

# **LAND SUBDIVISION AND ZONING**

## **CHAPTERS 73 & 128**

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Town of Denton  
September 13, 2010

CHAPTER 73  
LAND SUBDIVISION

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**§ 73-1. Title and applicability.**

- A. Title. This chapter shