:
 - a. Amend the text of this Ordinance or the Official Zoning Map;
 - b. Permit a use in a zone where it is prohibited;
 - c. Waive or modify any procedural requirements or application submission fees;
 - d. Waive or modify any condition(s) of approval specifically imposed as part of the approval for a development approval or permit;
 - e. Waive a specific finding required to be made in taking action on any development approval or permit in accordance with this Ordinance; or
 - f. Grant additional time for a use for which a use and occupancy permit has not been issued.
3. An incorporated municipality may enact an ordinance which sets forth regulations governing variances for lot area, setback, and other zone dimensional standards within the corporate boundaries of the municipality. The municipal ordinance shall comply with the requirements

for municipal ordinances in Sec. 27-2.517.B.3, Adjustments by Municipalities

C. Variance Procedure

This Subsection identifies additions or modifications to the standard review procedures in Sec. 27-2.400, Standard Review Procedures, that apply to applications for a variance. Figure 27-2.516 identifies key steps in the variance procedure.

Figure 27-2.516: Variance Procedure



1. Pre-Application Conference

Required (See Sec. 27-2.401, Pre-Application Conference).

2. Pre-Application Neighborhood Meeting

Required (See Sec. 27-2.402, Pre-Application Neighborhood Meeting).

3. Application Submittal

Required (See Sec. 27-2.403, Application Submittal). An application to appeal¹¹⁸ for a variance shall be submitted to the DPIE Director only by the owner of the land subject to the application, or the landowner’s authorized representative.

4. Determination of Completeness

Required (See Sec. 27-2.404, Determination of Completeness). The DPIE Director determines whether the application is complete.

5. Staff Review and Action

Required (See Sec. 27-2.406, Staff Review and Action). After staff review and evaluation of the application, the DPIE Director shall prepare a Technical Staff Report, which shall include a recommendation, on the application.

6. Scheduling Public Hearing and Public Notice

Required (See Sec. 27-2.407, Scheduling Public Hearing and Public Notice).

¹¹⁸ Maryland Land Use Code § 22-311(b)(3) authorizes the BZA to hear a variance on “appeal.”

7. Review and Recommendation by Advisory Board or Official

N/A.

8. Review and Decision by Decision-Making Body or Official

Required (See Sec. 27-2.409, Review and Decision by Decision-Making Body or Official).

- a. The BZA shall conduct a public hearing on the application in accordance with Sec. 27-2.411, Quasi-Judicial Public Hearing, and make a decision in accordance with Sec. 27-2.516.D, Variance Decision Standards. The decision shall be by resolution and shall include findings of fact and conclusions that support the decision. The decision shall be one of the following:
 - i. Approve the application as submitted;
 - ii. Approve the application subject to conditions of approval; or
 - iii. Deny the application.¹¹⁹
- b. The BZA's decision is final 30 days after filing the written decision.

9. Conditions of Approval

Allowed (See Sec. 27-2.412, Conditions of Approval). As a condition of approval, the BZA may establish a time frame within which the development for which the variance is requested shall begin and/or be completed. The variance

shall automatically expire and be void upon the lapse of the established time frame if the development for which the variance is granted is not begun and/or completed. Any established time frame shall not exceed four years.

10. Notification to Applicant

Required (See Sec. 27-2.413, Notification to Applicant).

11. Post-Decision Actions

a. Effect of Approval

Approval of a variance authorizes only the particular regulatory relief approved. It does not exempt the applicant from the responsibility to obtain all other development approvals and permits required by this Ordinance and any other applicable laws, and does not indicate that the development for which the variance is granted should receive other development approvals or permits, unless the relevant and applicable portions of this Ordinance or any other applicable laws are met.

b. Lapse of Approval

Unless set out differently in the conditions of approval for a variance, a variance allowing the construction of a building or structure shall not be valid for more than two years, unless a building permit for the construction of the building or structure is obtained within this period, and the construction is started and proceeds to completion in accordance with the terms of the decision and the building permit.

¹¹⁹ See Maryland Land Use Code § 22-311(e).

D. Variance Decision Standards¹²⁰

A variance from the strict application of any appropriate dimensional or development standard of this Ordinance shall be granted in order to relieve difficulty or hardship if the applicant demonstrates by competent substantial evidence:

1. Strict application of this Ordinance would result in exceptional practical difficulty for, or exceptional or undue hardship on, the owner of the land because of the exceptional shape of the land at the time of the enactment of this Ordinance or any amendment, thereto, or because of the exceptional situation or topographical conditions of the land; and
2. Authorization of the variance will not cause a substantial impairment of the intent, purpose, and integrity of the zone where the proposed variance is located.

¹²⁰ See Maryland Land Use Code § 22-311(b)(3). These are similar to the standards for variances applied today, with slight changes in wording (see Sec. 27-230(a): “A variance may only be granted when the District Council, Zoning Hearing Examiner, Board of Appeals, or the Planning Board as applicable, finds that: (1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions; (2) The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and (3) The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.”).

27-2.517. Adjustment (Minor and Major)

A. Purpose¹²¹

¹²¹ As discussed in the Evaluation and Recommendations Report (pp. II-43-44), best practices show that for a zoning ordinance to function well, especially in a built context, it is important the ordinance include flexibility provisions (beyond the variance) that allow professional-level staff or other decision-makers to make modest modifications to development standards, quickly and efficiently – as long as the modification does not undermine the community’s development goals. Prince George’s County has embraced this concept to some degree (but not fully) in its current regulations, by authorizing the Planning Director and Planning Board, subject to fairly general review standards, to review and decide “departures” from the following development standards:

- Parking design and required spaces (Sec. 27-587, -588, of the current Zoning Ordinance),
- Landscaping (Sec. 27-239.01 of the current Zoning Ordinance), and
- Design standards (Sec. 27-239.01 of the current Zoning Ordinance).

The Planning Director may grant departures by up to 10 percent; the Planning Board reviews and grants all other departures. The stumbling block, at least for the departures reviewed by the Planning Board is that the process itself is not necessarily quick and efficient. This is because the Planning Board’s decision can be appealed by any person of record to the District Council on departures related to design and parking, and the District Council can “call-up” and decide departure decisions made by the Planning Board even if no appeal is filed.

A second problem is that the review standards for departures reviewed by the Planning Board places few limitations on the degree of modifications that can be granted, meaning an applicant can potentially be allowed to make huge departures from certain standards as long as a majority of the Board (or the Council on appeal or call-up) agrees to it. Modern codes place specific and measureable limitations on the degree of departures that may be granted, and also include standards to ensure the departures, if approved, are consistent with the character of development in the zone where the development is proposed.

This Subsection addresses these issues by carrying forward the current two-tier review of departures (but changing the name to adjustments) by the Planning Director and Planning Board, but:

- Expanding the type and range of adjustments that can be requested;

This purpose of this Subsection is to provide a uniform mechanism to allow minor deviations, or adjustments, from certain dimensional or development standards of this Ordinance in specific circumstances, in order to better accomplish the purposes of this Ordinance.

B. Applicability

This Subsection establishes two types of adjustments: minor adjustments and major adjustments.¹²²

- Limiting the degree of adjustments for both the Planning Director and Planning Board; and
- Reducing to whom the adjustment decisions can be appealed.

¹²² It should also be noted that the rewrite of the Zoning Ordinance carries forward and expands to a certain degree some of the other provisions in the current Zoning Ordinance that authorize an administrative official to make a decision or modify or waive other specific standards in Division 27-5: Development Standards. These provisions are in addition to the adjustments. They authorize the Planning Director or the DPW&T Director, whichever is appropriate, to:

- Decide requests to waive the cross-access requirements between development (Sec. 27-5.108 E.2);
- Decide requests to reduce the minimum street connectivity index score (Sec. 27-5.108 F.3);
- Decide requests for a Security Exemption Plan for fences and walls (Sec. 27-5-511);
- Decide requests for a Security Plan for exterior lighting, which allows for some modifications to lighting requirements for security reasons (Sec. 27-5.610);
- Decide requests for deviations to the block length standards (Sec. 27-5.108 K.1);
- Decide requests to waive the bicycle cross-access requirements (Sec. 27-5.109 B.2) or any bicycle access and circulation requirements (Sec. 27-5.109 D.);
- Decide requests to modify the sidewalk requirements (Sec. 27-5.110 A.2.c.);
- Decide requests to waive or modify the pedestrian connectivity requirements (Sec. 27-5.110 B.2);
- Decide requests for alternative parking plans (Sec. 27-5.208);

1. Minor Adjustments

Minor adjustments are decided by the Planning Director. Minor adjustments may be requested and granted for the standards identified in Table 27-2.518.B.1: Minor Adjustments, up to the limits set forth in the table.

Table 27-2.518.B.1: Minor Adjustments		
Standard	Maximum Adjustment (percentage adjustment from standard)	
	Transit-Oriented/Activity Center Base Zones and Base Zones Inside the Capital Beltway [1]	All Other Zones
Base zone dimensional standards	15	15
Block design standards in Sec.27-5.108 K, Block Design	20	15
Vehicle Stacking Spaces in Table 27-5.108.O.1.a, Minimum Stacking Spaces for Drive-Through facilities and Related Uses	20	15
Off-street parking space standards in Table 27-5.206.A: Minimum Number of Off-street Parking Spaces	15	10
Location of Off-street parking in Sec.	10	15

- Decide requests to reduce parking requirements because of proximity to a high-frequency transit stops (Sec. 27-5.209 A.);
- Decide requests to reduce parking based on a Transportation Demand Management Plan (Sec. 27-5.209 B.);
- Decide a request to reduce parking based on providing special facilities for bicycle commuters (Sec. 27-5.209 C.); and
- Decide requests for other types of alternative parking arrangements (Sec. 27-5.209 D.).

We understand that certain municipalities in the County also have some authority over some of these elements, and will continue refining the adjustments responsibilities prior to the release of the Comprehensive Review Draft. Refer to Sec. 27-517.B.3 for additional discussion of municipal adjustments.

Table 27-2.518.B.1: Minor Adjustments

Standard	Maximum Adjustment (percentage adjustment from standard)	
	Transit-Oriented/Activity Center Base Zones and Base Zones Inside the Capital Beltway [1]	All Other Zones
27-5.804B, Location of Off-Street Parking. In the Multifamily, Townhouse, and Three family Form and Design Standards only		
Transparency/Fenestration Standards in Sec. 27-804.G, Transparency/Fenestration	10	15
Location of Off-street parking in Sec. 27-905.E, Off-Street Parking Location Standards in the Large Retail Form and Design Standards	15	10
The width of the buffer in Sec. 27-5.1204.A.2, Buffer Width	10	15

[1] Base zones inside the Interstate Capital Beltway are zones between Interstate 495 and the County's western boundary, inclusive of the corporate boundaries of the City of College Park, the City of Greenbelt, City of Glenarden, and Town of Forest Heights.

2. Major Adjustments

Major adjustments are decided by the Planning Board. Major adjustments may be requested for the standards identified in Table 27-2.518.B.2: Major Adjustments, up to the limits set forth in the table.

Table 27-2.518.B.2: Major Adjustments

Standard	Maximum Adjustment (percentage from standard)	
	Transit-Oriented/Activity Center Base Zones and Base Zones Inside the Interstate Capital Beltway [1]	All Other Base Zones
Base zone dimensional standards	35	25
Vehicle Stacking Spaces in Table 27-5.108.O.1.a, Minimum Stacking Spaces for Drive-Through facilities and Related Uses	35	25
Off-street parking space standards in Table 27-5.206.A: Minimum Number of Off-street Parking Spaces	35	25
Location of Off-street parking in Sec. 27-804B., Location of Off-Street Parking,. In the Multifamily, Townhouse, and Three family Form and Design Standards	15	25
Location of Off-street parking in Sec. 27-905.E., Off-Street Parking Location Standards in the Large Retail Form and Design Standards	25	20

[1] Base zones inside the Interstate Capital Beltway are zones between Interstate 495 and the County's western boundary, inclusive of the corporate boundaries of the City of College Park, the City of Greenbelt, City of Glenarden, and Town of Forest Heights.

3. Adjustments by Municipalities^{123 124}

- a. An incorporated municipality may enact an ordinance which sets forth procedural regulations governing any or all of the following:
 - i. Adjustments of design and landscaping standards in the municipality for:
 - (A) Parking and loading standards;
 - (B) Landscape standards and alternative compliance from landscaping requirements; and
 - (C) Sign design standards;
 - ii. Certification, revocation, and revision of nonconforming uses; and
 - iii. Minor changes to approved Special Exceptions.
- b. The thresholds, extent, and standards for adjustments shall not exceed those established in this Subsection.
- c. The municipality may not impose any standard or requirement stricter than or materially different

from those thresholds and standards in this Subsection.

- d. The procedural regulations adopted by the municipality shall be set forth in a municipal ordinance.
- e. The municipal ordinance shall provide that any person aggrieved by its decision, who was a party to the proceeding before it, may appeal to the Circuit Court which shall have the power to affirm the decision of the municipality or, if the decision is not in accordance with law, to remand the matter or to modify or reverse the decision.
- f. Prior to adopting the ordinance, the municipality shall hold a duly advertised public hearing. The District Council shall also hold a public hearing on the proposed municipal ordinance within 60 days of its receipt. Notice of the time, date, and place of the hearing shall be published at least one time in the County newspapers of record, at least 14 days prior to the hearing date. Following the District Council's hearing, the Council may:
 - i. By majority vote of its members, approve the action of the municipality; or
 - ii. By a vote of at least six of its members, approve with conditions or overrule the action of the municipality.
- g. Failure of the District Council to adopt the municipal ordinance is considered a denial of the municipal ordinance, and if it is denied, it shall be considered invalid.

¹²³ The Evaluation and Recommendations Report (Section II.F.7, pp II-44 and II-46 to -47), calls for maintaining the adjustment authority for municipalities. This is currently set up in the Municipal Corporations part of the Zoning Ordinance (Part 17, Division2). To carry forward that authority, this Section delegates the authority to grant adjustments to the municipalities through their own separate ordinances without setting up a separate zone. As well as certify, revoke, and revise nonconforming uses, and decide minor changes to approved Special Exceptions).

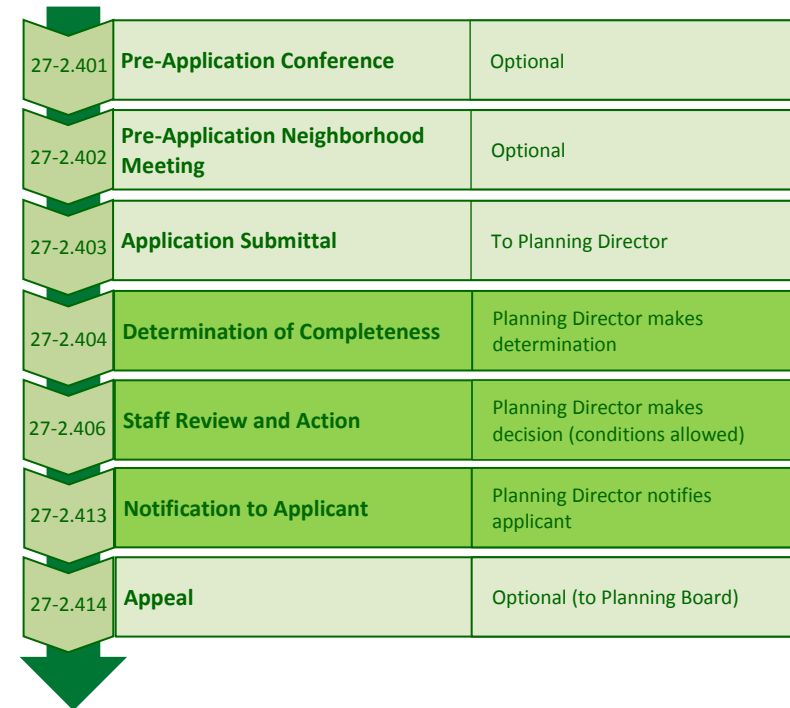
¹²⁴ This is patterned after Sec. 27-922 of the current Zoning Ordinance (see also Maryland Land Use Code § 25-301). It carries forward a municipality's ability to grant departures (renamed "adjustments" here).

- h. The Zoning Ordinance continues to apply within the municipality unless and until the District Council approves the proposed municipal ordinance.
- i. After the municipal ordinance is approved by the District Council, the municipality retains the right to elect not to exercise the power to approve adjustments if it provides 60 days' notice of its intent not to do so to the Clerk of the County Council and to the residents of the municipality. If the municipality chooses not to retain those powers, the provisions of this Subsection automatically apply within the municipality.

C. Minor Adjustment Procedure

This Subsection identifies additions or modifications to the standard review procedures in Sec. 27-2.400, Standard Review Procedures, that apply to applications for a minor adjustment. Figure 27-2.517.C identifies key steps in the minor adjustment procedure.

Figure 27-2.517.C: Minor Adjustment Procedure



- 1. Pre-Application Conference**
Optional (See Sec. 27-2.401, Pre-Application Conference).
- 2. Pre-Application Neighborhood Meeting**
Optional (See Sec. 27-2.402, Pre-Application Neighborhood Meeting).
- 3. Application Submittal**
Required (See Sec. 27-2.403, Application Submittal).

- a. An adjustment may be requested in conjunction with other application(s).
- b. If an adjustment application is submitted in conjunction with another application, it shall be reviewed and decided prior to the other application(s). (For example, if an adjustment application is submitted in conjunction with a major site plan application (because the adjustment is needed to achieve the plan for development in the major site plan), the adjustment application shall be reviewed and decided upon prior to review of the major site plan application, although approval of both could occur on the same day.)

4. Determination of Completeness

Required (See Sec. 27-2.404, Determination of Completeness).

5. Staff Review and Action

Required (See Sec. 27-2.406, Staff Review and Action). The Planning Director shall review the application and make a decision in accordance with Sec. 27-2.517.E, Adjustment (Minor and Major) Decision Standards. The decision shall set forth the Planning Director's findings of fact and conclusion to support the decision. The decision shall be to:

- a. Approve the minor adjustment;
- b. Approve the minor adjustment, subject to conditions; or
- c. Deny the minor adjustment.

6. Scheduling Public Hearing and Public Notice

N/A. Instead, the applicant shall ensure notice is posted on the site subject to the application at least ten days prior to the Planning Director's decision, in accordance with the requirements of Sec. 27-2.407.B.6, Posted Notice.

7. Review and Recommendation by Advisory Board or Official

N/A.

8. Review and Decision by Decision-Making Body or Official

N/A.

9. Conditions of Approval

Allowed (See Sec. 27-2.412, Conditions of Approval).

10. Notification to Applicant

Required (See Sec. 27-2.413, Notification to Applicant).

11. Appeal

Optional (See Sec. 27-2.414, Appeal).¹²⁵

- a. The applicant may appeal the Planning Director's decision on a minor adjustment to the Planning Board by filing a notice of appeal with the Planning Board within ten days of the Director's decision.
- b. The Planning Director shall transmit to the Planning Board after the appeal is filed, the minor adjustment

¹²⁵ This appeal procedure is similar to the minor site plan appeal procedure to the Planning Board.

application and all written materials and other evidence related to its review, and any additional information or explanatory material deemed appropriate. This shall constitute the record on appeal.

- c. The Planning Board shall schedule and provide notice of a public hearing on the appeal in accordance with Sec. 27-2.407, Scheduling Public Hearing and Public Notice, and conduct a public hearing in accordance with Sec. 27-2.411, Quasi-Judicial Public Hearing. After the close of the hearing, the Planning Board shall render a final decision. The Planning Board's decision shall be based on the standards in Sec. 27-2.517.C.11.d below.
- d. The Planning Board may modify or reverse a decision of the Planning Director on finding, based on clear and substantial evidence in the record, that:
 - i. The record demonstrates that an error in judgment occurred or facts or provisions in this Ordinance were misread in determining whether the particular standard was or was not met; or
 - ii. The decision is not based on standards contained in 27-2.517.E, Adjustment (Minor and Major) Decision Standards, or other applicable County ordinances or regulations; or
 - iii. The decision violates County, State or Federal law.
- e. The decision of the Planning Board shall be by resolution and shall include a statement of the

findings of fact and conclusions that support the decision. The resolution, or a copy of it, shall form part of the minutes or other records of the Planning Board.

- f. The Planning Board's decision on an appeal is final 30 days after filing the written decision.
- g. The Planning Board shall provide its decision in writing, stating the reasons for its action. Copies of the decision shall be sent to all persons of record, the municipality in which the subject property is located (if applicable), and the Planning Director.

12. Post-Decision Actions

a. Effect of Approval

A minor adjustment authorizes only the particular regulatory relief approved. It does not exempt the applicant from the responsibility to obtain all other development approvals and permits required by this Ordinance, and any other applicable laws, and does not indicate that the development for which the adjustment is granted should receive other development approvals or permits unless the relevant and applicable portions of this Ordinance or any other applicable laws are met.

b. Lapse of Approval

A minor adjustment allowing the construction of a building or structure shall not be valid for more the expiration period of the development approval or permit with which it was considered and approved.

c. Amendment

A minor adjustment may be amended only in accordance with the procedures and standards established for its original approval.

D. Major Adjustment Procedure

This Subsection identifies additions or modifications to the standard review procedures in Sec. 27-2.400, Standard Review Procedures, that apply to applications for a major adjustment. Figure 27-2.517.D identifies key steps in the major adjustment procedure.

Figure 27-2.517.D: Major Adjustment Procedure



1. Pre-Application Conference

Required (See Sec. 27-2.401, Pre-Application Conference).

2. Pre-Application Neighborhood Meeting

Required (See Sec. 27-2.402, Pre-Application Neighborhood Meeting).

3. Application Submittal

Required (See Sec. 27-2.403, Application Submittal).

4. Determination of Completeness

Required (See Sec. 27-2.404, Determination of Completeness).

5. Staff Review and Action

Required (See 27-2.406.B, Application Subject to Staff Recommendation). After staff review and evaluation of the application, the Planning Director shall prepare a Technical Staff Report, which shall include a recommendation, on the application.

6. Scheduling Public Hearing and Public Notice

Required (See Sec. 27-2.407, Scheduling Public Hearing and Public Notice).

7. Review and Recommendation by Advisory Board or Official

N/A.

8. Review and Decision by Decision-Making Body or Official

Required (See Sec. 27-2.409, Review and Decision by Decision-Making Body or Official). The Planning Board shall conduct a public hearing on the application in accordance with Sec. 27-2.411, Quasi-Judicial Public Hearing, and make a decision in accordance with Sec. 27-2.517.E, Adjustment (Minor and Major) Decision Standards. The Planning Board's decision shall be by resolution and shall set forth the Planning Board's findings

of fact and conclusions to support the decision. The decision shall be to:

- a. Approve the major adjustment;
- b. Approve the major adjustment, subject to conditions of approval; or
- c. Deny the major adjustment.

9. Conditions of Approval

Allowed (See Sec. 27-2.412, Conditions of Approval).

10. Notification to Applicant

Required (See Sec. 27-2.413, Notification to Applicant). A copy of the Planning Board's resolution shall be sent to the applicant, the municipality in which the subject property is located (if applicable), and all persons of record.

11. Appeal

Optional (See Sec. 27-2.414, Appeal). Appeal from the Planning Board's decision shall be to the Circuit Court in accordance with State law.

12. Post-Decision Actions

a. Effect of Approval

A major adjustment authorizes only the particular regulatory relief approved. It does not exempt the applicant from the responsibility to obtain all other development approvals and permits required by this Ordinance, and any other applicable laws, and does not indicate that the development for which the adjustment is granted should receive other

development approvals or permits unless the relevant and applicable portions of this Ordinance or any other applicable laws are met.

b. Lapse of Approval

A major adjustment allowing the construction of a building or structure shall not be valid for more the expiration period of the development approval or permit with which it was considered and approved.

c. Amendment

A major adjustment may be amended only in accordance with the procedures and standards established for its original approval.

E. Adjustment (Minor and Major) Decision Standards

The Planning Director or Planning Board, as appropriate, may approve an adjustment (minor or major) upon a finding that the applicant demonstrates the proposed adjustment complies with the standards in Table 27-2.518.E: Adjustment Decision Standards, based on the type of adjustment as described in Sec. 27-2.517.B above:

Table 27-2.518.E: Adjustment Decision Standards		
■ = standard applies		
Standard	Minor Adjustment-	Major Adjustment
The adjustment falls within the thresholds provided in subsection B for the applicable type of adjustment.	■	■
The adjustment is consistent with the character of development on surrounding land, and is compatible with surrounding land uses.	■	■
The adjustment:		

Table 27-2.518.E: Adjustment Decision Standards		
■ = standard applies		
Standard	Minor Adjustment-	Major Adjustment
Compensates for some unusual aspect of the site or the proposed development that is not shared by landowners in general, and	■	■
Supports an objective or goal from the purpose and intent statements of the zone where it is located, or	■	■
Saves healthy existing trees.	■	■
The adjustment will not pose a danger to the public health or safety.	■	■
Any adverse impacts are mitigated, to the maximum extent practicable.	■	■
The site is not subject to a series of multiple, incremental administrative adjustments that result in a reduction in development standards by the maximum allowed.	■	■

27-2.518. Validation of Permit Issued in Error¹²⁶

A. Purpose

The purpose of this Subsection is to establish a uniform mechanism for providing a way to resolve potential disputes relating to erroneously issued permits that would otherwise require an enforcement action. The further intent is to resolve these potential disputes in a way that balances land owner expectations and the requirements of this Ordinance so as to minimize the costs and expenses associated with enforcement actions to both the County and land owner.

¹²⁶ See Evaluation and Recommendations Report, page VI-18. This substantially carries forward the existing section on Validation of Permits Issued in Error, with changes to conform the format to the rewritten Zoning Ordinance.

B. Applicability¹²⁷

This Subsection applies to any of the following permits that were issued in error:

1. A building permit;
2. A use and occupancy permit (or failure to obtain a use and occupancy permit);
3. A sign permit; or
4. An apartment license.

C. Validation of Permit Issued in Error Procedure

This Subsection identifies additions or modifications to the standard review procedures in Sec. 27-2.400, Standard Review Procedures, that apply to applications for validation of a permit issued in error. Figure 27-2.518 identifies key steps in the validation of permit issued in error procedure.

Figure 27-2.518: Validation of Permit Issued in Error Procedure



1. Pre-Application Conference

Optional (See Sec. 27-2.401, Pre-Application Conference).

2. Pre-Application Neighborhood Meeting

Optional (See Sec. 27-2.402, Pre-Application Neighborhood Meeting).

¹²⁷ The permits listed are carried forward from Sec. 27-258 of the current Zoning Ordinance. Grading permits are not currently listed, but could potentially be included.

3. Application Submittal

Required (See Sec. 27-2.403, Application Submittal). An application for a validation of permit shall be submitted to the DPIE Director.

4. Determination of Completeness

Required (See Sec. 27-2.404, Determination of Completeness). The DPIE Director shall determine whether the application is complete.

5. Staff Review and Action

Required (See Sec. 27-2.406, Staff Review and Action). The DPIE Director shall prepare the Technical Staff Report. The DPIE Director shall forward the application, any accompanying material, and the Technical Staff Report to the ZHE, provide the applicant a copy of the Technical Staff Report, and make a copy of the Technical Staff Report available for examination by the public in accordance with Sec. 27-2.416, Examination and Copying of Application/Other Documents, within a reasonable period of time before the public hearing conducted by the ZHE on the application.

6. Scheduling Public Hearing and Public Notice

Required (See Sec. 27-2.407, Scheduling Public Hearing and Public Notice).

7. Review and Recommendation by Advisory Board or Official

Required (See Sec. 27-2.408, Review and Recommendation by Advisory Board or Official).

a. The ZHE shall conduct a public hearing on the application in accordance with Sec. 27-2.411, Quasi-Judicial Public Hearing. After the hearing is concluded, the ZHE shall make a decision on the application based on Sec. 27-2.518.D, Validation of Permit Issued in Error Decision Standards. The decision shall contain specific findings of basic facts, conclusions of law, and a recommended decision, and shall constitute the record on the matter.

b. The ZHE shall serve upon all persons of record a copy of the written decision.

8. Review and Decision by Decision-Making Body or Official

Required (See Sec. 27-2.409, Review and Decision by Decision-Making Body or Official).

a. The District Council shall conduct a public hearing (including an oral argument) on the application in accordance with Sec. 27-2.411, Quasi-Judicial Public Hearing, and render a final decision in accordance with Sec. 27-2.518.D, Validation of Permit Issued in Error Decision Standards, based on the record. Persons of record may not introduce evidence not already in the record.

b. The Council may, however, either upon written request by a person of record or upon its own motion, remand a case to the ZHE to reopen the record to receive and evaluate additional evidence. In addition, the Council may take judicial notice of any evidence contained in the record of any earlier phase of the approval process relating to all or a portion of

the same land, including the approval of a preliminary plat of subdivision.

9. Conditions of Approval

Allowed (See Sec. 27-2.412, Conditions of Approval).

10. Notification to Applicant

Required (See Sec. 27-2.413, Notification to Applicant).

11. Post-Decision Actions¹²⁸

An approved validation of a permit issued in error authorizes the applicant to undertake the uses, development or activities authorized in the permit, as modified by the final decision of the District Council.

D. Validation of Permit Issued in Error Decision Standards¹²⁹

A validation of permit issued in error shall only be approved if the applicant demonstrates by substantial competent evidence in the record that:

1. No fraud or misrepresentation occurred in obtaining the permit;
2. At the time of the permit's issuance, no appeal or controversy regarding its issuance was pending before any review body;
3. The applicant has acted in good faith on the permit approval, expending monies or incurring other obligations in reliance on the permit; and

¹²⁸ The provision is deleted that states that permits are considered nonconforming, which defeats the purpose of the permit and has created administrative difficulties.

¹²⁹ This is based on Sec. 27-258 of the current Zoning Ordinance.

4. The validation will not adversely affect the public interest or the health, safety or welfare of County landowners and residents.

27-2.519. Appeal to Board of Zoning Appeals (BZA)¹³⁰

A. Purpose

The purpose of this Subsection is to establish a uniform mechanism for appeal to the Board of Zoning Appeals (BZA) from an action or decision of the Planning Director or DPIE Director.¹³¹

B. Applicability

Appeals to the BZA may be taken by any person aggrieved by:

1. A denial of:¹³²
 - a. A sign permit (Sec. 27-2.509);
 - b. A temporary use permit (Sec. 27-2.510);
 - c. A use and occupancy permit (Sec. 27-2.511);
 - d. A grading permit (Sec. 27-2.513); or
 - e. A building permit (Sec. 27-2.514);

¹³⁰ As discussed in the Evaluation and Recommendations Report (p. VI-18), this Subsection generally carries forward the current procedure for appeals to the BZA in Division 5: Appeals and Variances, Subdivisions 1 and 2, of the current Zoning Ordinance, with a few additions (an appeal procedure for Planning Director interpretations), as well as conforming the Subsection to this new Division.

¹³¹ See Maryland Land Use Code § 22-311.

¹³² See Maryland Land Use Code § 22-311(a).

2. An interpretation of the text of this Ordinance or the Official Zoning Map and zone boundaries (Sec. 27-2.515);
3. A decision on a zoning certification (Sec. 27-2.512); or
4. A zoning enforcement action (Division 27-7).¹³³

C. Appeal to BZA Procedure

This Subsection identifies additions or modifications to the standard review procedures in Sec. 27-2.400, Standard Review Procedures, that apply to appeals to the BZA. Figure 27-2.519 identifies key steps in the procedure for appeal to the BZA.

Figure 27-2.519: Appeal to BZA Procedure



1. Pre-Application Conference

N/A.

2. Pre-Application Neighborhood Meeting

N/A.

3. Application Submittal

N/A. Instead, applications for appeals shall be submitted to the Planning Director or the DPIE Director, whichever made the decision or took action from which the appeal is made.

- a. Appeals may be made by any person (known in this Division as the "appellant") alleging they are

¹³³ See Maryland Land Use Code § 22-311(b). The "Commission" includes the Planning Board. See Maryland Land Use Code § 20-201 (The commissioners from each county are designated as the Montgomery County Planning Board or the Prince George's County Planning Board, respectively).

aggrieved by the denial of a permit, interpretation, zoning certification, or enforcement action as identified in Sec.27-2.519.B above.

- b. Appeals on a permit denial, interpretation, zoning certification, or enforcement action shall specify the grounds for the appeal and shall be submitted to the Planning Director or DPIE Director, as appropriate, within 30 days after receipt of notice of the decision being appealed.

4. Determination of Completeness

Required (See Sec. 27-2.404, Determination of Completeness). The determination shall be made by the Planning Director or the DPIE Director, whichever the application for appeal was submitted to.

5. Staff Review and Action

N/A. Instead, on receiving the application, the Planning Director or DPIE Director, as appropriate, shall transmit the appeal to the BZA, along with a copy of the application and the record upon which the action or decision appealed from is made.

6. Scheduling Public Hearing and Public Notice

Required (See Sec. 27-2.407, Scheduling Public Hearing and Public Notice). In the case of a request to grant additional time to cease a violation, notice shall also be sent to the Zoning Enforcement Officer who shall notify all persons who have made written or oral complaints concerning the violation.

7. Review and Recommendation by Advisory Board or Official

N/A.

8. Review and Decision by Decision-Making Body or Official

N/A. Instead:

- a. Before making its decision on any appeal, or a request to grant additional time to cease a violation, the BZA shall hold a public hearing in accordance with Sec. 27-2.411, Quasi-Judicial Public Hearing. After the conclusion of the hearing, the BZA shall make a decision on the appeal in accordance with Sec. 27-2.519.D, Appeal to BZA Decision Standards. The decision shall be one of the following:¹³⁴
 - i. Affirmation of the action or decision, in whole or in part;
 - ii. Modification of the action or decision, in whole or in part; or
 - iii. Reversal of the action or decision, in whole or in part.
- b. The decision of the BZA shall be by resolution and shall include a statement of the findings of fact and conclusions that support the decision. The resolution, or a copy of it, shall form part of the minutes or other records of the BZA.
- c. The BZA's decision on an appeal is final 30 days after filing the written decision.

¹³⁴ See Maryland Land Use Code § 22-311(e).

9. Conditions of Approval

N/A.

10. Notification to Applicant

Required (See Sec. 27-2.413, Notification to Applicant).

11. Post-Decision Actions

a. Amendments

N/A.

D. Appeal to BZA Decision Standards¹³⁵

The BZA may modify or reverse a decision, interpretation, or action appealed, on finding substantial competent evidence in the record that:

1. An error was made in determining whether a standard was met. The record shall indicate that an error in judgment occurred or facts or provisions in this Ordinance were misread in determining whether the particular standard was or was not met;
2. The decision is based on a standard not contained in this Ordinance or other applicable County ordinances or regulations; or
3. The decision, interpretation, or action violates County, State, or Federal law.

27-2.520. Authorization of Permit Within Proposed Right-of-Way (ROW)¹³⁶

A. Purpose

This Subsection establishes a uniform mechanism to review certain types of development within proposed rights-of-way in order to balance the public interest in providing adequate infrastructure to promote the general welfare and accommodate new development, while also respecting private property rights.¹³⁷

B. Applicability

1. General

- a. A landowner may submit an application for authorization for a permit in accordance with this Subsection in any of the following instances:
 - i. The land that is the subject of the application is also the subject of a pending application for a Special Exception, site plan (minor or major), or adjustment (minor or major); or
 - ii. An application for issuance of a permit identified in Sec. 27-2.520.B.1.a.i above is recommended for denial, and the recommendation for denial is not based on any failure to comply with any requirements of this

¹³⁶ This Section carries forward Sec. 27-259 of the current Zoning Ordinance, conforming it to the structure of the rewritten Zoning Ordinance. There are no procedural or substantive changes to the current provisions.

¹³⁷ This is a new subsection. Section 27-259 establishes a process, but says nothing about why it exists. This is the usual rationale for a procedure that allows for a permit in a proposed right-of-way (ROW).

¹³⁵ See Maryland Land Use Code Ann. § 22-311(b)(3).

Ordinance, Subtitle 24: Subdivision Regulations, or any conditions of approval placed on the land.

- b. Unless exempted in accordance with Sec. 27-2.520.B.2 below, authorization by the District Council in accordance with this Subsection is required prior to the issuance of a building permit or sign permit for any structure on land located within the right-of-way or acquisition lines of a proposed street, rapid transit route, or rapid transit facility, or proposed relocation or widening of an existing street, rapid transit route, or rapid transit facility, as shown on the General Plan, the functional master plan of transportation, any area master plan or sector plan, and any area master plan or sector plan adopted by the Planning Board but not yet approved by the District Council. (This shall not include an area master plan or sector plan rejected by the Council.)

2. Exemptions

The following do not require authorization by the District Council in accordance with this Section:

- a. Building permits for any structures on:
 - i. Land which was in reservation but is now not in reservation, and has not been acquired and is not being acquired; or
 - ii. Land which was subdivided after the adoption of the General Plan, a functional master plan of transportation, or an area master plan or sector plan, but was not reserved or required to be

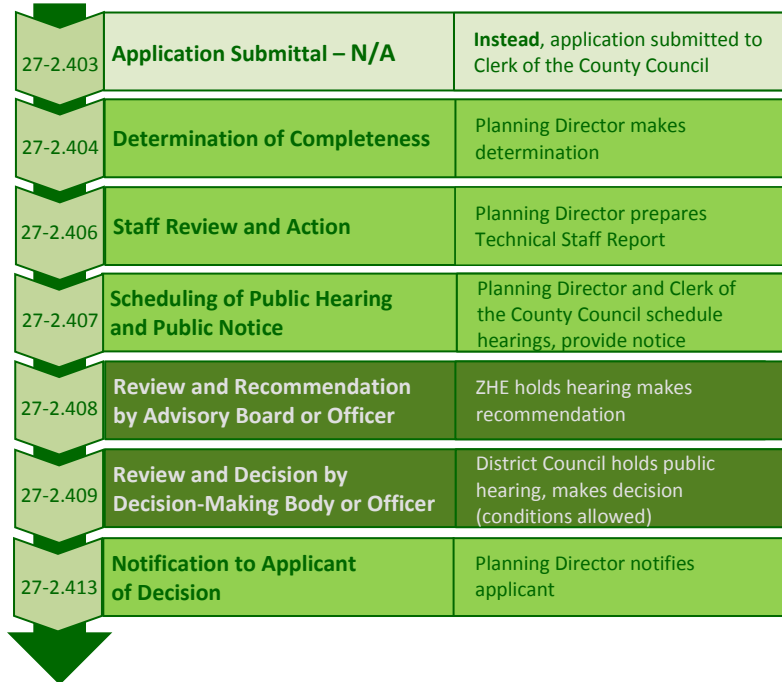
dedicated for a street or rapid transit route or facility shown on the adopted plan;

- b. A permit for the replacement of a legally erected sign if the replacement sign is otherwise in conformance with this Ordinance, is not an intensification of signage for the subject land, and if the proposed transportation facility (street, rapid transit route, or rapid transit facility) is not fully funded for construction in the adopted County Capital Improvement Program or the current State Consolidated Transportation Program; and
- c. A sign temporarily located within a proposed street right-of-way in accordance with Sec. 27-5.1305.C, Signs Within Proposed Right-of-Way.

C. Authorization of Permit Within Proposed ROW Procedure

This Subsection identifies additions or modifications to the standard review procedures in Sec. 27-2.400, Standard Review Procedures, that apply to applications for authorization of Permit Within Proposed ROW. Figure 27-2.520 identifies key steps in the procedure for applications for authorization of Permit Within Proposed ROW.

Figure 27-2.520: Authorization of Permit Within Proposed ROW Procedure



1. Pre-Application Conference

N/A.

2. Pre-Application Neighborhood Meeting

N/A.

3. Application Submittal

N/A. Instead, the application shall be filed with the Clerk of the County Council, who shall forward it to the Planning Director. If an application is made following a recommendation of denial of a Special Exception, Site

Plan (minor or major), or Adjustment (minor or major), the application shall be filed within 30 days after notice of the recommendation of denial is given.¹³⁸

4. Determination of Completeness

Required (See Sec. 27-2.404, Determination of Completeness).

5. Staff Review and Action

Required (See Sec. 27-2.406, Staff Review and Action), except, after preparation of the Technical Staff Report, the request and any accompanying material shall be forwarded to the ZHE, the Building Inspector, the Chairman of the Planning Board, and the head of the agency having jurisdiction over the construction of any improvements within the right-of-way subject to the application.¹³⁹

6. Scheduling Public Hearing and Public Notice

Required (See Sec. 27-2.407, Scheduling Public Hearing and Public Notice).

¹³⁸ Deletes the specific application requirements, which will be moved to the Procedures Manual. The contents currently include names and the business and residential addresses of all individuals having at least a five percent financial interest in the subject land; corporate officers owners of at least five percent of the shares of any class of corporate security (including stocks and serial maturity bonds), and additional information.

¹³⁹ Deletes the requirement that that Clerk of the Council may require the property owner to submit sufficient copies of the request and any accompanying materials to the Clerk, in order to make transmittals to agencies as required by this Section. This can be addressed in the Procedures Manual, and modern best practices is to provide the applications digitally – there is no reason to require paper copies.

7. Review and Recommendation of Advisory Board or Official

Required (See Sec. 27-2.408, Review and Recommendation by Advisory Board or Official).

- a. The ZHE shall conduct a public hearing on the application in accordance with Sec. 27-2.411, Quasi-Judicial Public Hearing. After the hearing is concluded, the ZHE shall make a recommendation on the application based on Sec. 27-2.520.D, Authorization of Permit Within Proposed ROW Decision Standards. The decision shall contain specific findings of basic facts, conclusions of law, and a recommended decision, which shall constitute the record on the matter.
- b. The ZHE shall serve upon all persons of record a copy of the written decision.

8. Review and Decision by Decision-making Body or Official

Required (See Sec. 27-2.409, Review and Decision by Decision-Making Body or Official).

- a. The District Council shall conduct a public hearing (including an oral argument) on the application in accordance with Sec. 27-2.411, Quasi-Judicial Public Hearing, and its Rules of Procedure, and render a final decision in accordance with Sec. 27-2.520.D, Authorization of Permit Within Proposed ROW Decision Standards, based on the record.
- b. The Council may, however, either upon written request by a person of record or upon its own

motion, remand a case to the ZHE to reopen the record to receive and evaluate additional evidence.

9. Conditions of Approval

Allowed (See Sec. 27-2.412, Conditions of Approval). As part of the conditions of approval, the Council may specify the exact location, ground area, height, extent, and character of the structure to be allowed.

10. Notification to Applicant

Required (See Sec. 27-2.413, Notification to Applicant).

11. Post Decision Actions

a. Effect

An approved authorization for Permit Within Proposed ROW only authorizes the applicant to undertake the specific development authorized in the permit.

b. Lapse of Approval

- i. An approved authorization for Permit Within Proposed ROW that was filed in connection with a pending Special Exception, Site Plan (minor or major), or Adjustment (minor or major), shall be automatically terminated if the Special Exception, Site Plan (minor or major), or Adjustment (minor or major) is denied.
- ii. All permits for construction of the structure shall be obtained and construction must be proceeding in accordance with the permit within two years of its approval, or the authorization for the permit shall automatically

expire. The applicant may request and the Planning Director may grant, a one year extension for good cause.

D. Authorization of Permit Within Proposed ROW Decision Standards

The District Council shall authorize a Permit Within Proposed ROW in accordance with this Section only if it finds there is competent substantial evidence that:

1. The entire property cannot yield a reasonable return to the landowner unless the permit is granted;
2. Reasonable justice and equity are served by issuing the permit;
3. The interest of the County is balanced with the interests of the landowner; and
4. The integrity of the General Plan, functional master plan of transportation, and any applicable area master plan or sector plan is preserved.

E. Amendment

An authorization of a Permit Within Proposed ROW may be amended only in accordance with the procedures and standards established for its original approval.

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Division 6: Nonconformities

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DIVISION 27-6 NONCONFORMITIES

Sec. 27-6.100 General Applicability¹⁴⁰

27-6.101. Purpose and Scope¹⁴¹

A. Nonconformities

Nonconformities are uses or other development (including structures, lots, signs, and other site features) that were legally established before this Ordinance, or an amendment thereto, was adopted, that are rendered non-compliant with this Ordinance. This Division allows nonconformities to continue, subject to the conditions established in this Division.

B. General Rules for Nonconformities

This Division establishes general rules for nonconformities. Specific sections in other parts of this Ordinance (such as the zone regulations and development standards) may include rules for specific nonconformities. The regulations in those Sections supersede the general rules in this Division to the extent there is an inconsistency.

¹⁴⁰ As discussed in the Evaluation and Recommendations Report (p. VI-47) this Section builds on Sec. 27-241, Continuation, of the current Zoning Ordinance, but reorganizes the section and establishes a number of new rules. The Planning Director is authorized to make decisions and interpretations on the text for the Division. Certification of a nonconformity is no longer required; instead, nonconformity status is determined during the normal review of development applications or permits. This is a best practice use by most all communities in the country.

¹⁴¹ This Subsection establishes that the division addresses legally established uses, structures, lots, signs, and other site features that do not comply with the requirements of the rewritten Zoning Ordinance

27-6.102. Authority to Continue¹⁴²

A. Generally

Any nonconforming building, structure, use, lot, sign, or site features may be continued, repaired, or maintained. It may not be altered, enlarged or extended except in accordance with this Division.

B. Abandonment

Except for nonconforming structures occupied by conforming uses,¹⁴³ continuous, day-to-day operation of a nonconforming use or structure¹⁴⁴ is required to maintain its nonconforming status. Discontinuance of day-to-day operation for a period of 180 or more consecutive calendar days constitutes abandonment of the use.

C. Reestablishment of Abandoned Nonconformity

A nonconforming use shall not be re-established unless either:

1. The case involves reconstruction, restoration, or reestablishment in accordance with Sec. 27-6.102.D below; or
2. The Planning Director determines (in accordance with Sec. 27-6.103 below) that the conditions of non-operation

¹⁴² All lawfully established nonconformities are allowed to continue in accordance with the standards of this Section. This provision builds on Sec. 27-241, Continuation, of the current Zoning Ordinance. It eliminates the requirement for nonconforming uses that a use and occupancy permit be issued identifying the use as nonconforming. Instead, nonconformity status would be determined during the normal review of development applications or permits.

¹⁴³ This provision deletes the exclusion for mining operations in the CBCA-O Zone and mobile home dwellings/trailer camps found in Secs. 27-241 (D) (2) and (3) of the current Zoning Ordinance.

¹⁴⁴ This adds structures to abandonment (currently, it applies only to uses). It would not make sense to "abandon" a nonconforming lot.

were beyond the control of the person who was in control of the land during the period of non-operation. The Planning Director’s determination shall be based on satisfactory evidence presented by the person making the request.

D. Reconstruction, Reestablishment, and Restoration

A nonconforming use or structure may be restored, reconstructed or re-established in accordance with Table 27-6.102: Reconstruction, Re-establishment, or Restoration of Nonconforming Use or Structure.

Table 27-6.102: Reconstruction, Re-establishment, or Restoration of Nonconforming Use or Structure			
Nature of Work	Destruction Intentional or Unintentional?	Nature of destruction	Conditions and Requirements
No enlargement, extension or relocation	Unintentional	The use / building /structure was destroyed by fire or other calamity, has temporarily ceased operation solely to correct Code violations, or has temporarily ceased operation due to the seasonal nature of the use	A building permit for restoration or reconstruction must be issued within one calendar year from the destruction date, and construction pursuant to the permit must begin within six calendar months after the date of issuance or lawful extension of the permit, and proceed to completion in a timely manner
		Same as above, but the building / structure / use has been destroyed for more than one calendar year	Special Exception must be approved for restoration or reconstruction (see Section 27-2.303)
		A nonconforming use temporarily ceases	The use must be reestablished within

Table 27-6.102: Reconstruction, Re-establishment, or Restoration of Nonconforming Use or Structure			
Nature of Work	Destruction Intentional or Unintentional?	Nature of destruction	Conditions and Requirements
		operation, either solely to correct Code violations or because the nature of the nonconforming use is seasonal	one calendar year from the date on which operation last ceased.
	Intentional	Demolition of a nonconforming structure or nonconforming use on the same lot	Special Exception must be approved for restoration of reconstruction (see Section 27-2.303)
Enlargement, extension, or relocation	Unintentional	Destroyed by fire or other calamity	Except where a nonconforming use is enlarged, or extended in accordance with Sec. 27-6.202, Alteration, Enlargement, or Expansion, a Special Exception must be approved (see Section 27-2.303)
	Intentional	Demolition of a nonconforming structure or nonconforming use on the same lot	Except where a nonconforming use is enlarged, or extended in accordance with Sec. 27-6.202, Alteration, Enlargement, or except where a nonconforming use is enlarged, or extended in accordance with Sec. 27-6.202, Alteration, Enlargement, or Expansion, a Special Exception must be

Table 27-6.102: Reconstruction, Re-establishment, or Restoration of Nonconforming Use or Structure			
Nature of Work	Destruction Intentional or Unintentional?	Nature of destruction	Conditions and Requirements
			approved (see Section 27-2.303). Special Exception not required to replace a mobile home if the new mobile home is no more than 1,050 square feet in gross floor area

27-6.103. Determination of Nonconformity Status¹⁴⁵

A. Applicability

If a person subject to an enforcement action claims that a provision of this Ordinance does not apply due to a nonconformity, the Planning Director shall determine whether a nonconformity exists.

B. Determination

In determining whether a nonconformity exists, the Planning Director shall consult with the M-NCPPC Attorney. The Planning Director shall submit its determination to the applicant or party subject to enforcement in writing. This

¹⁴⁵ This new Section includes a standard provision stating that the person claiming the nonconformity exists, not the County, has the burden of proving the existence of a lawful nonconformity. As noted above, the Planning Director is authorized to determine nonconformity status. The Planning Director's decision may be appealed to the BZA.

determination is appealable to the BZA in accordance with Sec. 27-2.519, Appeal to Board of Zoning Appeals (BZA).

C. Standards

1. The owner of the land subject to the nonconformity has the burden of proving the existence of a nonconformity. The landowner shall provide all materials or documentation establishing a nonconformity including:
 - a. Any lawfully approved development approvals or permits, or other actions taken under this Ordinance authorizing the nonconformity;
 - b. Documentation as to when the alleged nonconformity was established or constructed;
 - c. Documentation of any expenditures or substantial changes in position taken to establish the nonconformity, where required by State law; and
 - d. Any other materials or documentation needed to establish a nonconformity under State law.
2. The Planning Director may determine that a nonconformity exists if a finding is made that the alleged nonconformity:
 - a. Was lawfully established before a provision of this Ordinance (or amendment) rendered it a nonconformity;
 - b. Has been continuously maintained in a lawful manner, where required by State law; and
 - c. Satisfies any other conditions required to establish a nonconformity under State law.

27-6.104. Minor Repairs and Maintenance¹⁴⁶

No provision of this Division shall be construed to prohibit the routine repair and maintenance of a nonconforming building, structure, use, lot, sign, or site feature, including any modifications to buildings or structures necessary for compliance with stormwater management regulations or the Americans with Disabilities Act (ADA), or an action to bring to a safe condition any structure declared to be unsafe by any official charged with protecting the public safety, health, or welfare.

27-6.105. Change of Tenancy or Ownership¹⁴⁷

A change of tenancy or ownership does not affect the status of a nonconformity. Nonconformities continue as provided in this Division upon a change in tenancy or ownership.

¹⁴⁶ This Subsection states that routine maintenance of nonconforming buildings, structures, uses, lots, signs, and site features will be allowed to keep them in the same condition they were at the time the nonconformity was established. There is also a provision that allows modifications to buildings or structures necessary to comply with the stormwater management regulations or the Americans with Disabilities Act (ADA).

¹⁴⁷ This Subsection states that change of tenancy or ownership does not, by itself, affect nonconformity status.

Sec. 27-6.200 Nonconforming Uses¹⁴⁸

27-6.201. Continuation of a Nonconforming Use

A use not conforming to the requirements of Division 4: Use Regulations, of the zone in which it is located, may continue in accordance with this Section.

27-6.202. Generally

Except as provided below, a nonconforming use may not change to, or change to include, another use unless the new use is permitted, or permitted by approval of a Special Exception (See Sec. 27-2.507, Special Exception), in the zone in which the nonconforming use is located.¹⁴⁹ If the proposed new use requires a special exception, the applicant shall obtain special exception approval before establishing the new use.¹⁵⁰

27-6.203. Alteration, Enlargement or Expansion

A. Generally

A nonconforming use may be altered, enlarged, or extended, if those activities conform to the dimensional standards of the zone in which the use is located.¹⁵¹

¹⁴⁸ This Section includes provisions dealing with existing uses that no longer conform with the zone provisions where they are located. The section builds on the County's current regulations with respect to nonconforming uses, but provides for modifications that support redevelopment that is consistent with its context and the County's development goals.

¹⁴⁹ This provision is found in Sec. 27-243.03 of the current Zoning Ordinance. The other provisions are new.

¹⁵⁰ Added for clarification.

¹⁵¹ This provision carries forward Sec. 27-242(a) of the current Zoning Ordinance, but eliminates the special exception requirement in order to encourage redevelopment.

B. Expansion within Building

A nonconforming use may extend throughout a building in which the use lawfully exists,¹⁵² so long as the building is not nonconforming. If the building is nonconforming, a special exception (See Sec. 27-2.507, Special Exception) is required in order to expand the use within the building.¹⁵³

C. Expansion within Lots¹⁵⁴

A nonconforming use may extend to the lot lines of the lot on which it is located, if:

1. The lot is as it existed as a single lot under single ownership at the time the use became nonconforming;
2. Outside of the Capital Beltway, the requirements of Division 27-5: Development Standards, are met with regard to the extended area; and¹⁵⁵
3. Inside the Capital Beltway (between Capital Interstate 495 and the County’s western boundary, inclusive of the corporate boundaries of the City of College Park, City of Greenbelt, City of Glenarden, and Town of Forest Heights), the requirements of Division 27-5: Development Standards, set down in Table 26-6.202: Standards for On-Lot Expansion of Nonconforming Use, are met.

Table 26-6.202: Standards for On-Lot Expansion of Nonconforming Use		
Development Standard	Transit-Oriented/ Activity Center Zones	All other Zones
Roadway Access, Mobility, and Circulation (Sec. 27-5.100)	100% compliance	100% compliance
Off-Street Parking and Loading (Sec. 27-5.200)	25% of required spaces for expanded area needs to be provided	50% of required spaces for expanded area needs to be provided
Open Space Set-Asides (Sec. 27-5.300)	25% of required open space for expanded area needs to be provided	50% of required open space for expanded area needs to be provided
Landscaping (Sec. 27-5.400)	50% of required landscaping for entire site needs to be provided	50% of required open space for entire site needs to be provided
Fences and Walls (Sec. 27-5.500)	Not applicable	100% compliance for expanded area
Exterior Lighting (Sec. 27-5.600)	100% compliance	100% compliance
Multifamily, Townhouse, and Three-Family Form and Design Standards (Sec. 27-5.800)	100% compliance for expanded area	100% compliance for expanded area
Nonresidential and Mixed Use Form and Design (Sec. 27-5.900)	100% compliance for expanded area	100% compliance for expanded area
Industrial Form and Design Standards (Sec. 27-5.1000)	100% compliance for expanded area	100% compliance for expanded area
Neighborhood Compatibility Standards (Sec. 27-5.1100)	100% compliance for expanded area	100% compliance for expanded area
Agricultural Compatibility Standards (Sec. 27-5.1200)	Not applicable	Not applicable
Signage (Sec. 27-5.1300)	100% compliance for expanded area	100% compliance for expanded area
Sustainable/Green Building Standards (Secs. 27-5.1400)	100% compliance for expanded area	100% compliance for expanded area

¹⁵² This carries forward Sec. 27-384(a)(2) of the current Zoning Ordinance, but separates buildings from lots (see next Subsection).

¹⁵³ Added for clarity.

¹⁵⁴ This carries forward Sec. 27-384(a)(2) of the current Zoning Ordinance, but separates buildings from lots (see next Subsection).

¹⁵⁵ This Section expands the required standards from parking to all development standards, and limits this Section to areas outside of the Capital Beltway.

27-6.204. Change of Nonconforming Use to Another Nonconforming Use¹⁵⁶

A. Applicability

Inside the Capital Beltway (between Interstate 495 and the County’s western boundary, inclusive of the corporate boundaries of the City of College Park, the City of Greenbelt, City of Glenarden, and Town of Forest Heights), the ZHE may approve the substitution of a nonconforming use with another nonconforming use as a Special Exception (See Sec. 27-2.507, Special Exception), subject to the standards established in Sec. 27-6.204.B below.

B. Standards

In addition to the standards for approval of a Special Exception, the ZHE shall find that:

1. The nonconforming use that is proposed to be changed was lawfully established before a provision of this Ordinance (or amendment) rendered it a nonconformity;
2. The proposed substituted nonconforming use complies with Division 27-5: Development Standards, except as modified in Table 27-6.203: Applicability of Standards to Substitution of Nonconforming Use.

¹⁵⁶ This is a new Section that allows flexibility to change uses inside the Capital Beltway inclusive of the corporate boundaries of the City of College Park, City of Greenbelt, City of Glenarden, and Town of Forest Heights, in order to add flexibility and to encourage redevelopment.

Table 26-6.203: Applicability of Standards to Substitution of Nonconforming Use

% = Percentage of space requirements or other measurable requirements in the standard that apply to substituted nonconforming use (all other standards apply). Requirements met on the site prior to substitution cannot be reduced. N/A = Not Applicable

Development Standard	Transit-Oriented/ Activity Center Zones	All other Zones
Roadway Access, Mobility, and Circulation (Sec. 27-5.100)	100% compliance	100% compliance
Off-Street Parking and Loading (Sec. 27-5.200)	100% compliance	50% compliance
Open Space Set-Asides (Sec. 27-5.300)	50% compliance	100% compliance
Landscaping (Sec. 27-5.400)	100% compliance	75% compliance
Fences and Walls (Sec. 27-5.500)	100% compliance	100% compliance
Exterior Lighting (Sec. 27-5.600)	100% compliance	100% compliance
Environmental Protection (Sec. 27-5.700)	100% compliance	100% compliance
Multifamily, Townhouse, and Three-Family Form and Design Standards (Sec. 27-5.800)	100% compliance	100% compliance
Nonresidential and Mixed Use Form and Design (Sec. 27-5.900)	100% compliance	100% compliance
Industrial Form and Design Standards (Sec. 27-5.1000)	100% compliance	100% compliance
Neighborhood Compatibility Standards (Sec. 27-5.1100)	100% compliance	100% compliance
Agricultural Compatibility Standards (Sec. 27-5.1200)	N/A	N/A
Signage (Sec. 27-5.1300)	100% compliance	100% compliance
Sustainable/Green Building Standards (Secs. 27-5.1400)	100% compliance	100% compliance

3. The applicant demonstrates that the proposed change of a nonconforming use is no more objectionable in external effects than the existing nonconforming use with respect to:

- a. Traffic generation and congestion, including truck, passenger car, and pedestrian traffic;
 - b. Noise, smoke, dust, gases, heat, odor, glare or vibration;
 - c. Storage and waste disposal; and
 - d. Appearance.
4. The applicant provides guarantees to ensure that no hazardous or obnoxious effluent will be released into the air, water, or onto the ground, and that all wastes and by-products will be disposed of in a safe and healthful manner.
 5. In a Residential base zone, no nonconforming use may convert to a use prohibited in a Transit- Oriented/Activity Center base zone or Nonresidential base zone, or any of the following uses (see Sec. 27-4.200 Principal Uses):
 - a. Vehicle sales and service uses;
 - b. A methadone treatment center;
 - c. An Industrial Service use other than research and development, or unlisted uses in this category that meets the standards listed in Secs. 27-6.204.B.1 through 27-6.204.B.4 above;
 - d. Manufacturing uses;
 - e. Warehouse and Freight Movement uses;
 - f. Waste-Related uses (other than recycling collection centers); or
 - g. Wholesale uses.

27-6.205. Intensification of Nonconforming Use¹⁵⁷

A. Applicability

A lawful nonconforming use may intensify the activities within the established boundaries of the nonconforming use, as long as the proposed intensification of the nonconforming use/activity is within the established historical boundaries of building where the nonconforming use is located, and is not expanding beyond those historical, documented building boundaries. Evidence of these established boundaries may include, but is not limited to, aerial photographs, building permits, or similar written documentation.

B. Prohibited Intensification

The nonconforming use shall not be intensified if the Planning Director determines that:

1. It does not reflect the nature and purpose of the original, lawful non-conforming use;
2. It constitutes a use different in character, nature, and kind than the original nonconforming use, as opposed to merely a different manner of using the original, lawful non-conforming use; or
3. It has a substantially different effect upon the surrounding neighborhood than the original, lawful nonconforming use.

¹⁵⁷ These provisions are added to expand the scope of the nonconforming use provisions consistent with national best practices and the County's planning goals and objectives.

Sec. 27-6.300 Nonconforming Structures¹⁵⁸

27-6.301. Continuation of Nonconforming Structures

An existing building or structure not conforming to the dimensional standards of the zone in which it is located may be continued in accordance with this Section.

27-6.302. Alteration, Enlargement, or Extension

A. Generally

A nonconforming building or structure may be altered, enlarged, or extended, if the alteration, enlargement or extension conforms to the dimensional standards of the zone in which it is located.¹⁵⁹

B. Inside the Capital Beltway¹⁶⁰

Inside the Capital Beltway (between Interstate 495 and the County's western boundaries, inclusive of the corporate boundaries of the City of College Park, the City Greenbelt, the City of Glenarden, and the Town of Forest Heights), a

¹⁵⁸ This Subsection establishes the key standards governing nonconforming buildings and structures. The section addresses enlargement, abandonment, relocation, and reconstruction after damage. These provisions support redevelopment that is consistent with its context and the County's development goals.

¹⁵⁹ This Subsection carries forward Sec. 27-242(a) of the current Zoning Ordinance, but eliminates the special exception requirement in order to encourage redevelopment.

¹⁶⁰ This is a new Subsection. It is included to encourage redevelopment, and to encourage existing out of compliance properties to upgrade toward the existing standards.

nonconforming building or structure may be altered, enlarged, or extended if it complies with the following:

1. The dimensional standards of the zone in which it is located; and
2. The alteration, enlargement, or extension meets the applicable development standards as provided in Table 26-6.202: Standards for On-Lot Expansion of Nonconforming Use, above.

27-6.303. Relocation

If a nonconforming building or structure is relocated, it shall conform to the dimensional standards of the zone in which it is located. If the use is presently permitted by special exception in the zone, the relocated building or structure shall conform to all of the physical requirements of the specific special exception use, and be approved as a special exception (See Sec. 27-2.507, Special Exception).¹⁶¹

27-6.304. Reconstruction¹⁶²

A. Applicability

This Section applies to the restoration, reconstruction, or reestablishment of a nonconforming building or structure which has either been unintentionally destroyed by fire or other calamity, has temporarily ceased operation for the sole purpose of correcting Code violations, or has temporarily ceased operation due to the seasonal nature of the use.

¹⁶¹ This builds on Sec. 27-384(a)(5) of the current Zoning Ordinance. It deletes authority for the District Council to further restrict location and bulk.

¹⁶² This is based on Sec. 27-243, Rules relating to the Military Installation Overlay Zone.

B. Conditions of Restoration, Reconstruction and Re-establishment

Buildings or structures identified in Subsection A above may be restored, reconstructed and reestablished in accordance with Table 27-6.102: Reconstruction, Re-establishment, or Restoration of Nonconforming Use or Structure.

Sec. 27-6.400 Nonconforming Lots of Record¹⁶³

27-6.401. Purpose

This Section establishes rules for lots of record that were platted prior to [] [insert the effective date of this Ordinance], but that do not meet the dimensional standards of the zone in which they are located.

¹⁶³ This Section establishes rules for lots of record that were platted prior to the effective date of the ordinance, but do not comply with the dimensional standards of the zone where they are located. A number of flexibility and other provisions are being added to the rewritten Zoning Ordinance to reduce nonconforming lots, but some nonconforming lots will still exist. The Section establishes that the landowner of a nonconforming lot in a Residential zone may put one residential dwelling unit on the lot; there are specific rules established for different situations. For example, if the residential dwelling unit can be developed in a way that complies with the other dimensional requirements, no special review is required. If it cannot, special review by the Planning Board is required to ensure the unit is compatible with the character of the surrounding area. Rules are also established for nonconforming lots in nonresidential zones. Rules are also established for redevelopment or reconstruction on nonconforming lots following a casualty (major damage). The standards will also specify that governmental acquisition of a portion of a lot (for example, for road expansion) in a zone does not render the lot nonconforming (even if it no longer meets the dimensional standards), and establishes review procedures and standards for review of a plan for development on the lot. Finally, the section deals with changes to nonconforming lots such as boundary line adjustments or assembly of multiple lots.

27-6.402. Generally

1. Any nonconforming lot that has come into conformity with this Ordinance shall not again be changed to a nonconforming lot by action of the land owner.
2. Any nonconforming lot or any part of the lot that is nonconforming based on dimensional standards, shall not be modified to increase the nonconformity.

27-6.403. Development of Nonconforming Lots¹⁶⁴

A. Use of Nonconforming Lots

Nonconforming lots shall be subject to the standards of Table 27-6.403: Development of Nonconforming Lots.

Table 27-6.403: Development of Nonconforming Lots			
Standard	Transit-Oriented/ Activity Center Zones (including those inside the Capital Beltway) [1]	All other zones inside Capital Beltway	All Other Zones
Residential Zones:			
Nonconforming lot, whether or not compliance with the dimensional standards is possible	One single-family dwelling unit is allowed		
Non-Residential Zones:			
When a nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than	This rule applies even when the adjacent lots are under common	This rule applies only if the lots are not under	This rule applies only if the lots are not under common

¹⁶⁴ This is a new section.

Table 27-6.403: Development of Nonconforming Lots

Standard	Transit-Oriented/Activity Center Zones (including those inside the Capital Beltway) [1]	All other zones inside Capital Beltway	All Other Zones
Residential Zones:			
the required minimums in the zone, then the lot may be used as proposed. However, no use that requires a greater lot size than the established minimum lot size for a particular zone is permitted on a nonconforming lot.	ownership.	common ownership.	ownership.
When the use proposed for a nonconforming lot conforms in all other respects but cannot comply with the applicable setback standards	A Minor Adjustment must be approved.	A Minor Adjustment must be approved.	A Variance must be approved.
NOTES: [1] Between Interstate 495 and the County’s western boundary, inclusive of the corporate boundaries of the City of College Park, City of Greenbelt, City of Glenarden, and Town of Forest Heights.			

B. Common Ownership

1. If the landowner of two or more adjoining nonconforming vacant lots outside of the Capital Beltway (between Interstate 495 and the County’s western boundaries, inclusive of the corporate boundaries of the City of College Park, City of Greenbelt, City of Glenarden, and Town of Forest Heights) wants to build on one of the lots, the lots shall be combined to comply with the dimensional standards of this Ordinance, to the maximum extent practicable.

2. Where any nonconforming adjoining lots are held in common ownership on or after [redacted] [insert the effective date of this Ordinance], they shall not be sold, consolidated or transferred to eliminate the common ownership unless they are sold, consolidated or transferred so as to create a conforming lot or lots, where possible, or if not possible, another nonconforming lot but to a lesser extent than the first lot.
3. Sec. 27-6.403.B.1 above does not apply to a nonconforming lot if a majority of the developed lots located on either side of the street where such lot is located and within 500 feet of the lot are also nonconforming.

27-6.404. Governmental Acquisition of Land¹⁶⁵

A. Applicability

This Section applies to conforming lots that are subject to governmental acquisition of part of the lot for a public purpose that results in the lot becoming nonconforming as to the dimensional standards of the zone in which it is located.

B. Development Standards

Such lots shall be determined conforming if:

1. The use is permitted, or any required special exception is approved;

¹⁶⁵ This is a new Section that is included in many modern development codes to help government mitigate the impact of land condemnations, especially for right-of-way acquisition for roads and transit.

2. The development proposed complies with the dimensional standards of the applicable zone, to the maximum extent practicable;
3. The development complies with Division 27-5: Development Standards, to the maximum extent practicable;
4. The development complies with all other standards and requirements of this Ordinance; and
5. The development is designed and located in a way that is compatible with surrounding development.

27-6.405. Change of Nonconforming Lot¹⁶⁶

The boundaries, shape, or size of a nonconforming lot may be modified through a boundary adjustment or the assembly of multiple lots through a resubdivision in accordance with Subtitle 24: Subdivision Regulations, of the County Code, if the boundary adjustment or lot assembly results in the lot becoming more conforming.

¹⁶⁶ This is a new Section that allows boundary adjustments for the assembly of multiple lots through resubdivision, to reduce nonconforming lots.

Sec. 27-6.500 Nonconforming Signs^{167 168}

27-6.501. Alteration

A. Applicability

Nonconforming signs (including outdoor advertising signs) may be maintained, structurally altered, repaired, replaced, or relocated in conformance with this Division.

B. Requirements

Any structural alteration, relocation, or expansion of a nonconforming sign shall be in accordance with the standards in Sec. 27-5.1300, Signage, or Sec. Sec. 27-6.300, Nonconforming Structures.

27-6.502. Illegal signs

A. Applicability

An illegal sign is a sign which:

1. Does not conform to the standards in Sec. 27-5.1300, Signage; and
2. Was erected or maintained in violation of the applicable requirements of ordinances previously in effect.

¹⁶⁷ This Section carries forward the requirements established in Subtitle 27, Part 12 (Signs), Division 2 (Administration), and Subdivision 2 (Nonconforming Use Signs and Nonconforming Signs) of the current Zoning Ordinance.

¹⁶⁸ The amortization provisions (Sec. 27-608) are deleted. The amortization periods passed over 30 years ago.

B. Removal or Conformance

Illegal signs shall be removed, or made to conform to the standards in Sec. 27-5.1300, Signage, by the owner or user of the sign, or by the owner of the premises upon which it is located. Signs for which the District Council has validated a permit issued in error (See Sec. 27-2.518, Validation of Permit Issued in Error) are not subject to this requirement.

Sec. 27-6.600 Nonconforming Site Features¹⁶⁹

27-6.601. Purpose

This Section protects existing nonconforming rights, but provides a way for nonconforming site features to come into compliance with the standards of this Ordinance as part of altering (such as remodeling) or expanding a building or structure.

27-6.602. Applicability

For purposes of this Section, the term “nonconforming site features” includes the following:

- A. Nonconforming off-street parking;
- B. Nonconforming landscaping;

¹⁶⁹ This Section adds provisions dealing with nonconformities in site features—off-street parking, landscaping, and lighting. Currently, the Zoning Ordinance does not specify when such nonconforming site features must be brought into conformity. This new section requires that specified site features be brought into conformance on a sliding scale when the structure is substantially remodeled, or when the floor area of a building is enlarged by threshold percentages, with an important “safety valve” provision that allows for a waiver of requirements in cases where the site has physical constraints that prevent upgrading certain elements.

- C. Nonconforming screening of mechanical equipment; and

- D. Nonconforming walls or fences.

27-6.603. Continuance of Nonconforming Site Features

Outside the Capital Beltway, nonconforming site features may be continued subject to the following limitations:

- A. No action shall be taken that increases the degree or extent of the nonconforming site feature. Any enlargement, extension or structural alteration of the nonconforming site feature shall conform to all requirements of this Ordinance.
- B. For development existing prior to [redacted] [insert the effective date of new Zoning Ordinance], or for which a vested right is established, nonconforming site features created by a change in regulations may continue to exist, and structures with those nonconforming features may be reconstructed if they are demolished or destroyed.

27-6.604. Improvement of Nonconforming Site Features

A. Applicability

If an application is submitted for a building permit for the remodeling or expansion of a building or site that has one or more nonconforming site features, and the value of the proposed improvements over a five-year period exceeds at least 25 percent of the assessed value of the existing site over that five-year period, the applicant shall address the nonconforming site features as provided in this section.

B. Exemptions

This subsection does not apply to:

1. The reconstruction of a nonconformity damaged by a calamity; or
2. Repairs, but not including additions, as defined in the Building Code (see Subtitle 4).¹⁷⁰

C. Required Improvements to Nonconforming Site Features

1. For purposes of determining when nonconforming site features shall be brought into partial or full compliance with the standards of this Ordinance, the costs that constitute the estimated cost of the structural alteration of a building or structure shall be as shown on the building permit application, and shall include the cost of materials and labor.
2. Nonconforming site features shall be brought into compliance in accordance with Table 26-6.600: Standards for Nonconforming Site Features.

¹⁷⁰ The County has adopted the 2015 International Building Code. See County Code Sec. 4-101. The building code defines the terms used in this Subsection (see <http://codes.iccsafe.org/app/book/content/2015-I-Codes/2015%20IBC%20HTML/Chapter%202.html>). The definitions will be placed in Sec. 27-8.400, Terms and Uses Defined.

Table 26-6.600: Standards for Nonconforming Site Features

Type of Remodeling or Expansion		Definition	Required Compliance
1	Structural alterations	Alterations (as defined in the Building Code ¹⁷¹) that are not exempt from this Section. For purposes of this Subsection and in-lieu of the term as defined in the building code, an “existing structure” means a structure lawfully erected prior to [insert effective date of the new Zoning Ordinance].	See rows 2 through 4 below.
2	25% or Less of Structure Value	Structural alteration of a building or structure during any five-year period estimated to cost 25% or less of the current assessed value of the building or structure.	No correction to nonconforming site features is required.
3	More Than 25% but Less Than 75% of Structure Value	Structural alteration of a building or structure during any five-year period estimated to cost more than 25% but less than 75% of the current assessed value of the building or structure.	A corresponding percentage of the site features shall be brought into compliance, until the site achieves 100% compliance. <i>Example: a nonresidential site with nonconforming off-street parking (site feature) with an assessed value of \$100,000 is undergoing remodeling equaling \$40,000 (40% of the assessed value). The developer must add a corresponding number of additional required parking spaces until the site fully complies. If the site at the time of remodel has 10 parking spaces, but the ordinance requires a minimum of 20 for the use that is proposed (10 more spaces are required for the site to be conforming), the applicant would be required to provide 40% of the 20 spaces - or 8 more parking spaces, bringing the total number of spaces on the site to 18 spaces.</i>
4	75% or More of Structure Value	Structural alteration of a building or structure during any five-year period estimated to cost 75% or more of the current assessed value of the building or structure	100% compliance with the site features is required.
5	Expansions	Expansions to buildings, structures, or use areas on sites with nonconforming site features.	See rows 6 through 8 below.
6	Expansions of 15% or Less	Expansion during any five-year period, which results in an increase in the gross square footage of the existing building, structure, or use area (measured at the beginning of the five-year period) of 15% or less.	No correction to nonconforming site features is required. This provision shall not be used to allow multiple, incremental, small-scale increases to a structure or use area without addressing nonconforming site features.
7	Expansions of More Than 15% but less than 50%	Expansion during any five-year period, which results in an increase in the gross square footage of the existing building, structure, or use area (measured at the beginning of the five-year period) greater than 15%, but less than 50%.	A corresponding percentage of the nonconforming site features shall be brought into compliance, until the site achieves 100% compliance. This is in addition to the requirements that apply to the expansion <i>Example: A 25% increase in square footage requires a 25% increase in the total number of parking spaces provided (up to the minimum requirement). Assume the standard requires 1 parking space for each</i>

¹⁷¹ The building code defines an "alteration" (see <http://codes.iccsafe.org/app/book/content/2015-I-Codes/2015%20IBC%20HTML/Chapter%202.html>). The definition will be placed in Sec. 27-8.400, Terms and Uses Defined.

Table 26-6.600: Standards for Nonconforming Site Features

Type of Remodeling or Expansion		Definition	Required Compliance
			<i>1,000 square feet. A 10,000 square-foot building expands its gross square footage by 2,500 square feet, for a total of 12,500 square feet. The site currently has 3 parking spaces. 10 spaces were required before the expansion. The applicant must provide 6 additional parking spaces. This includes 3 additional spaces for the nonconforming site features (25% of 10,000 square feet is 2,500 square feet, which requires 3 spaces (2.5 spaces rounded up) under the standard. In addition, the applicant must also provide 3 parking spaces under the standard for the additional 2,500 square feet of additional space, for a total of 6 spaces.</i>
8	Expansions of 50% or More	Expansion during any five-year period, which results in an increase in the gross square footage of the existing building, structure, or use area (measured at the beginning of the five-year period) of 50% or more.	100% compliance of the site features is required.
9	Generally	The situations referred to in rows 10 through 12 below apply to any structural alteration or expansion.	See rows 10 through 12 below.
10	Requiring 2 or Fewer Additional Parking Spaces	Two or fewer additional off-street parking spaces are required under rows 1 through 8 above as a result of a remodel or expansion.	The additional off-street parking is not required to be installed.
11	Physically Constrained Properties	Lands that are physically constrained (due to limited size, topography, or other environmental considerations) from complying with the requirements of rows 2 through 8 above.	Comply to the maximum extent practicable, as determined by the Planning Director.
12	Addition of Outdoor Storage Area Only	Only outdoor storage areas are being added or increased on a site.	The percentage increase in outdoor operations area requires a corresponding percentage increase in perimeter buffers and screening. Perimeter buffer and screening augmentation shall be located so as to achieve the performance objectives, to the maximum extent practicable.

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Division 7: Enforcement

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DIVISION 27-7 ENFORCEMENT

Sec. 27-7.100 Purpose¹⁷²

The purpose of this Division¹⁷³ is to establish procedures to ensure compliance with this Ordinance and to obtain corrections for zoning violations. It also sets forth the remedies and penalties that apply to violations. This Division encourages the voluntary correction of violations, where possible.

Sec. 27-7.200 General Provisions^{174 175}

27-7.201. Compliance Required

A. Generally

Compliance with all the procedures, standards, and other provisions of this Ordinance is required by any person owning,

¹⁷² This new Section sets forth the purpose of the enforcement Division.

¹⁷³ As discussed in the Evaluation and Recommendations Report (P. VI-49), Division 27-7: Enforcement, consolidates all enforcement provisions into one division in the rewritten Zoning Ordinance. It carries forward and/or refines many current provisions, as noted in the footnotes. Changes and additions are also noted in the footnotes.

¹⁷⁴ This Section builds on language in Sec. 27-264, Enforcement Procedures, of the current Zoning Ordinance. It clearly states that compliance with all provisions of the ordinance is required. This new section states who is responsible for a zoning violation when it occurs. It is as broad as legally possible, and states that any person who violates the ordinance shall be subject to the remedies and penalties set forth in the division.

¹⁷⁵ Sec. 27-262(b) of the current Zoning Ordinance regarding signs in the County right-of-way is removed from this division. It will be relocated to Sec. 27-5.1300, Signage, in the Comprehensive Review Draft.

developing, managing, using, or occupying land or structures in the County.

B. Receipt of Development Approval or Permit Required

1. All persons shall obtain all development approvals and permits required by this Ordinance prior to development.
2. Any failure to comply with this Ordinance, or the terms or conditions of any development approval, permit, or other authorization granted in accordance with this Ordinance is a violation.

27-7.202. Scope of Development Approvals or Permits

Development approvals and permits issued by a decision-making body or person authorize only the use, arrangement, location, design, density or intensity, and development set forth in those development approvals and permits.

27-7.203. Authorization¹⁷⁶

A. Generally

The Department of Permitting, Inspections, and Enforcement (DPIE) and, when specified, the County and Municipal Police Departments, and the Fire/Emergency Medical Services Department shall enforce the requirements of this Ordinance.

¹⁷⁶ This existing section assigns responsibility to enforce this Ordinance.

B. Implementation¹⁷⁷

The Chief of Police, the Fire Chief, and the DPIE Director shall establish policies, rules, and procedures to implement this Division.

27-7.204. Inspections and Complaints¹⁷⁸

A. General

DPIE, and when specified in accordance with Sec. 27-7.504, Expedited Enforcement Procedures, the Police Department and the Fire/Emergency Medical Services Department, shall conduct a Zoning Enforcement Program to assure continuing compliance with this Ordinance.

B. Inspections

Inspections shall primarily be programmed on an area-by-area basis, but shall also include the investigation of individual complaints from private sources of alleged zoning violations. All complaints shall be submitted to DPIE, and when specified, to the Police Department and the Fire/Emergency Medical Services Department.

¹⁷⁷ This is based on Sec. 27-264.01 of the current Zoning Ordinance. This general grant of authority is currently found in the expedited enforcement procedures.

¹⁷⁸ This is based on Sec. 27-263 of the current Zoning Ordinance.

Sec. 27-7.300 Violations¹⁷⁹

27-7.301. General Violations¹⁸⁰

Any failure to comply with this Ordinance, or the terms or conditions of any development approval, permit, or other authorization granted in accordance with this Ordinance, is a violation of this Ordinance as provided in this Division.

27-7.302. Specific Violations¹⁸¹

It is a violation of this Ordinance to undertake any development contrary to the provisions of this Ordinance or to take any other action that obstructs compliance with this Ordinance, including but not limited to any of the following:

- A.** Develop land or a structure without first obtaining all appropriate development approvals and permits;
- B.** Fail to provide any notice that the applicant is required to provide under this Ordinance;
- C.** Develop land or a structure without complying with the terms or conditions of all applicable development approvals and permits;
- D.** Occupy or use land or a structure without first obtaining all applicable development approvals and permits;

¹⁷⁹ This new Section explains that failure to comply with any provision of the ordinance, or the terms or conditions of any permit or authorization granted pursuant to the Zoning Ordinance, violates the ordinance. The section also more specifically identifies both general violations as well as specific permit violations.

¹⁸⁰ This new Section explains that failure to comply with any provision of this Ordinance or with any terms or conditions of development approval or permits is a violation of the Subtitle.

¹⁸¹ This Section identifies specific types of violations of the Zoning Ordinance.

- E. Excavate, grade, cut, clear, or undertake any land disturbing activity without first obtaining the applicable development approvals and permits, and complying with their terms and conditions;
- F. Remove existing trees or other landscaping from a site or parcel of land without first obtaining the applicable development approvals and permits, and complying with their terms and conditions;
- G. Install, create, erect, alter, or maintain any sign without first obtaining the applicable development approvals and permits, and complying with their terms and conditions;
- H. Fail to remove any sign installed, created, erected, or maintained in violation of this Ordinance, or for which the permit has lapsed;
- I. Create, expand, replace, or change any nonconformity except in compliance with this Ordinance;
- J. Reduce or diminish the requirements for development, design, or dimensional standards below the minimum required by this Ordinance;
- K. Increase the intensity or density of development, except in accordance with the standards of this Ordinance;
- L. Through any act or omission, fail to comply with any other provisions, procedures, or standards as required by this Ordinance;
- M. Through any act or omission, violate any term, condition of approval, or qualification placed by a decision-making body or person on a development approval or permit;
- N. Violate any lawful order issued by any decision-making body or person in accordance with this Ordinance;
- O. Obtain a development approval or permit through false or misleading information;
- P. Obscure or obstruct a notice required to be posted or otherwise given in accordance with this Ordinance; or
- Q. Restrain or hinder the entry, examination, survey, or placing or maintenance of monuments or marks by a Commissioner or an employee or agent of the M-NCPPC, as provided in and subject to Maryland Land Use Code § 27-102.

Sec. 27-7.400 Responsible Persons¹⁸²

Any person¹⁸³ who violates this Ordinance is subject to the remedies and penalties set forth in this Division. Persons subject to the remedies and penalties established in this Division for violating this Ordinance include the owner, tenant, or occupant of the land or structure that is in violation of this Ordinance, including but not limited to an architect, engineer, builder, contractor, agent, or any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation.

¹⁸² This new Section states who is responsible for a zoning violation when it occurs. It is as broad as legally possible, and states that any person who violates the ordinance shall be subject to the remedies and penalties set forth in the Division.

¹⁸³ Section 27-8.300 will define “person” as follows (building on the existing definition in Sec. 27-107.01 (178) with the underlined language) in the Comprehensive Review Draft: “Any individual or natural person, legal entity, joint stock company, partnership, voluntary association, society, club, firm, company, corporation, business or other trust, two or more persons having a joint interest, civic association, municipality, government organization or entity, government official, or any other organization, whether or not legally incorporated.”

Sec. 27-7.500 Enforcement Generally¹⁸⁴

27-7.501. Erection of Building or Structure

A. Stop Work

When it determines that a violation of this Ordinance has occurred with respect to the erection of a building or other structure, the DPIE Director shall order the work to stop and shall post the building or structure with a "Stop Work" order form.

B. Formal Notice

The landowner or builder shall also be given formal written notice of the "Stop Work" order. No work shall proceed after posting, except to correct the violation and continue in full compliance with the provisions of this Ordinance. If the work does not stop, or corrective action is not completed within five business days of posting (or another longer period determined by the DPIE Director), the DPIE Director shall take appropriate action against the violator.

¹⁸⁴ This Section identifies those persons responsible for enforcement of the provisions of the ordinance, as well as the general enforcement procedure. The Department of Permitting, Inspections, and Enforcement (DPIE), the DPIE Director, and to a lesser degree the Police Chief and Fire Chief. The Section builds on Sec. 27-264, Enforcement, and describes the enforcement process and includes provisions for notice of violation, and procedures to deal with complaints filed by others regarding a perceived or potential violation. It omits Sec. 27-264.02, which is carried forward, with minor modifications, in the rules of interpretation in Division 27-8 (in Module 1).

27-7.502. Use Violations¹⁸⁵

A. Generally

1. When the DPIE Director determines that a violation of this Ordinance has occurred,¹⁸⁶ the DPIE Director may¹⁸⁷ serve citation upon the owner, general agent, or lessee of the building, structure, or land, directing that the violation cease. The citation shall include the contents required by Maryland Land Use Code Sec. 11-203. The DPIE Director shall keep a copy of the citation.
2. If, at the expiration of five business days of the citation (or longer period determined by the DPIE Director), the violation has not ceased, the DPIE Director shall take appropriate action against the violator. If it is not possible to serve the notice, the building, structure, or land may be posted with the notice.

¹⁸⁵ This Section is based on Sec. 27-264 of the current Zoning Ordinance.

¹⁸⁶ This provision deletes the exceptions for violations of Sec. 27-261(b)(wayside stands), (c) (seasonal decorations display in sales), (d) (temporary shelter for commercial displays, sales and services), (h) (firewood displays and sales), and (j) (farmers market or flea market). It is rewritten to give DPIE more discretion to either provide direct notice or to post the property, which should allow for more effective enforcement of uses that can easily evade direct notice. Subsection 2, based on the existing section, is written more broadly to anticipate these types of situations.

¹⁸⁷ This provision replaces "shall" with "may." This gives DPIE the discretion to either serve notice directly or to post the property, as is explained in the last sentence (as in the existing provision, the difference being that this draft provides "may" for both while the current provisions say "shall.")

B. Expedited Enforcement for Temporary or Easily Transportable Uses

With respect to violations involving temporary or easily transportable uses (such as wayside stands, displays involving the sale of seasonal decorations, firewood displays and sales, farmers markets, flea markets, or fireworks stands) the DPIE Director may serve notice upon the owner, general agent, or lessee of the building, structure, or land, and upon the person conducting the activities, directing that the violation cease. If, at the expiration of 48 hours of the notice, the violation has not ceased or a temporary use and occupancy permit has not been issued, the DPIE Director shall notify the Police Department to take appropriate action against the violator, as set forth below.

1. A police officer shall direct the violator to remove all goods and equipment from the land. If the violator fails to obey the direction and continues in violation of this Ordinance, the equipment and goods shall be removed by the DPIE Director and taken to a designated County facility.
2. Goods and equipment removed in accordance with this provision may be claimed by their owner on the next business day, or within 15 days thereafter, upon payment of any fine which has not been appealed. Any goods or equipment not claimed by the owner within 15 days shall be deemed abandoned and shall become the property of the County.
3. The DPIE Director shall have no responsibility to preserve or protect any equipment or goods removed in accordance with this Section.

4. A violation notice issued for conducting activities without a temporary use and occupancy permit shall serve as notice of a continuing violation by those persons at the subject site or any other site within the County, and no further notice of violation need be issued prior to using the procedures in Secs. 27-7.502.B.1 and 27-7.502.B.2 above.

C. Adult Book or Video Stores

1. When it determines that a violation of Sec. 27-4.203.E.2.b, Adult Book or Video Store, has occurred with respect to the use of any building, structure, or land for an adult book or video store, the DPIE Director shall serve notice upon the owner, general agent, or lessee of the building, structure, or land, and upon the person conducting the activities, directing that the violation cease.
2. If, at the expiration of 48 hours of the notice, the violation has not ceased, the DPIE Director shall notify the Police Department to take appropriate action against the violator as set forth below.
 - a. A police officer may direct the violator to discontinue operation as an adult book or video store.
 - b. If the violation continues, the violator shall be deemed to be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of \$500.00, or imprisonment in jail for a period of not more than six months, or both such fine and imprisonment.

27-7.503. Cease and Desist Actions¹⁸⁸

A. Applicability

This Section applies to use and occupancy permits and temporary use permits. For purposes of this Section, a use and occupancy permit includes a use and occupancy permit or a temporary use permit.

B. Failure to Obtain a Permit

The Chief of Police and the Fire Chief are authorized to direct the Police Department and the Fire/Emergency Medical Services Department, respectively, to take all immediate reasonable and necessary action to cease and desist the operation of any activity requiring a use and occupancy permit or temporary use permit when the permit has not been issued.

C. Failure to Comply with Permit

The Chief of Police, the Fire Chief, and the DPIE Director are authorized to direct the Police Department, the Fire/Emergency Medical Services Department, and DPIE,, respectively, to take all immediate reasonable and necessary action to cease and desist the operation of any activity requiring a use and occupancy permit or a temporary use permit when the permit has been issued and is not in compliance with the provisions of this Section and all applicable permit provisions.

¹⁸⁸ This Section is based on Sec. 27-253 of the current Zoning Ordinance. It consolidates the authority found in Sec. 27-253(g)-(h) relating to use and occupancy permits and Sec. 27-260(f)-(h) regarding temporary use and occupancy permits.

D. Imminent Threat

1. The Chief of Police and the Fire Chief are authorized to direct the Police Department and the Fire/Emergency Medical Services Department respectively, to take all immediate reasonable and necessary action to cease and desist the operation of any activity requiring a use and occupancy permit or temporary use permit if:
 - a. The activity is found to present an imminent danger and threat to the health, safety, and welfare of the public by not doing so;
 - b. There are no other mitigating actions other than ceasing the operation or activity that would resolve the imminent danger and threat to the health, safety, and welfare of the public; and
 - c. There are no other reasonable means other than ceasing the operation or activity that would prevent further danger and threat to the health, safety, and welfare of the public.
2. For purposes of this Subsection, “an imminent danger and threat to the health, safety, and welfare of the public” exists if the operations or activities on the premises or location endanger the health, safety, life, limb or property, or cause any hurt, harm, inconvenience, discomfort, damage or injury to any one or more individuals in the County, by at least one of the following:
 - a. Causing a menace, threat and/or hazard to the general health and safety of persons in the neighborhood;
 - b. Causing a fire hazard;

- c. Causing any lot, building or structure to become (in whole or in part) unsafe for occupancy, or use on, in, upon, about, or around the premises or location; or
- d. By depreciating the enjoyment and use of land in the immediate vicinity to such an extent that it is harmful to the neighborhood in which the land is situated or the condition exists.¹⁸⁹

E. Effective Period

Actions taken in accordance with Secs. 27-7.503.A through 27-7.503.D above remain in force and effect unless amended or vacated by a decision of the ZHE in accordance with Sec. 27-7.504, Expedited Enforcement Procedures, or by a decision of a court of competent jurisdiction.

27-7.504. Expedited Enforcement Procedures¹⁹⁰

A. Authority

In-lieu of Sec. 27-7.503, Cease and Desist Actions, when the Chief of Police, the Fire Chief, or the DPIE Director determine that a violation of a use and occupancy permit or temporary use permit has occurred with respect to the use of any building, structure, or land, or there is a failure to obtain either of these permits, the Chief of Police, the Fire Chief, and the DPIE Director are authorized to direct the Police Department, the Fire/Emergency Medical Services Department, and DPIE, respectively, to issue a written violation notice directing that

the violation cease and that all activities in the building, structure, and on the land cease pending a hearing before the ZHE in accordance with Sec. 27-7.504.C below.

B. Notice of violation

1. The Chief of Police, the Fire Chief, and the DPIE Director shall provide a written violation notice to one of the following: the owner, the general agent, or the lessee of the building, structure, or land; the person conducting the activities; or any person in the building, structure or on the land that directs, manages, or is in control or is in apparent control or management of the activity or activities on the premises.
 - a. If no person or no person representing entities set forth in this Section are present or any person or any person representing entities set forth in this Section flees when the activity or activities take place and the written violation notice is being issued, the written violation notice shall be posted on the building, structure or on the land in which or upon which the activity or activities took place, directing that the violation cease and that all activities in the building, structure, or on the land cease pending a hearing before the ZHE in accordance with Sec. 27-7.504.C below.
 - b. Posting of the issued written notice is deemed to be constructive notice to the owner, general agent, or lessee of the building, structure, or land; the person conducting the activities; or any person in the building, structure or on the land that directs, manages, or is in control or is in apparent control or management of the building, structure or on the land

¹⁸⁹ Subsection 2 is added to clarify the situations that might pose “health and safety” risks. It is based on the definition of public nuisance in the International Municipal Lawyers Association *Model Nuisance Abatement Ordinance* (IMLA Model Ordinance Service, March 2005).

¹⁹⁰ This is based on Sec. 27-264.01 of the current Zoning Ordinance.

in which or upon which the activity or activities took place.

C. Zoning Hearing Examiner (ZHE) Hearing

1. The owner, general agent, or lessee of the building, structure, or land, the person conducting the activities; or any person in the building, structure or on the land that directs, manages, or is in control or is in apparent control or management of the building, structure or on the land in which or upon which the activity or activities took place may request a hearing before the ZHE. The ZHE shall commence a hearing within four days following receipt of the request for a hearing.
2. The ZHE hearing shall be on the record.
3. The enforcement action of the Police Department, the Fire/Emergency Medical Services Department, or DPIE is not stayed during the pendency of the hearing.
4. The ZHE shall render a decision on the enforcement action within two days after the conclusion of the hearing on the record. The decision shall include the following findings of fact:
 - a. Whether a use and occupancy permit or temporary use permit has been issued for the use alleged to be in violation; whether the activity in the building, structure, or on the land in which the activity took place is in compliance with any existing use and occupancy permit or temporary use permit;
 - b. Whether there was an imminent danger and threat to the public health, safety and welfare; and

- c. Whether the activity constitutes a continuing threat to the public health, safety and welfare.
5. The ZHE may reverse, modify or remand the decision of the Police Department, the Fire/Emergency Medical Services Department, or DPIE, respectively, only if the decision of the Police Department, the Fire/Emergency Medical Services Department, or DPIE, respectively, is clearly erroneous, or arbitrary and capricious, or unsupported by any substantial evidence.
 6. The enforcement action of the Police Department, the Fire/Emergency Medical Services Department, or DPIE, respectively, shall terminate or continue according to the determination of the ZHE.
 7. Any party aggrieved by a decision of the ZHE may appeal the decision to the Circuit Court for Prince George's County, Maryland. The appeal shall proceed in accordance with the provisions of Title 7 of the Maryland Rules of Procedure.

27-7.505. Compliance Period

A. Repeated Violation¹⁹¹

1. A grace period for correction of a civil violation need not be given in the case of a subsequent, repeated violation of the same provision of this Ordinance by the same violator. A "repeated violation," for the purposes of this Subsection, may take place at a location which is identical to or different from the first violation within a 36 month period from the first violation. If it determines that a

¹⁹¹ This is based on Sec. 27-264(c) of the current Zoning Ordinance.

repeated violation has occurred, DPIE may immediately take appropriate action against the violator.

2. In-lieu of Subtitle 28, Section 28-111 of the County Code, repeated violation for operating outside the scope of a valid use and occupancy permit or temporary use permit shall be subject to a fine of \$1,000.00 for each "repeated violation."

B. Grace Period

The BZA may grant additional time to correct a violation through the appeals process (see Sec. 27-2.519, Appeal to Board of Zoning Appeals (BZA)).¹⁹²

Sec. 27-7.600 Remedies and Penalties¹⁹³

27-7.601. Generally¹⁹⁴

A. Charge of Violation

A charge alleging a violation of this Ordinance may also be brought by warrant or indictment on the oath or information of a member or employee of the M-NCPPC or any other person.¹⁹⁵

B. Grounds for Civil Fine or Misdemeanor

Any person may be liable for a civil fine (provided for in Subtitle 28 of the County Code) or be prosecuted for a misdemeanor if that person:

1. Erects, maintains, or uses any structure or land in violation of any portion of this Ordinance;
2. Violates any order issued in accordance with this Ordinance; or
3. Fails to erect structures or use land in accordance with this Ordinance.

C. Penalty

1. If a person is convicted of a misdemeanor, the violator shall be subject to a fine of \$500.00 or up to 90 days imprisonment, or both, in the discretion of the court.
2. The application of this penalty does not preclude abatement of the violation through appropriate proceedings in equity.
3. If the violation is of a continuing nature, each and every day during which the violation continues is a separate violation. Each violation issued within a 36 month period from the first violation to the same person is considered a violation of a continuing nature.

27-7.602. Cease and Desist Actions¹⁹⁶

Immediate reasonable and necessary remedies for a cease and desist action (see Sec. 27-7.501, Erection of Building or Structure) include, but are not be limited to: entering the building, structure, and land; securing the building, structure, and land; removing the occupants of the building, structure, and land; padlocking the building, structure, and land; and preventing the use and occupancy of the building, structure, and land.

¹⁹² This is based on Sec. 27-266 of the current Zoning Ordinance.

¹⁹³ This Section builds on Sec. 27-265, Penalties. It broadens the current provisions by including both civil and criminal penalties, detailing the range of penalties and remedies available to the County under Maryland law.

¹⁹⁴ This is based on Sec. 27-265 of the current Zoning Ordinance.

¹⁹⁵ See Maryland Land Use Code Ann. § 27-101.

¹⁹⁶ This is from Sec. 27-253 of the current Zoning Ordinance.

27-7.603. Revocation or Modification of Approved Special Exception¹⁹⁷

A. Initiation

1. The DPIE Director may petition the ZHE to revoke, modify, suspend, or impose additional conditions on an approved special exception, for the following reasons:
 - a. The provisions in the approved special exception have not been complied with; or
 - b. The approved special exception has not been used for any two-year period after the date of the original approval, except where the conditions of nonuse are beyond the control of the grantee of the special exception.
2. The petition shall include pertinent facts and conclusions, and a recommended action.

B. Procedure

1. The DPIE Director shall transmit a copy of the petition to the Planning Board at the time of its submission to the ZHE. The DPIE Director shall also transmit a copy of the petition, by certified mail, to the landowner(s), and to the applicant if different from the landowner. A copy of the petition shall also be transmitted by mail to each municipality, if any part of the land subject to the special exception is located within the municipal boundaries or is located within one mile of the municipality, and to civic associations that have selected the area as one of their areas of interest.

¹⁹⁷ This is carried forward from Sec. 27-328 of the current Zoning Ordinance.

2. Within 90 days of receipt of the petition, the ZHE shall conduct a public hearing on the petition in accordance with the notice and hearing requirements of Sec. 27-2.507, Special Exception. All persons of record at the time the special exception was approved shall be included in the required notification. At least 30 days prior to the public hearing, the original special exception file, along with all pertinent information relating to the petition, shall be available for public examination in the office of the ZHE.
3. No later than 10 days prior to the ZHE's hearing, the Planning Board or staff may submit a recommendation or other material for the record.
4. The ZHE may hold the record open for up to 60 days following the conclusion of the hearing. Within 30 days of the closing of the record, the ZHE shall file a decision.
5. The ZHE may (in conjunction with the revocation or modification) order any use and occupancy permit or temporary use permit issued for the special exception to be revoked or modified.
6. Revocation of a special exception also constitutes revocation of any Variances granted for the use.

C. Conditions

The ZHE may revoke, modify, suspend, or impose additional conditions on a special exception if the ZHE finds that the conditions in Sec. 27-7.603.A.1 apply.

Division 8: Interpretation and Definitions

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Sec. 27-8.400 Terms and Uses Defined

The following words, terms, and phrases, when used in this Ordinance, shall have the meaning ascribed to them in this Subsection.

Abutting or adjoining¹⁹⁸

Touching and sharing a common point or line. This can include a parcel of land across a street if the zone boundary extends to the middle of the right-of-way of a street.

Accessible¹⁹⁹

Approachable, enterable, and usable by persons with disabilities.

Accessory dwelling unit²⁰⁰

An ancillary or secondary living unit to a single-family detached dwelling use that has a separate kitchen, bathroom, and sleeping area, existing either within the same structure, or on the same lot, as the primary dwelling unit. For purposes of determining maximum density, an accessory dwelling unit shall not count as a dwelling unit.

Accessory structure²⁰¹

A structure subordinate and incidental to, and located on the same lot with, a principal structure and use, the use of which is customarily found in association with and is clearly incidental to the use of the principal structure or the land, and which is not attached by any part of a common wall or roof to the principal structure. (When a specific structure is identified in this Ordinance as

accessory to another use or structure, the structure need not be customarily incidental to, or ordinarily found in association with, the principal use to qualify as an accessory structure).

Accessory use²⁰²

A use customarily incidental and subordinate to the principal use and located on the same lot with such principal use. Off-premise signage shall not be considered an accessory use.

A use of a structure or land that:

- (A) Is subordinate and customarily incidental to, and ordinarily found in association with, a principal use, which it serves. (When a specific use is identified in this Ordinance as accessory to another use, the use need not be customarily incidental to, or ordinarily found in association with, the principal use to qualify as an accessory use);
- (B) Is subordinate in purpose, area, floor area, intensity, and extent to, and located on the same lot with, the principal use; and
- (C) Does not change the character of the principal use.

Adjustment²⁰³

A procedure in this Ordinance that allows minor deviations, or adjustments, from certain dimensional or development standards in specific circumstances, and subject to specific limitations and standards in order to allow develop that is consistent with the context in which it is located, and better accomplishes the purposes of this Ordinance

Agritourism activity²⁰⁴

Events and activities conducted on a working farm offered to the

¹⁹⁸ This is a new definition.

¹⁹⁹ This is a new definition.

²⁰⁰ A new definition for a new accessory use.

²⁰¹ Modified to clarify.

²⁰² Modified to clarify.

²⁰³ This is a new definition.

²⁰⁴ This is a new definition.

public or to invited groups for the purpose of recreation, education, or active involvement in the farm operation, and that are related to agriculture or natural resources and directly associated with and incidental to on-going agricultural activity on-site. Agritourism activities include, but are not limited to, farm tours, hayrides, corn mazes, petting zoos, classes related to agricultural products or skills, picnic and party facilities offer in conjunction with such activities.

Airport, medium²⁰⁵

An airport having one or more of the following:

- (A) Runway length over 2,650 feet, up to 4,000 feet;
- (B) One or more flight training schools; or
- (C) Aircraft based there weighing up to 12,500 pounds.

Airport, small²⁰⁶

An airport having all of the following:

- (A) Ownership by a County or State public agency;
- (B) Runway length under 2,650 feet; and
- (C) No flight training schools.

Aisle²⁰⁷

The traveled way by which motor vehicles enter and depart parking spaces.

Alley²⁰⁸

A roadway set aside primarily for vehicular service access to the back or side of buildings abutting a street or open space.

²⁰⁵ This definition is found in the current Zoning Ordinance, but has been modified.

²⁰⁶ This definition is found in the current Zoning Ordinance, but has been modified.

²⁰⁷ This is a new definition.

²⁰⁸ This is a new definition.

Amateur ham radio antenna²⁰⁹

An antenna, or any combination of a mast plus an attached or mounted antenna, that transmits noncommercial communications signals and is used by an amateur radio operator licensed by the Federal Communications Commission.

Appeal to Board of Zoning Appeals²¹⁰

See Sec. 27-2.519, Appeal to Board of Zoning Appeals (BZA).

Application or development application²¹¹

The completed form or forms and all accompanying documents, exhibits, and fees required of an applicant by this Ordinance, the Procedures Manual, and the Planning Director as part of the review on an application for a permit or development approval.

Arcade²¹²

A series of arches supported by piers or columns.

Arch²¹³

A curved, semicircular opening in a wall.

Architectural lighting²¹⁴

Exterior lighting that is designed to highlight structures, plantings, or significant architectural features in a direct or indirect fashion.

²⁰⁹ A new definition for a new accessory use.

²¹⁰ This is a new definition.

²¹¹ This is a new definition.

²¹² This is a new definition.

²¹³ This is a new definition.

²¹⁴ This is a new definition.

Area master plan²¹⁵

A planning document that guides the way an area in the County should be developed. An area master plan includes the entirety of one or more planning areas. It combines policy statements, goals, standards, maps, and pertinent data relative to the past, present, and future trends of a particular area (such as population, housing, economic, social patterns, land use, water resources, transportation facilities, and other public facility conditions and trends). An area master plan amends the County's General Plan. (See Sec. 27-2.501, Comprehensive Plans and Amendments.)

Automated teller machine (ATM)²¹⁶

A mechanized device operated by or on behalf of a bank or financial institution that allows customers to conduct automated banking or financial transactions. Where an ATM is provided at the site of a bank or financial institution for use by customers in motor vehicles, the ATM is considered a drive-through service accessory use. At other locations, an ATM may be considered a separate accessory use to the principal use(s) of the location.

Automatic change in display²¹⁷

For the purposes of Sec. 27-5.1300, Signage, a pre-programmed alteration in the appearance of a digital display.

Awning²¹⁸

A framed architectural feature that is attached to and supported from the wall of a building, and that is covered with canvas fabric, or other material as its primary surface, and that shields a doorway

²¹⁵ This definition is carried forward from Sec. 27-107.01 of the current Zoning Ordinance.

²¹⁶ A new definition for a new accessory use.

²¹⁷ This is a new definition.

²¹⁸ This is a new definition.

or window from the elements.

Bay window²¹⁹

A window or series of windows projecting outward from the main wall of a building and forming a bay or alcove in the inside of a room.

Bed and breakfast (as accessory to a single-family detached dwelling)²²⁰

An owner-occupied single-family detached residential dwelling in which rooms are rented to paying guests on an overnight basis or no longer than two weeks in any one visit. A "Country Inn," "Hotel," "Motel," "Fraternity or Sorority House," "Tourist Home," or "Boarding or Rooming House" shall not be considered a bed and breakfast."

Berm²²¹

An elongated earthen mound typically designed or constructed on a site to separate, screen, or buffer adjacent uses.

Block²²²

The land lying within an area bounded on all sides by streets.

Block face²²³

A specified side of a block.

²¹⁹ This is a new definition.

²²⁰ This definition carries forward the definition for "Bed-And-Breakfast Inn" from Sec. 27-107.01 of the current Zoning Ordinance.

²²¹ This is a new definition.

²²² This is a new definition.

²²³ This is a new definition.

Block length²²⁴

The distance or length of a block.

Board of Zoning Appeals²²⁵

See Sec. 27-2.304, Board of Zoning Appeals (BZA). (Abbreviated as “BZA.”)

Boathouse²²⁶

A structure designed and used solely for the storage of boats or boating equipment and that is not used for human habitation.

Buffer²²⁷

An area of natural or planted vegetation that is unoccupied by a building, structure, paving or the like, for the purposes of screening and softening the effects of development. A buffer shall not be used for recreation or parking.

Building²²⁸

A structure having a roof and used for the shelter, support, or enclosure of persons, animals, or property. Any part of a building is considered a separate building when:

- (A) It is entirely separated from all other parts by a wall extending from the lowest floor to the roof; and
- (B) It has no door or other opening directly to the other parts.

No vehicle originally designed as a means of conveyance shall be considered a building, regardless of whether wheels or other

devices to facilitate movement have been removed (except where otherwise specified in this Ordinance).

Any manufactured home or trailer designed for human occupancy and situated in a nonresidential base zone shall be considered a building if it is used for business purposes.

Building, accessory²²⁹

A building subordinate to, and located on the same lot with, a principal building, and used for an accessory use.

Building footprint²³⁰

The total area of a building measured at the building's outside walls at its ground plane.

Building mass²³¹

The form of a building that includes the exterior walls, projections, recesses, roof features, and any attachments.

Building permit²³²

See Subtitle 4: Building, of the County Code of Ordinances.

Building, principal or primary²³³

A building which is occupied by, or devoted to, a principal use. In determining whether a building is of primary importance, the use of the entire parcel shall be considered. There may be more than one principal building on a parcel.

²²⁴ This is a new definition.

²²⁵ This is a new definition.

²²⁶ A new definition for a carried forward accessory use.

²²⁷ This is a new definition.

²²⁸ This definition is carried forward from the current Zoning Ordinance, with changes for clarification.

²²⁹ This definition is carried forward from Sec. 27-107.01 of the current Zoning Ordinance, with modifications.

²³⁰ This is a new definition.

²³¹ This is a new definition.

²³² This is a new definition.

²³³ This is a new definition.

Build-to line²³⁴

A line that runs perpendicular the entire width of a lot, from the street right-of-way (ROW) to the front building façade on a lot.

Build-to zone²³⁵

The area between the minimum and maximum build-to lines, that extends the entire width of the lot.

Bulbout²³⁶

An extension of the sidewalk into the space of a cartway used for vehicle parking. Bulbouts may be used to narrow the roadway and provide additional pedestrian or landscaping space at key locations, and should be used at corners and at mid-block points. They enhance pedestrian safety by increasing the lateral separation between pedestrians and moving traffic, shortening crossing distances, slowing turning vehicles, and visually narrowing the roadway; they may also be used to provide space for boarding and alighting of buses and other transit vehicles.

BZA²³⁷

See “Board of Zoning Appeals.”

Canopy²³⁸

A roof-like cover extending over an outdoor improvement (such as a sidewalk, a gasoline pump island, or the vehicular surface abutting a "drive-in" service window) for the sole purpose of sheltering persons from sun or precipitation. A canopy is either freestanding,

or attached to and projecting from the wall of a building. A canopy is supported only by columns or the wall of a building, and is unenclosed on all sides, except in the case of a projecting canopy where it abuts the building wall. A canopy shall not be considered a building or structure. An awning shall be considered a canopy. A covering over a porch, patio, deck, terrace, or stairway shall not be considered a canopy.

Canopy, nonresidential²³⁹

An accessory structure to a nonresidential principal use such as gas station or a drive-through facility that consists of a rigid horizontal roof-like structure made of fabric, metal, or other material supported by an attached building or columns or posts, is largely open along its sides, and is intended to provide shelter to people or motor vehicles, or as a decorative feature on a building wall.

Car wash (as accessory to a multifamily dwelling)²⁴⁰

A structure within a multifamily development designed and intended for use by residents to wash, clean, and/or wax their motor vehicles.

Cartway²⁴¹

The traveled way of a street, typically the part of the street cross-section between vertical curbs (or between gutter pans if these are used) that consists of lanes for moving or turning vehicles, and if used, auxiliary lanes for bicycles and/or transit vehicles and space for on-street vehicle parking. If no curbs are used, the cartway consists of the paved surface of the street generally intended for vehicle travel and recovery.

²³⁴ This is a new definition.

²³⁵ This is a new definition

²³⁶ This is a new definition.

²³⁷ This is a new reference.

²³⁸ This definition is carried forward from Sec. 27-107.01of the current Zoning Ordinance, and modified to add clarity.

²³⁹ This definition is carried forward from Sec. 27-107.01of the current Zoning Ordinance, and modified to add clarity.

²⁴⁰ A new definition for a new accessory use.

²⁴¹ This is a new definition.

Centerlines, streets and alleys²⁴²

A line drawn along the center of a street or alley that is parallel to and equidistant from each edge of the street or alley right-of-way.

Change of use²⁴³

The change in the use of a structure or land. Change of use includes a change from one use type to another use type.

Chesapeake Bay Critical Area²⁴⁴

All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State wetlands maps, all State and private wetlands designated under the Annotated Code of Maryland, Natural Resources Article, Title 16 of the Environmental Article; and all land and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands and heads of tides designated under the Annotated Code of Maryland, Natural Resources Article, Title 16 of the Environmental Article, as indicated on approved Chesapeake Bay Critical Area Overlay Zoning Map Amendments.

Chesapeake Bay Critical Area Overlay Zone map amendment²⁴⁵

See Sec. 27-2.506, Chesapeake Bay Critical Area Overlay (CBCA-O) Zone Map Amendment. (Abbreviated as “CBCA-O Zone map amendment.”)

Chicane²⁴⁶

A traffic calming measure that involves offset curb extensions that

²⁴² This is a new definition.

²⁴³ This is a new definition.

²⁴⁴ This definition is carried forward from Sec. 27-107.01 of the current Zoning Ordinance.

²⁴⁵ This is a new definition.

²⁴⁶ This is a new definition.

deflect the path of moving vehicles with added horizontal curves in a street. They are used on streets to slow traffic for safety.

Circuit Court²⁴⁷

The Circuit Court for Prince George’s County.

Circus, carnival, fair, or other special event²⁴⁸

Temporary activities or events conducted by civic, philanthropic, educational, or religious organizations, or activities of a business or organization that is not part of its daily activities and are open to the public. Such activities include, but are not limited to, circuses, carnivals, fairs, tent revivals, closeout sales, grand openings, and fundraising or membership drives.

Class 3 fill²⁴⁹

Temporary use of land for the spreading or depositing of Class 3 fill materials—including, without limitation: soils difficult to compact or with other than optimum moisture content; rock and similar irreducible materials, without limit as to size, provided no detectable voids are formed into which overlying soils may later be washed; and topsoil, intermittently layered with nonorganic soil. Incidental fill operations associated with the development of subdivisions and other preliminary work of a developing site shall not be considered a Class 3 fill operation.

Clerk of the County Council²⁵⁰

The Clerk of the Prince George's County Council, sitting as the District Council for the Prince George's County portion of the Maryland-Washington Regional District.

²⁴⁷ This is a new definition.

²⁴⁸ A new definition for a carried forward temporary use (the current ordinance doesn’t define this use).

²⁴⁹ This definition is carried forward from the current Zoning Ordinance.

²⁵⁰ This is a new definition.

Clubhouse²⁵¹

A building or room used for social or recreational activities by members of a club (e.g., golf course clubhouse) or occupants of a residential or other development.

Collocated telecommunications antenna²⁵²

One of multiple wireless telecommunications antennas placed or located on the same wireless telecommunications tower or other structure.

Common area²⁵³

Land or facilities that are located within, or related to, a development, and that are designed for use by the residents (and guests) of, or workers in, the entire development or a designated part of the development. Common area does not include land or facilities which are individually owned or dedicated to public use. Common area remains in the ownership of a homeowners' or similar association.

Community recreation facility²⁵⁴

A private recreational facility for use solely by the residents and guests of a particular residential development, including residential subdivisions, multifamily, townhouse, and mixed use developments.

Composting, small-scale²⁵⁵

An enclosed area at least 100 square feet in area that contains a compost tumbler or similar apparatus designed for the purpose of

converting household kitchen and yard waste into fertilizer.

Construction-related office/yard²⁵⁶

A temporary structure, facility, or space associated with the staging, management, and security of new construction—including an office building, security building, storage buildings, construction waste and recycling receptacles, temporary sanitation facilities, outdoor storage, and employee parking areas—and located on or adjacent to the construction site.

Cool roof²⁵⁷

Roofing product with high solar reflectance (SR) and thermal emittance (TE) properties. These properties help reduce electricity used for air conditioning by lowering roof temperatures on hot, sunny days.

Cornice²⁵⁸

Any horizontal element, structural or nonstructural, of any building, projecting outward from the exterior walls at the roof line, including eaves and other roof overhang.

County²⁵⁹

Prince George's County, Maryland.

Cul-de-sac²⁶⁰

A short street having but one end open to traffic and the other end being permanently terminated by a vehicular turnaround.

²⁵¹ A new definition for a new accessory use.

²⁵² A new definition for a new accessory use.

²⁵³ This is a new definition.

²⁵⁴ A new definition for a carried forward accessory use (the current ordinance doesn't define this use).

²⁵⁵ A new definition for a new accessory use.

²⁵⁶ A new definition for a carried forward temporary use.

²⁵⁷ This is a new definition.

²⁵⁸ This is a new definition.

²⁵⁹ This definition is carried forward from Sec. 27-107.01 of the current Zoning Ordinance.

²⁶⁰ This is a new definition.

Cupola²⁶¹

A domelike structure on top of a roof, often used as a lookout or to admit light and air.

Cutoff fixture, full²⁶²

A light fixture constructed and installed in such a manner that all light emitted by it, either directly from the lamp (bulb) or a diffusing element, or indirectly by reflection or refraction from any part of the fixture, is projected below the horizontal plane of the fixture.

Density, net²⁶³

See Sec. 27-8.201.C.

Department of Permitting, Inspections, and Enforcement Director²⁶⁴

The Director of the Prince George’s County Department of Permitting, Inspections, and Enforcement. See Sec. 27-2.307, Department of Permitting, Inspections and Enforcement Director (DPIE Director). (Abbreviated as “DPIE Director.”)

Detailed Site Plan for Infrastructure²⁶⁵

A site plan that is prepared in order to proceed with limited site improvements. These improvements must include infrastructure which is essential to the future development of the site, including streets, utilities, or stormwater management facilities.

²⁶¹ This is a new definition.

²⁶² This is a new definition.

²⁶³ This is a new reference.

²⁶⁴ This is a new definition.

²⁶⁵ This new definition is based on Sec. 27-286(b) of the current Zoning Ordinance.

Development²⁶⁶

Unless expressly exempted by this Ordinance, the following activities shall be considered development subject to this Ordinance:

- (A) Any construction, reconstruction, erection, installation, placement, relocation, demolition, or alteration in the size or external appearance of a structure;
- (B) Any establishment, re-establishment, or change in a use of a structure or land;
- (C) Any change in the intensity of the use of a structure or land, such as an increase in:
 - (1) The number of businesses, establishments, offices, dwelling units, or lodging units comprising the use;
 - (2) The number of parking spaces or amount of impervious cover;
 - (3) The number of products or services provided by the use;
 - (4) The volume or characteristics of vehicular traffic generated by the use;
 - (5) Noise levels, thermal conditions, or emissions of waste materials associated with the use;
 - (6) The duration of a temporary or seasonal use;
- (D) Any alteration of the natural topography of land, such as mining, grading, ditching, extracting earth materials, dredging, excavation, filling, or deposition of soil;

²⁶⁶ This is a new definition.

- (E) Removal of vegetative cover, such as site clearing or the removal of specimen trees or significant stands of trees; or
- (F) The construction or extension of any utility service line or facility.

Unless part of a more extensive activity identified as development in the paragraph above, the following activities do not constitute development subject to this Ordinance:

- (A) The ordinary maintenance and repair of existing structures, where no activities identified as development in the paragraph above are involved;
- (B) The inspection, maintenance or repair of an existing transportation facility (roadway, walkway, railroad tracks, bus shelter, traffic control device, etc.) or an existing utility, stormwater management, or public service facility (pipe, cable, valve, catch basin, outlet, ditch, basin, bulk refuse container pad, etc.), if no substantial engineering redesign is involved;
- (C) The ordinary planting or maintenance of vegetative landscaping or gardens; and
- (D) A change in the ownership or form of ownership of any land or structure that does not involve the division of land into separate parcels.

Development lot²⁶⁷

The entire parcel proposed for a townhouse development (not individual lots under attached units).

Digital Display²⁶⁸

A sign that uses light emitting diodes (LEDs), charge coupled devices

²⁶⁷ This is carried forward from the current Zoning Ordinance.

²⁶⁸ This is a new definition.

(CCDs), plasma or functionally equivalent technologies to display a series of still images or full motion, usually remotely programmable and changeable.

Direct illumination²⁶⁹

Illumination by light sources that are effectively visible, either directly or through a translucent material, illuminating outward.

District Council²⁷⁰

The Prince George's County Council, sitting as the District Council for the Prince George's County portion of the Maryland-Washington Regional District. See Sec. 27-2.302, District Council.

DPIE²⁷¹

The Department of Permitting, Inspections, and Enforcement of Prince George's County, Maryland.

DPIE Director²⁷²

See "Department of Permitting, Inspections, and Enforcement Director."

Drive-through service²⁷³

A facility used to provide products or services to customers who remain in their vehicles, whether through a window or door in a building, a machine in a building or detached structure (e.g., ATM), or via a mechanical device (e.g., a pneumatic tube system). In addition to the pick-up window or door, drive-through service facilities also may include remote menu boards and ordering

²⁶⁹ This is a new definition.

²⁷⁰ This definition is carried forward from Sec. 27-107.01 of the current Zoning Ordinance, with modifications.

²⁷¹ This is a new reference.

²⁷² This is a new reference.

²⁷³ A new definition for a new accessory use.

stations. Use types that commonly have drive-through service include banks, restaurants, specialty eating or drinking establishments, and drug stores.

Dwelling²⁷⁴

A building used for living facilities for one or more families.

Dwelling unit²⁷⁵

A building (or part of a building) used as a complete and independent living facility for only one family, which includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

Eave²⁷⁶

The projecting lower edges of a roof that overhangs the wall of a building.

Electric vehicle (EV) charging station (Level 1, 2, or 3)²⁷⁷

A vehicle parking space served by an electrical component assembly or cluster of components assemblies (battery charging station) designed and intended to transfer electric energy by conductive or inductive means from the electric grid or other off-board electrical source to a battery or other energy storage device within a vehicle that operates, partially or exclusively, on electric energy.

A Level 1 charging station is a slow-charging station that typically operates on a 15- or 20-amp breaker on a 120-volt Alternating Current (AC) circuit.

A Level 2 charging station is a medium-speed-charging station that typically operates on a 40- to 100-amp breaker on a 208- or 240-volt Alternating Current circuit.

A level 3 charging station is an industrial grade charging station that operates on a high-voltage circuit to allow for fast charging.

Façade²⁷⁸

The entire exterior wall of a building facing a lot line measured from the grade to the eave or highest point of a flat or mansard roof. Facades may be on the front, side, or rear elevation of the building.

Fall zone²⁷⁹

The area within which a wireless telecommunications support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

Family²⁸⁰

A person living independently or a group of persons living as a single household unit using housekeeping facilities in common, but not to include more than 5 persons who are unrelated by blood, marriage, adoption, or foster-child status.

Family child care home, large²⁸¹

The use of a residence to provide child care for nine to 12 children as a "large family child care home" that is registered by the State Department of Education in accordance with COMAR 13A.18.

²⁷⁴This definition is carried forward from Sec. 27-1.7.01 of the current Zoning Ordinance.

²⁷⁵ This is carried forward from the current Zoning Ordinance, with minor changes for clarity.

²⁷⁶ This is a new definition.

²⁷⁷ New definitions for new accessory uses.

²⁷⁸ This is a new definition.

²⁷⁹ This is carried forward from the current Zoning Ordinance.

²⁸⁰ This is a new definition of family.

²⁸¹ A modified definition for a carried forward accessory use (renamed from "small group child care center"), revised to update terms and citations used for State child care regulations.

Family child care home, small²⁸²

The use of a residence to provide child care for up to eight children as a "family child care home" that is registered by the State Department of Education in accordance with COMAR 13A.15, or that is specifically exempt from registration by COMAR 13A.15.02.

Farm tenant dwelling (as accessory to an agricultural production use)²⁸³

A single-family detached dwelling or dormitory (but not a multifamily dwelling) that is:

- (A) Not the principal residence of the property owner;
- (B) An "accessory building";
- (C) Located on land used exclusively for "Agriculture";
- (D) Owned by the same person who owns the agricultural land; and
- (E) Occupied by a tenant who derives a majority of his total income from working the agricultural land.

Farmers' market (as a temporary use)²⁸⁴

A collection of vendors using private or publicly owned property or property owned by a not-for-profit organization for the sale of agricultural and horticultural products grown by the vendor, or for the sale of baked, canned, or preserved foods prepared by the vendor.

If the farmers' market occurs once every two weeks or more frequently for all or most of the year, it is considered a principal

use. If the farmers' market occurs only occasionally or periodically for only a limited time period during the year, it is considered a temporary use. Operations generally meeting the definition of a temporary farmers' market, but that are open fewer than four days per year, shall be construed as a "garage or yard sale."

Faux window²⁸⁵

"Faux" windows shall contain a recessed glass surface or other surface that will mimic the appearance of a window. If glass is used, it does not have to be transparent and may be backed by a solid wall.

Fence or wall²⁸⁶

A fence or wall is an artificially erected freestanding barrier used to enclose (and protect) an area, restrict or prevent access to an area, to conceal or screen an area, and/or for decorative purposes. A fence may be open or solid and generally consists of wood, metal, concrete, or plastic posts connected by boards, rails, panels, wire, or mesh. A wall is generally solid and consists of masonry, stone, brick, tile, concrete, or plaster. Natural growth barriers such as hedges are not considered fences or walls.

Fenestration/Transparency²⁸⁷

The design, location, and presence of windows and doors in a building.

Firewood display and sales²⁸⁸

The display for retail sale of wood cut and dried to serve as fuel.

²⁸² A modified definition for a carried forward accessory use, revised to update terms and citations used for State child care regulations.

²⁸³ This is carried forward from the current Zoning Ordinance.

²⁸⁴ A modified definition for a carried forward temporary use.

²⁸⁵ This is a new definition.

²⁸⁶ This is a new definition.

²⁸⁷ This is a new definition.

²⁸⁸ A new definition for a carried forward principal use (the current ordinance doesn't define this use).

Flagpole and flag²⁸⁹

A pole displaying a fabric, banner, or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision, corporate or commercial entity, or institution.

Flea market²⁹⁰

The temporary and occasional collection of vendors using stalls, booths, or tables on property owned by a public agency or a not-for-profit organization for the sale of merchandise, collectibles, crafts, antiques, and other items, excluding automobiles, automobile parts, and nonportable household appliances. Operations generally meeting this definition, but which are open fewer than four days a year, shall be construed as a "garage or yard sale."

Floor area ratio (FAR)

See Sec. 27-8.201.D.

Footcandle²⁹¹

A unit of measure of the intensity of light falling on a surface. It is often defined as the amount of illumination the inside surface of a one-foot-radius sphere would be receiving if there were a uniform point source of one candela in the exact center of the sphere. One footcandle is equal to one lumen per square foot.

Front (or Primary) façade²⁹²

The side or elevation of a structure that contains the structure's architectural front, or the portion of the structure facing the street from which the structure derives its street address.

²⁸⁹ A new definition for a new accessory use.

²⁹⁰ This is a new definition.

²⁹¹ This is a new definition.

²⁹² This is a new definition.

Full cut-off lens²⁹³

An artificial outdoor lighting fixture designed to ensure that no light is directly emitted above a horizontal line parallel to the ground.

Functional master plan²⁹⁴

The current approved plan for one of the various elements of the General Plan, such as transportation, schools, libraries, hospitals, health centers, parks and other open spaces, police stations, fire stations, utilities, or historic preservation.

Gable²⁹⁵

A triangular area of an exterior wall formed by two sloping roofs.

Garage or carport²⁹⁶

A structure used or designed to provide shelter for the parking and storage of motor vehicles or boats. A garage is an enclosed building whereas a carport is a roofed structure open on one or more sides. Garages and carports are commonly attached to and considered part of a dwelling or other principal building, but may exist as a detached accessory structure.

Garage or yard sale²⁹⁷

The temporary and occasional use of the garage or yard of a residential dwelling for the casual sale of miscellaneous items of personal property to the general public. They shall be limited to four times per year at each residential dwelling.

²⁹³ This is a new definition.

²⁹⁴ This definition is carried forward from the current Zoning Ordinance.

²⁹⁵ This is a new definition.

²⁹⁶ This is a new definition.

²⁹⁷ This is a new definition.

General Plan²⁹⁸

The Prince George’s County General Plan approved in accordance with State law.

Glare²⁹⁹

The effect produced by a high intensity or insufficiently shielded light source that is significantly brighter than the level to which the eyes are adapted, causing annoyance, discomfort, or loss of visual performance or visibility of objects.

Glazing or transparency³⁰⁰

The portion of an exterior building surface occupied by glass or windows.

Grading permit³⁰¹

See Subtitle 32, Division 2: Grading, Drainage and Erosion and Sediment Control, of the County Code of Ordinances.

Green area³⁰²

An area of land associated with, and located on the same parcel of land as, a building for which it serves to provide light and air, or scenic, recreational, or similar purposes. Green area shall generally be available for use by the occupants of the building, but may include a limited amount of space to enhance the amenity of the development by providing landscaping features, screening for the benefit of people in neighboring areas, or a general appearance of openness. Green area may include lawns, decorative plantings, sculptures, wooded areas, landscaped areas covering structures

²⁹⁸ This is a new definition.

²⁹⁹ This is a new definition.

³⁰⁰ This is a new definition.

³⁰¹ This is a new definition.

³⁰² This is a definition from the landscape Manual, with modifications for clarity.

that are not more than 12 feet above ground level, sidewalks and walkways, furniture, active and passive recreational areas, and water surfaces that comprise not more than ten percent of the total green area. It shall not include parking lots or other vehicular surfaces, or accessory buildings, except as otherwise provided.

Green roof³⁰³

A roof of a structure that is partially or completely cover with vegetated landscape built up from a series of layers. Green roofs are constructed for multiple reasons – as spaces for people to use, as architectural features, to add value to property or to achieve particular environmental benefits (for example, stormwater capture and retention, improved species diversity, insulation of a building against heat gain or loss, and energy conservation). Vegetation on green roofs is planted in a growing substrate (a specially designed soil substitution medium) that may range in depth from 50 mm to more than a yard, depending on the weight capacity of the structure’s roof and the aims of the design.

Greenhouse³⁰⁴

A structure, primarily of glass, in which temperature and humidity can be controlled for the cultivation or protection of plants.

Gross floor area³⁰⁵

The total number of square feet of floor area in a building, excluding those portions of a basement used exclusively for storage or other areas used exclusively for the mechanical elements of a building, and uncovered steps and porches, but including the total floor area of accessory buildings on the same lot. All horizontal measurements shall be made between the exterior faces of walls,

³⁰³ This is a new definition.

³⁰⁴ A new definition for a new accessory use.

³⁰⁵ This definition is carried forward from Sec. 27-107.01 of the current Zoning Ordinance.

columns, foundations, or other means of support or enclosure. It includes walkways or plazas within wholly enclosed shopping malls but does not include covered walkways or plazas in other shopping centers, or other areas covered solely by canopies. (Abbreviated as "GFA.")

Helipad (as an accessory use)³⁰⁶

A facility located on the roof of an office or other building (like a hospital) that accommodates the landing and taking-off of helicopters.

Historic Preservation Commission³⁰⁷

See Sec. 27-2.308, Historic Preservation Commission.

Home based business³⁰⁸

A business, profession, occupation, or trade that is conducted within a residential dwelling unit for the economic gain or support of a resident of the dwelling, is incidental and secondary to the residential use of the lot and does not adversely and/or perceptively affect the character of the lot or surrounding area.

Examples of home based businesses include, but are not limited to, the following: offices of physicians, dentists, lawyers, architects, engineers, contractors, consultants, stock brokers, marketers, bookkeepers, real estate brokers, and insurance agents; electronic and offsite retail; studios of artists, and musicians; sewing, millinery, and dressmaking services; home services such as interior decorating, maintenance, landscaping; and personal services such as physical therapy by licensed individuals, hairdressing, pet grooming, and the like.

³⁰⁶ This is a new definition.

³⁰⁷ This is a new definition.

³⁰⁸ A modified definition for a carried forward "home occupation" accessory use, revised to strip out standards (in Sec. 27-4.304.B.12), and emphasize examples.

Home based businesses do not include such businesses as: family child care homes and large family child care homes (which are separate accessory uses of homes), automotive repair and the like; any licensed or unlicensed practitioner who performs invasive procedures (acupuncture, tattooing, body piercing, and the like); restaurants, bars, social clubs and the like; animal kennels or hospitals and the like; or any other business that is clearly inappropriate or out of character for a residential area such that its location constitutes an adverse impact on neighboring residential properties.

Home garden³⁰⁹

An on-site garden planted by an owner or occupant of a single-family detached dwelling unit for the purpose of growing vegetables or fruit for consumption by occupants of the home only.

Home improvements³¹⁰

Modifications customarily made to dwellings for the purposes of enlargement, alteration, or the addition of a fireplace, porch, deck, carport, patio, shed, garage, driveway, or swimming pool.

Ingress³¹¹

Access or entry to a building or site.

Interpretation (text, uses, and zone map)³¹²

See Sec. 27-2.515, Interpretation (Text, Uses, and Zone Map).

³⁰⁹ This is a new definition.

³¹⁰ This definition is carried forward from the current Zoning Ordinance.

³¹¹ This is a new definition.

³¹² This is a new definition.

Landscape Manual³¹³

The document that promulgates the standards and criteria for developing landscaped, buffered, and screened areas in Prince George's County, and which is adopted by the District Council and revised and amended from time to time by the District Council.

Large retail buildings³¹⁴

For the purposes of Sec. 27.5-900, Nonresidential and Mixed-Use Design and Form Standards, single-tenant buildings that have a gross floor area of 75,000 square feet or more and devote 60 percent or more of the total floor area to retail sales activities.

Limited fuel/oil/bottled gas distribution³¹⁵

The distribution, for compensation, of fuel oil or bottled gases such as propane or liquid petroleum in containers no greater than five gallons in volume.

Links³¹⁶

For purposes of establishing a score under the Street Connectivity Index (see Sec. 27-5.108 F. 2, Street Connectivity Index Score Calculation) a link represents the stretches of road that connect the nodes within the subdivision, and the street stubs within the subdivision.

Livestock³¹⁷

Animals commonly regarded as farm animals, including, but not limited to, cattle, horses, goats, llamas, ostriches, and sheep, but

³¹³ This is a new definition.

³¹⁴ This is a new definition.

³¹⁵ A new definition for a new accessory use.

³¹⁶ This is a new definition.

³¹⁷ This is a new definition.

excluding domestic animals such as dogs, cats, rabbits, and domestic fowl.

Lot³¹⁸

A designated area of land to be used, developed, or built upon as a unit (in accordance with this Ordinance), and having the minimum contiguous area required for a lot in the applicable zone and frontage on a public street, or private road, right-of-way, or easement approved in accordance with Subtitle 24. A lot shall be made up of one or more entire record lots.

Lot coverage³¹⁹

See Sec. 27-8.201.E.

Lot, record³²⁰

An area of land designated as a separate parcel of land on a record plat, or on a legally recorded deed (to land for which no subdivision plat is required pursuant to the provisions of Subtitle 24) filed among the Land Records of Prince George's County, Maryland.

Lumen³²¹

A quantitative unit measuring the amount of light emitted by a light source.

Manufactured home as emergency housing³²²

The temporary placement and use of a manufactured home dwelling to provide emergency replacement housing following the

³¹⁸ This is carried forward from the current Zoning Ordinance, with some changes.

³¹⁹ This is a new reference.

³²⁰ This is carried forward from the current Zoning Ordinance, with minor changes for clarification.

³²¹ This is a new definition.

³²² A new definition for a carried forward temporary use (the current ordinance doesn't define this use).

destruction or damage of a dwelling by a fire, hurricane, tornado, flooding, or other physical catastrophe and until the dwelling is repaired, reconstructed, or replaced with a permanent dwelling.

Master plan³²³

See “Area master plan.”

Maximum extent practicable³²⁴

No feasible or practical alternative exists, as determined by the appropriate staff, and all possible efforts to comply with the standards or regulation or minimize potential harmful or adverse impacts have been undertaken by the applicant. Economic considerations may be taken into account but shall not be the overriding factor determining “maximum extent practicable.”

M-NCPPC

Abbreviation of Maryland-National Capital Park and Planning Commission.

Modular classroom³²⁵

A compensatory education modular classroom which is used exclusively for the purpose of providing educational services to private school students pursuant to Title 1 of the Elementary and Secondary Education Act of 1965, 20 U.S.C., Section 2701 et seq. (Title 1).

Mullion³²⁶

A vertical element that forms a division between units of a window or door, that is sometimes used as decoration. When dividing adjacent window units, its primary purpose is to provide structural

support to an arch or lintel above the window opening.

Municipality³²⁷

An incorporated city or town.

N/A³²⁸

Abbreviation of “not applicable.”

Neckdown³²⁹

A traffic calming measure that narrows a street, either at an intersection or at a mid-block point and typically in a residential neighborhood. It is intended to slow vehicular traffic and to increase the safety of pedestrians. On streets with two-way traffic, neckdowns may permit two vehicles in opposite directions to pass through the narrowed portion of the street or may designed such that one vehicle must yield to the other.

Net lot area³³⁰

See Sec. 27-8.201.A.

Newspapers of record³³¹

A County newspaper, designated as such by the County Council, in accordance with the requirements of the Charter of Prince George’s County, Maryland.

³²³ This is a new reference.

³²⁴ This is a new definition.

³²⁵ This is a new definition.

³²⁶ This is a new definition.

³²⁷ This definition is carried forward from Sec. 27-107.01 of the current Zoning Ordinance.

³²⁸ This is a new reference.

³²⁹ This is a new definition.

³³⁰ This is a new reference.

³³¹ This definition is carried forward from Sec. 27-107.01 of the current Zoning Ordinance.

Nit³³²

For the purposes of Sec. 27-5.1300, Signage, a measurement of a sign's luminance measured in the number of candela per square meter (cd/m²).

Node³³³

For purposes of establishing a score under the Street Connectivity Index (see Sec. 27-5.108 F. 2, Street Connectivity Index Score Calculation) a node represents street intersections and cul-de-sac heads within the subdivision.

Nonconforming lot of record³³⁴

A record lot that was legally created before this Ordinance, or an amendment thereto, was adopted, that is rendered non-compliant with the dimensional standards in this Ordinance.

Nonconforming sign³³⁵

A sign that was legally established before this Ordinance, or an amendment thereto, was adopted, that is rendered non-compliant with the signage standards in this Ordinance.

Nonconforming site feature³³⁶

Any off-street parking, landscaping, screening of mechanical equipment, wall, or fence that was legally established before this Ordinance, or an amendment thereto, was adopted, that is rendered non-compliant with the standards in this Ordinance.

Nonconforming structure³³⁷

A structure that was legally established before this Ordinance, or an amendment thereto, was adopted, that is rendered non-compliant with the dimensional standards of the zone in which it is located or any other standards in this Ordinance.

Nonconforming use³³⁸

A use that was legally established before this Ordinance, or an amendment thereto, was adopted, that is rendered non-compliant with the use regulations in this Ordinance.

Nonconformity³³⁹

A use, structure, lot, sign, or site feature that was legally established before this Ordinance, or an amendment thereto, was adopted, that is rendered non-compliant with this Ordinance.

Nursery and garden center (as accessory to an agricultural use)³⁴⁰

Structures or an area of land located on land used for agricultural production that is used for the display and sale of nursery stock or garden supplies. This use does not include a temporary "wayside stand."

Office trailer³⁴¹

The temporary use of a trailer or other manufactured structure as an office in conjunction with existing office space accessory to an industrial use during the time in which permanent office space facilities are being constructed on-site.

³³² This is a new definition.

³³³ This is a new definition.

³³⁴ This is a new definition.

³³⁵ This is a new definition.

³³⁶ This is a new definition.

³³⁷ This is a new definition.

³³⁸ This is a new definition.

³³⁹ This is a new definition.

³⁴⁰ This is a new definition.

³⁴¹ A new definition for a carried forward principal use (the current ordinance doesn't define this use).

Opacity³⁴²

A measurement indicating the degree of obscuration of light or visibility.

Outdoor display of merchandise (as accessory to a retail sales use)³⁴³

Outdoor display of merchandise is the placement of products or materials for sale or rental outside the entrance of a retail or wholesale sales establishment.

Outdoor seating (as accessory to an eating or drinking establishment)³⁴⁴

Outdoor seating as accessory to an eating or drinking establishment is the provision of on-site outdoor seating areas by an eating or drinking establishment where food or beverages are served for consumption. The accessory use also may include outdoor seating areas on public sidewalks in front of the establishment.

Outdoor storage (as an accessory use)³⁴⁵

Outdoor storage as an accessory use is the keeping, in an unroofed area on the site of a principal use, of any goods, material, merchandise, or vehicles associated with the principal use in the same place for more than 24 hours. This use does not include a junkyard or salvage yard or the display and storage of vehicles as part of an automobile, recreational vehicle, trailer, or truck sales or rental use.

³⁴² This is a new definition.

³⁴³ A new definition for a carried over accessory use (the current ordinance doesn't define the use).

³⁴⁴ A new definition for a new accessory use.

³⁴⁵ A new definition for a carried over accessory use (the current ordinance doesn't define the use).

Outparcel³⁴⁶

A parcel that is part of a development located on the exterior of the development, generally adjacent to the street.

Owner³⁴⁷

The person in whom legal or equitable title rests. Owner means any part owner, joint owner, owner of a community or partnership interest, life tenant, tenant in common, tenant by the entirety, or joint tenant. Where the signature of an owner is required, the term owner includes anyone having clear written authority to act on behalf of the actual owner.

Parapet³⁴⁸

A building façade that rises above the roof level, typically obscuring a gable or flat roof as well as any roof-mounted equipment.

Parapet wall³⁴⁹

A low protective or decorative wall or railing along the edge of a raised structure such as a roof or balcony.

Parcel or parcel of land³⁵⁰

Any quantity of land capable of being described with such definiteness that its location and boundaries may be established which is designated by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit.

³⁴⁶ This is a new definition.

³⁴⁷ This definition is carried forward from Sec. 27-107.01 of the current Zoning Ordinance.

³⁴⁸ This is a new definition.

³⁴⁹ This is a new definition.

³⁵⁰ This is a new definition.

Parcel-specific map amendment³⁵¹

See Sec. 27-2.504, Parcel-Specific Map Amendment.

Parking area³⁵²

Any public or private area, under or outside of a building or structure, designed and used for parking motor vehicles, including parking lots, garages, private driveways, and legally designated areas of public streets.

Parking bay³⁵³

The parking module consisting of one row of parking spaces or stalls and the aisle from which motor vehicles enter and leave the spaces.

Parking Demand Study³⁵⁴

An analysis of the total number of parking spaces required in order to accommodate the optimal number of vehicles for parking purposes by a particular use or site at any given time, including the parking requirements for all employees, occupants, clients, and visitors.

Parking facility (as an accessory use)³⁵⁵

An off-street, hard-surfaced, ground level area—or a structure composed of one or more levels or floors—that is used exclusively for the temporary storage of motor vehicles associated with the principal use of the lot (for residents, employees, customers, visitors, etc.). A structured parking facility may be totally below grade or partially or totally above grade, with levels either being open to the sides (deck) or enclosed (garage).

³⁵¹ This is a new definition.

³⁵² This is a new definition.

³⁵³ This is a new definition.

³⁵⁴ This is a new definition.

³⁵⁵ A modified definition of a carried forward use.

Parking lot drive aisle³⁵⁶

A vehicular accessway located within an off-street parking or vehicular use area which serves individual parking stalls and driveways.

Parking space, handicapped accessible³⁵⁷

A space designated for the parking or temporary storage of one motor vehicle in addition to the space necessary for the ingress and egress from the vehicle by a disabled person and any equipment needed for that purpose.

Parking space, off-street³⁵⁸

A space that is designated for the parking or temporary storage of one motor vehicle located outside of a dedicated street right-of-way, vehicular travel way, or parking aisle.

Parking structure or “structured parking”³⁵⁹

A building for short-term storage of motor vehicles, having two or more tiers or levels, that has open sides or is enclosed, with the top tier or level either roofed or not.

Parking, deferred³⁶⁰

A portion of the required off-street parking associated with a use that is not installed at the time of construction, but delayed or deferred until a parking demand study can be completed to determine if the additional required parking is needed.

³⁵⁶ This is a new definition.

³⁵⁷ This is a new definition.

³⁵⁸ This is a new definition.

³⁵⁹ This is a new definition.

³⁶⁰ This is a new definition.

Parking, off-site³⁶¹

An off-street parking area provided on a different parcel than the use it is intended to serve.

Parking, shared³⁶²

Off-street parking facilities shared by two or more uses that are in close proximity to one another and the parking area, and that have different operational characteristics such that use of the parking facilities by one use will not generally overlap with the use of the parking area by the other use(s).

Parking, tandem³⁶³

A parking space within a group of two or more parking spaces arranged one behind the other.

Patio³⁶⁴

An area, usually paved, adjoining a building - used as an area for outdoor dining or gathering.

Pedestrian street frontage

A street frontage along which continuous, convenient pedestrian access and mobility is intended to be provided, with wider than normal sidewalks and no or very limited curb cuts other interruptions to the sidewalks. Pedestrian street frontages are designated when land is zoned or rezoned to a transit-oriented/activity center base or PD zone, or by approval of a master plan or sector plans for a large-scale development.

³⁶¹ This is a new definition.

³⁶² This is a new definition.

³⁶³ This is a new definition.

³⁶⁴ This is a new definition.

Person³⁶⁵

For purposes enforcing this Ordinance in accordance with Division 27-7: Enforcement, a “person” is any individual or natural person, legal entity, joint stock company, partnership, voluntary association, society, club, firm, company, corporation, business or other trust, two or more persons having a joint interest, civic association, municipality, government organization or entity, government official, or any other organization, whether or not legally incorporated. Persons subject to the remedies and penalties established in Division 27-7: Enforcement, for violating this Ordinance shall include the owner, tenant, or occupant of the land or structure that is in violation of this Ordinance and any other person who participates in, assists, directs, creates, or maintains a situation that constitutes an Ordinance violation, including but not limited to an architect, engineer, builder, contractor, or agent.

For all other purposes, “person” means any individual or natural person, legal entity, joint stock company, partnership, voluntary association, society, club, firm, company, corporation, business or other trust, civic association, municipality, government organization or entity, or any other organization, whether or not legally incorporated.

Person of record (party of record)³⁶⁶

In any zoning case, a person or party of record includes:

- (A) The owner, applicant, and correspondent;
- (B) Any municipality, civic association, or other person which requests, by writing or testimony, to become a person or

³⁶⁵ This definition carries forward the generally-applicable definition for “person” in Sec. 27-107.01 of the current Zoning Ordinance. It also provides a new definition that applies specifically to the enforcement of the rewritten Zoning Ordinance.

³⁶⁶ This definition is carried forward from Sec. 27-107.01 of the current Zoning Ordinance.

party of record on or before the date the Zoning Hearing Examiner takes the case under advisement; and

- (C) The Development Review District Commission if the property is located in a Development Review District.

In any sectional map amendment or other matter (under this Subtitle) not heard by the Zoning Hearing Examiner, a person or party of record includes the owner, applicant, and correspondent of a pending application; a municipality, civic association, or other person which, in writing or in testimony before the District Council, Planning Board, or other body, requests to be made a person or party of record, and the Development Review District Commission, if the property is located in a Development Review District, prior to the closing of the hearing record on the matter.

Physically handicapped person³⁶⁷

An individual who has a physical impairment which:

- (A) Is expected to be of long-continued and indefinite duration;
- (B) Substantially impedes the ability to move about and live independently; and
- (C) Is of such a nature that this ability could be improved by more suitable housing conditions, barrier-free design of buildings, and reserved, specially-designed parking facilities.

Pier, community or noncommercial docking facility³⁶⁸

A pier or boat docking facility that is community-owned, and operated for the benefit of the residents of a riparian subdivision.

³⁶⁷ This definition is carried forward from Sec. 27-107.01 of the current Zoning Ordinance.

³⁶⁸ This definition is carried forward from Sec. 27-107.01 of the current Zoning Ordinance.

Pier, private³⁶⁹

A privately owned platform extending from a shore over water and supported by piles or pillars, used to secure, protect, and provide access to boats.

Pilaster³⁷⁰

An architectural element used to give the appearance of a supporting column and to articulate an extent of wall, with only an ornamental function.

Planned development map amendment³⁷¹

See Sec. 27-2.505, Planned Development (PD) Map Amendment . (Abbreviated as “PD map amendment.”)

Planning Board³⁷²

The Prince George's County Planning Board of the Maryland-National Capital Park and Planning Commission. See Sec. 27-2.303, Prince George’s County Planning Board (Planning Board).

Planning Director³⁷³

The Planning Director of Prince George’s County, or his or her designee. See Sec. 27-2.306, Planning Director.

Plaza³⁷⁴

An open space at the intersection of streets or adjacent to

³⁶⁹ This definition is carried forward from Sec. 27-107.01 of the current Zoning Ordinance.

³⁷⁰ This is a new definition.

³⁷¹ This is a new definition.

³⁷² This definition is carried forward from Sec. 27-107.01 of the current Zoning Ordinance, with modifications.

³⁷³ This is a new definition.

³⁷⁴ This is a new definition.

structures, set aside for civic purposes and commercial activity, which may include parking, consisting of durable pavement, and formal landscaping or tree plantings.

Porch³⁷⁵

A structure attached to a building that has a roof and that may or may not have walls

Procedures Manual³⁷⁶

A manual, prepared by the Planning Director, containing all requirements for application contents and forms, submission schedules, application fee information, and any other information the Planning Director determines is relevant to the submittal, review, and decision of development applications under this Ordinance.

Rain garden³⁷⁷

A planted depression that allows rainwater runoff from impervious areas like roofs, driveways, walkways, parking lots, and compacted lawn areas the opportunity to be collected in a single location and absorbed.

Rainwater cistern or barrel³⁷⁸

A catchment device to capture rain water from a roof or other surface before it reaches the ground, which may be either above or below ground level.

Retail sales (as accessory to a manufacturing, warehouse, or wholesale use)³⁷⁹

The offering of products associated with a manufacturing, warehouse, or wholesale use for retail sale to the general public on the premises of the manufacturing, warehouse, or wholesale use. An example is an outlet or seconds shop located at a manufacturing plant.

Retail sales (as accessory to a multifamily development)³⁸⁰

Small-scale retail sales or service uses on the premises of a multifamily development use that offer convenient goods and other goods and services (not major purchase items) serving the day-to-day needs of residents and guests of the multifamily development. Such uses include a beauty salon or barbershop, small eating or drinking establishment, small food or beverage store, or florist.

Retaining wall³⁸¹

A structure, either masonry, metal, or treated wood, designed to prevent the lateral displacement of soil, rock, fill, or other similar material.

Roof line³⁸²

The top edge of the roof or the top of the parapet, whichever forms the top line of a building.

³⁷⁵ This is a new definition.

³⁷⁶ This is a new definition.

³⁷⁷ This is a new definition.

³⁷⁸ A new definition for a new accessory use.

³⁷⁹ A new definition for a new accessory use.

³⁸⁰ A new definition for a carried over accessory use (the current ordinance doesn't define the use).

³⁸¹ This is a new definition.

³⁸² This is a new definition.

Rubble (construction and demolition debris) landfill (as a temporary on-site use)³⁸³

A solid waste management facility that is the final resting place for materials discarded from the on-site construction, renovation, or demolition of a structure that are generally considered to be nonhazardous and not water soluble—including, but not limited to, steel, glass, brick, concrete, asphalt materials, pipe, gypsum wallboard, and lumber. A construction and demolition debris disposal facility may also contain land clearing debris such as rocks, soil, trees, and other vegetative matter. These facilities are subject to State permitting requirements and regulations.

Sadomasochistic abuse³⁸⁴

Flagellation or torture by or upon a human who is nude, or clad in undergarments, or in a revealing or bizarre costume, or the condition of one who is nude or so clothed and is being fettered, bound, or otherwise physically restrained.

Satellite dish antenna³⁸⁵

A round or parabolic antenna and its supporting structure for the purposes of sending and/or receiving radio or electromagnetic signals.

Sawmill (as a temporary on-site use)³⁸⁶

A temporary operation of facility established for the purpose of sawing or planning of logs or trees grown and harvested on the site into rough slabs.

³⁸³ This is carried forward from the current Zoning Ordinance.

³⁸⁴ This is carried forward from the current Zoning Ordinance.

³⁸⁵ A new definition for a carried over accessory use (the current ordinance doesn't define the use).

³⁸⁶ A new definition for a carried over use (the current ordinance doesn't define the use).

Searchlight³⁸⁷

An apparatus containing a light and reflector on a swivel, for projecting a strong, far-reaching beam in any direction.

Seasonal decorations display and sales³⁸⁸

A temporary business enterprise that is conducted primarily outdoors and offers for retail sale decorative items that are, by their nature, in particular demand during a relatively short peak season—including, but not limited to, Christmas trees, pumpkins, flowers, and fireworks.

Sectional map amendment³⁸⁹

See Sec. 27-2.503, Sectional Map Amendment (SMA).

Sector plan³⁹⁰

A comprehensive plan for the physical development of part of a planning or master plan area, showing in detail planning features such as type, density and intensity of land uses, pedestrian traffic features, public facilities, and the relationship between the various uses to transportation, other public facilities and services, and amenities within the sector plan area, and where appropriate, to other areas. (See Sec. 27-2.501, Comprehensive Plans and Amendments.)

Sexual conduct³⁹¹

Human masturbation, sexual intercourse, or any touching of or

³⁸⁷ This is a new definition.

³⁸⁸ A new definition for a carried over temporary use (the current ordinance doesn't define the use).

³⁸⁹ This is a new definition.

³⁹⁰ This definition is carried forward from Sec. 27-107.01 of the current Zoning Ordinance, with minor refinements.

³⁹¹ This definition is carried forward from Sec. 27-902 of the current Zoning Ordinance.

contact with the genitals, pubic areas, or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex, or between humans and animals.

Sexual excitement³⁹²

The condition of human male or female genitals, or the breasts of the female, when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

Shopping center³⁹³

A group of four or more nonresidential establishments that primarily consist of retail sales and services establishments and personal service uses, under single or multiple ownership, in one or more buildings, that is planned, constructed, and managed as a single entity, with:

- (A) Shared traffic circulation systems and off-street parking and loading areas;
- (B) Shared site features including but not limited to access, landscaping, pedestrian ways, and signage; and;
- (C) Coordinated form and building design.

Shopping center, integrated³⁹⁴

For the purposes of Sec. 27-5.1300, Signage, a group of three or more retail stores planned and developed under a uniform development scheme and served by common and immediate off-

street parking and loading facilities.

Shrub³⁹⁵

A self-supporting woody perennial ranging in height from six inches to 20 feet. Shrubs are characterized by multi-stemmed growth habits and can be deciduous or evergreen.

Sidewalk³⁹⁶

A paved area public right-of-way running parallel to the street for the purposes of pedestrian travel and to facilitate pedestrian access to adjacent streets, buildings, and land.

Sidewalk pedestrian clearance zone³⁹⁷

In the RTO Zone, the portion of the sidewalk primarily intended for the unobstructed movement of pedestrians, located between the sidewalk planting zone and the building façade.

Sidewalk planting zone³⁹⁸

In the RTO, the portion of the sidewalk between the sidewalk pedestrian clearance zone and the street right-of-way where street trees are planted.

Sign³⁹⁹

Any letter, word, numeral, figure, design, projected image, picture, illustration, emblem, symbol, trademark, banner, pennant, or other device, whether illuminated or non-illuminated, which is used to announce, direct attention to, identify, advertise, or otherwise make anything known, including but not limited to realty, products,

³⁹² This definition is carried forward from Sec. 27-902 of the current Zoning Ordinance.

³⁹³ This is a new definition.

³⁹⁴ This definition is carried forward from Sec. 27-107.01 of the current Zoning Ordinance.

³⁹⁵ This is a new definition.

³⁹⁶ This is a new definition.

³⁹⁷ This is a new definition.

³⁹⁸ This is a new definition.

³⁹⁹ This definition builds on the definition of sign in Sec. 27-107.01 of the current Zoning Ordinance.

services, places, activities, persons institutions, performances, commodities, and business and organizations. Signs do not include the flag or emblem of any nation; county, state, city, religious, fraternal, or civic organization decorations; or works of art which in no way identify a product or business.

Sign area or surface area⁴⁰⁰

The entire area of a sign. It shall be measured by the square, rectangle, semicircle, or parallelogram thereof, and comprise the entire sign inclusive of any border or trim and all the elements of the matter displayed, but excluding the base or apron, supports and other structural members. All sides of a sign which are visible from any vantage point shall be measured in determining the area of a sign, except that if two sides are back-to-back or separated by an angle of 45 degrees, only the larger of two sides shall be measured.

If a building wall sign include letters, figures, designs, or other sign elements that are painted or mounted directly on the architectural face of a building with no border, trim, or other decorative wall work, the spaces between such elements shall not be considered part of the sign, and the sign area shall be calculated by reducing by 50 percent the area of the square, rectangle, semicircle, or parallelogram thereof which forms, or approximates, the perimeter of the sign elements.

Sign illumination, animated⁴⁰¹

Illumination of part or all of a sign drawing attention to a sign through an internal or external light source or neon illumination that exhibits changing intensities or colors. Animated illumination includes a sign on which the only copy that changes is the electronic indication of time, temperature, stock market, or similar information. Animated illumination does not include automatic

⁴⁰⁰ This definition builds on clarifies Sec. 27-591 of the current Zoning Ordinance.

⁴⁰¹ This is a new definition.

changes in display for digital displays.

Sign illumination, static⁴⁰²

Illumination drawing attention to a sign through an internal or external light source or neon illumination that does not change intensities or colors. Static illumination does not include digital displays.

Sign, address⁴⁰³

A sign identifying the street number and/or name of the occupant of the property on which the sign is located.

Sign, building wall or roof⁴⁰⁴

A sign attached parallel to, painted on the wall surface of, or erected on the outside wall, mansard roof structure, other roof structure, or parapet of any building or structure, which is supported by a wall, building, or structure, and which displays only one sign surface.

Sign, canopy⁴⁰⁵

A sign which is a part of or attached to a canopy (see “Canopy”).

Sign, changeable copy⁴⁰⁶

A sign that is designed to accommodate the frequent changing of message copy (e.g., letters, numerals, graphics), whether through manual means (e.g., changing of attachable characters or graphics), mechanical means (e.g., rotation of sign face or sign panels), or electronic means (e.g., automatic switching of sign face or sign panels or of the message itself). Changeable copy signs include

⁴⁰² This is a new definition.

⁴⁰³ This is a new definition.

⁴⁰⁴ This is a new definition.

⁴⁰⁵ This is a new definition.

⁴⁰⁶ This is a new definition.

bulletin or reader boards, time and temperature signs, and electronic message signs.

Sign, construction identification⁴⁰⁷

A sign which identifies the architects, engineers, contractors, and other individuals or firms directly involved with construction of development, the name of the building or development, the intended purpose of the building or development, and/or the expected completion date.

Sign, directional⁴⁰⁸

A sign that provides directional information, such as mileage, route number, or exit number, useful to the driver or traveler in locating the attraction or activity. A directional sign may not contain descriptive words or phrases or pictorial or photographic representations of the activity or its environs.

Sign, easel⁴⁰⁹

A one-sided sign displayed outside a business by placement on a three- or four-legged easel-type supporting structure.

Sign, electronic⁴¹⁰

A sign that changes its message copy by means of light emitting diodes (LEDs), fiber optics, light bulbs, or other illumination devices within the display area.

Sign, freestanding⁴¹¹

A sign which is permanently affixed in or upon the ground and not attached to any building structure.

⁴⁰⁷ This is a new definition.

⁴⁰⁸ This is a new definition.

⁴⁰⁹ This is a new definition.

⁴¹⁰ This is a new definition.

⁴¹¹ This is a new definition.

Sign, gateway⁴¹²

A freestanding sign located at the entrance to the site of a single-family residential subdivision, business or professional offices, or an integrated shopping center, that identifies the subdivision, offices, or shopping center.

Sign, illuminated⁴¹³

A sign that is illuminated by electric or other device mainly for clear visibility at night

Sign, monument⁴¹⁴

A freestanding sign constructed with a monument base with the monument base flush to the ground.

Sign, nonconforming⁴¹⁵

A sign that complied with the requirements of this Ordinance when it was erected, but does not currently comply with the standards of this Ordinance.

Sign, outdoor advertising (Billboard)⁴¹⁶

A sign (including painted bulletin and poster panel) which directs attention to a business, profession, commodity, service, the sale or rental of real estate, entertainment, event, or other activity conducted, sold, or offered elsewhere than upon the property on which the sign is located. A painted bulletin is an outdoor advertising sign having an area greater than 300 square feet. A poster panel is an outdoor advertising sign which generally has

⁴¹² This is a new definition.

⁴¹³ This is a new definition.

⁴¹⁴ This is a new definition.

⁴¹⁵ This is a new definition.

⁴¹⁶ This definition is carried forward from Sec. 27-107.01 of the current Zoning Ordinance.

panels of poster paper attached to it, and an area not greater than 300 square feet.

Sign, political⁴¹⁷

A sign attracting attention to political candidates or political issues.

Sign, portable⁴¹⁸

Any sign that rests upon the ground, a structure, frame, building, or other surface, that can be moved around; such signs include but are not limited to the following: trailer signs, sandwich board signs, and sidewalk or curb signs.

Sign, projecting⁴¹⁹

A sign attached to and projecting out from a building face or wall, generally at a right angle to the building.

Sign, real estate⁴²⁰

Any on-premise sign pertaining to the sale, rental, development, or lease of a lot or parcel of land, one or more structures, or a portion thereof, to which the sign is located.

Sign, real estate directional⁴²¹

A sign directing people to a lot or parcel of land, one or more structures, or a portion thereof, available for sale, rental, development, or lease.

Sign, sandwich board⁴²²

A movable ground sign, not secured or attached to the surface or

ground upon which it is located, that is constructed in such a manner as to form an “A” or tent-like shape.

Sign, temporary⁴²³

A sign that can be used only for a designated period of time.

Sign, traffic⁴²⁴

A sign indicating Federal, State, or County regulations for automobile, truck, bicycle, and pedestrian movement.

Sign, window⁴²⁵

A sign that is attached to, or painted on, a window so that it can be read from outdoors

Site plan⁴²⁶

See Sec. 27-2.508, Site Plan (Minor and Major) . A site plan is either a minor site plan (See Sec. 27-2.508.C.1, Minor Site Plan) or a major site plan (See Sec. 27-2.508.C.2, Major Site Plan).

Site plan, major⁴²⁷

See Sec. 27-2.508.C.2, Major Site Plan.

Site plan, minor⁴²⁸

See Sec. 27-2.508.C.1, Minor Site Plan.

⁴¹⁷ This is a new definition.

⁴¹⁸ This is a new definition.

⁴¹⁹ This is a new definition.

⁴²⁰ This is a new definition.

⁴²¹ This is a new definition.

⁴²² This is a new definition.

⁴²³ This is a new definition.

⁴²⁴ This is a new definition.

⁴²⁵ This definition is carried forward from Sec. 27-107.01 of the current Zoning Ordinance.

⁴²⁶ This is a new definition.

⁴²⁷ This is a new definition.

⁴²⁸ This is a new definition.

Slope⁴²⁹

An incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude (e.g., slope = 3:1 = 3 ft. horizontal to 1 ft. vertical).

Solar energy collection facility (small-scale)⁴³⁰

A facility consisting of solar panels, modules, and related equipment (e.g., heat exchanger, pipes, inverter, wiring, storage) that collects solar radiation and transfers it as heat to a carrier fluid for use in hot water heating or space heating and cooling, and/or that collects solar energy and converts it into electricity.

As an accessory use, a solar energy collection system is designed to primarily meet on-site demands (but may include transfer of excess electricity to an electric utility grid) and components are typically mounted on the roof(s) of principal or accessory structures, but may be mounted on other parts of structures, or on the ground.

Spa⁴³¹

An above- or below-ground structure (together with all associated appurtenances) that is filled with water and used for immersion and soaking of the human body for relaxation or recreation.

Special exception⁴³²

See Sec. 27-2.507, Special Exception.

Square⁴³³

An open space that is defined by streets or adjacent buildings that is set aside for civic purposes, with landscaping consisting of paved

⁴²⁹ This is a new definition.

⁴³⁰ This is a new definition.

⁴³¹ A simplified definition of a carried forward accessory use.

⁴³² This is a new definition.

⁴³³ This is a new definition.

walks, lawns, trees, and may contain civic buildings.

Stable, private⁴³⁴

A building or land where horses are, sheltered, fed, or kept for personal use, accessory to a single-family detached dwelling.

Stacking lane⁴³⁵

A portion of the vehicular use area on a site that is dedicated to the temporary storage or “standing” of vehicles engaged in drive-through use of the site or development. Parking or storage of vehicles is not permitted within the stacking/standing area.

Storage shed⁴³⁶

An uninhabitable accessory structure used or designed to be used to provide shelter for or storage of materials, or as a small workshop. Storage sheds may be enclosed or open and may be attached to a principal building or exist as a detached structure.

Street⁴³⁷

A street is any of the following:

- (A) A public or dedicated right-of-way at least thirty (30) feet in width; or a private road, right-of-way, or easement along which development is authorized pursuant to this Ordinance, except for easements created under Sec. 27-5.100, Roadway Access, Mobility, and Circulation to avoid potentially hazardous or dangerous traffic situations, or for right-of-way easements within a

⁴³⁴ A new definition for a carried over accessory use (the current ordinance doesn’t define the use).

⁴³⁵ This is a new definition.

⁴³⁶ This is a new definition.

⁴³⁷ This definition is carried forward from Sec. 27-107.01 of the current Zoning Ordinance, with modifications to address the deletion of some private road provisions in Sec. 24-3.204 of these Regulations

nonresidential development pursuant to Sec. 27-5.100, Roadway Access, Mobility, and Circulation; or

- (B) A proposed street right-of-way or widening shown on the applicable General Plan, area master plan, or functional master plan; or in the current Capital Improvement Program or Maryland State Consolidated Transportation Program; or on a record plat; or
- (C) A public road designated by the Director of the Department of Public Works and Transportation shall be deemed a public street for the purpose of constructing a one-family detached dwelling, provided that:
 - (1) The designated public road has a right-of-way width of at least thirty (30) feet; and
 - (2) No subdivision plat is required prior to development of the lot which abuts the designated street.

Street connectivity index⁴³⁸

For purposes of this Ordinance, a metric that evaluates the street connections in a single-family residential subdivision (see Sec. 27-5.108 F. Connectivity Standards for Single-Family Residential Development).

Street furniture⁴³⁹

Objects such as outdoor seating, kiosks, bus shelters, sculpture, tree grids, trash receptacles, and fountains that have the potential for enlivening and giving variety to streets, sidewalks, plazas, squares, and other outdoor spaces open to, and used by, the public.

⁴³⁸ This is a new definition.

⁴³⁹ This is a new definition.

Street line⁴⁴⁰

A line separating the street from abutting property. For the purpose of this definition a street is whichever of the following two groups of vehicular ways indicates the greatest right-of-way width:

- (A) A public or dedicated right-of-way at least 30 feet in width; or a private road right-of-way or easement along which development is authorized pursuant to Subtitle 24; or
- (B) A proposed street right-of-way or widening shown on the applicable General Plan or Master Plan, or Functional Master Plan; or in the current Capital Improvement Program or Maryland State Five Year Highway Construction Program; or on a record plat.

Street stub⁴⁴¹

A street segment, usually relatively short in length, which terminates at the boundary of a subdivision or other development. The purpose of stub streets is to ultimately connect to abutting land when it is developed.

Street tree⁴⁴²

A tree planted or existing within or along either side of a street right-of-way.

Street, temporary dead end⁴⁴³

A street temporarily having only one outlet for vehicular traffic and intended to be extended or continued in the future.

⁴⁴⁰ This definition is carried forward from Sec. 27-107.01 of the current Zoning Ordinance.

⁴⁴¹ This is a new definition.

⁴⁴² This is a new definition.

⁴⁴³ This is a new definition.

Structure⁴⁴⁴

Anything constructed, installed, or portable, the use of which requires a location on a parcel of land or site. It includes a movable structure while it is located on land which can be used for housing, business, commercial, agricultural, industrial, or public, civic, or institutional purposes, either temporarily or permanently. "Structure" also includes fences, billboards, swimming pools, poles, pipelines, transmission lines, tracks, and advertising signs.

For purposes of Sec. 27-6.300, Nonconforming Structures, "structure" does not include off-street parking, landscaping, screening of mechanical equipment, and walls or fences.

Structure height⁴⁴⁵

See Sec. 27-8.201.F.

Swimming pool, commercial (as an accessory use)⁴⁴⁶

A man-made enclosure at least three feet deep at the deep end that is filled with water and used for wading or swimming, and that is accessory to a commercial use.

Swimming pool, private⁴⁴⁷

A man-made enclosure at least three feet deep at the deep end that is filled with water and used for wading or swimming, and that is:

- (A) Owned and maintained by an individual for the sole use of his household and guests;
- (B) Located on a lot" as an accessory use to the owner's residence; and
- (C) Not operated for profit or in connection with any business

⁴⁴⁴ This is a new definition.

⁴⁴⁵ This is a new reference.

⁴⁴⁶ This is a new definition.

⁴⁴⁷ This is a new definition.

operated for profit.

Temporary portable storage unit⁴⁴⁸

A transportable unit designed and used primarily for temporary storage of building materials, household goods, personal items, and other materials for use on a limited basis.

Temporary real estate sales office/model⁴⁴⁹

A dwelling, dwelling unit, or other marketable unit of a new development that is used for real estate sales or leasing activities associated with the development pending construction of the development and the initial sales of homes or units in the development.

Temporary shelter for commercial displays, sales, and services⁴⁵⁰

A retail sales and service establishment's temporary use of a tent or trailer for promotional displays or sales promotional displays or sales, seasonal activities, income tax consultant's offices, carload sales of products, sidewalk sales, and demonstration of products in a parking lot.

Temporary use permit⁴⁵¹

See Sec. 27-2.510, Temporary Use Permit.

Text Amendment⁴⁵²

See Sec. 27-2.502, Text Amendment.

⁴⁴⁸ A new definition for a new temporary use.

⁴⁴⁹ A new definition for a carried over temporary use (the current ordinance doesn't define the use).

⁴⁵⁰ This is a new definition.

⁴⁵¹ This is a new definition.

⁴⁵² This is a new definition.

Traffic calming device⁴⁵³

A natural or constructed feature located within or adjacent to a street that is designed to reduce motorist speed or vehicle volumes, while at the same time increasing safety for pedestrians and non-motorized vehicles.

Transient manufactured home or recreational vehicle residence⁴⁵⁴

The temporary placement and use of a manufactured home dwelling or recreational vehicle to house a person employed by or otherwise associated with a principal use of the same lot for which the County levies an amusement tax.

Transportation Demand Management (TDM)⁴⁵⁵

The application of strategies and policies to reduce travel demand of single-occupancy private vehicles, or to redistribute this demand in space or in time.

Tree, ornamental⁴⁵⁶

A deciduous tree planted primarily for its ornamental value. May be any size at maturity, but will tend to be smaller than a shade tree.

Tree, shade⁴⁵⁷

A deciduous (or rarely, an evergreen) tree planted primarily for its high crown of foliage or overhead canopy. A major shade tree at maturity reaches a height of at least 70 feet. A minor shade tree generally does not exceed a height of 40 feet.

⁴⁵³ This is a new definition.

⁴⁵⁴ This definition is carries forward from the current Zoning Ordinance.

⁴⁵⁵ This is a new definition.

⁴⁵⁶ This is a new definition.

⁴⁵⁷ This is a new definition.

Use and occupancy permit⁴⁵⁸

See Sec. 27-2.511, Use and Occupancy Permit.

Utility easement⁴⁵⁹

An easement which grants the right to install and maintain utilities including, but not limited to, water lines, sewer lines, storm sewer lines, electrical power lines, telephone lines, natural gas lines, and community antenna television systems.

Validation of permit issued in error⁴⁶⁰

See Sec. 27-2.518, Validation of Permit Issued in Error.

Variance⁴⁶¹

See Sec. 27-2.516, Variance.

Vehicular use area⁴⁶²

Areas used for the parking and circulation of automobiles, trucks, motorcycles, and bicycles. Vehicular use areas do not include individual driveways serving single-family detached residential development.

Wall pack⁴⁶³

An exterior lighting device that is flush-mounted on a vertical wall surface.

⁴⁵⁸ This is a new definition.

⁴⁵⁹ This is a new definition.

⁴⁶⁰ This is a new definition.

⁴⁶¹ This is a new definition.

⁴⁶² This is a new definition.

⁴⁶³ This is a new definition.

Wayside stand⁴⁶⁴

A temporary structure used for:

- (A) The sale of agricultural or other products produced on the premises, which may include the incidental sale of other products not produced on the premises; or
- (B) The sale of fruits, vegetables, or cut flowers not grown on the premises.

Wind energy conversion system (small-scale)⁴⁶⁵

A facility consisting of one or more rotating wind turbines and related equipment that converts the kinetic energy in wind into mechanical energy. A small-scale wind energy conversion system has a rated capacity of not more than 100 kilowatts (kW) and is intended to primarily reduce on-site consumption of utility power for a home or business.

Wing wall⁴⁶⁶

Shorter walls that extend outwards from the front façade of a building used to divide the structure into different visual compartments, control pedestrian movement along the structure, or retain slopes.

Xeriscape landscaping⁴⁶⁷

A landscaping method that utilizes water-conserving techniques such as the use of drought-tolerant plants, mulch, and efficient irrigation.

⁴⁶⁴ This carries forward a definition in the current Zoning Ordinance, with minor changes for clarification.

⁴⁶⁵ This is a new definition.

⁴⁶⁶ This is a new definition.

⁴⁶⁷ This is a new definition.

Yard⁴⁶⁸

"Open space located on the same lot with a structure (not including ground-level paved surfaces unless specifically noted), or use, between the structure or use (such as outdoor storage) and the nearest lot line or street line. All required yards shall be unoccupied and unobstructed from the ground upward, except for landscaping, and accessory structures and uses as permitted elsewhere in this Ordinance. An alley shall not be considered a part of a yard.

Yard, front⁴⁶⁹

"Yard" extending across the width of a "Lot," between the "Front Street Line" and the nearest part of a "Main Building" (or its enclosed or covered projection). In a "Through Lot," all "Yards" abutting "Streets" are "Front Yards."

Yard, rear⁴⁷⁰

Yard extending across the width of a lot, between the rear lot line and the nearest part of a principal building (or its enclosed or covered projection). A through lot has no rear yard.

Yard, side⁴⁷¹

Yard between the side lot line or side street line and the nearest part of a principal building (or its enclosed or covered projection), extending from the front yard to the rear yard or, in the absence of either of these yards, to the front street line and rear lot line. In the absence of a front street line, all yards are side yards. On a through

⁴⁶⁸ This carries forward a definition in the current Zoning Ordinance, with minor changes for clarification.

⁴⁶⁹ This carries forward a definition in the current Zoning Ordinance, with minor changes for clarification.

⁴⁷⁰ This carries forward a definition in the current Zoning Ordinance, with minor changes for clarification.

⁴⁷¹ This carries forward a definition in the current Zoning Ordinance, with minor changes for clarification.

lot, any yard that does not abut a street is a side yard.

ZHE

See “Zoning Hearing Examiner.”

Zoning certification⁴⁷²

See Sec. 27-2.512, Zoning Certification .

Zoning Hearing Examiner⁴⁷³

See Sec. 27-2.305, Zoning Hearing Examiner (ZHE). (Abbreviated as “ZHE.”)

⁴⁷² This is a new definition.

⁴⁷³ This is a new definition.

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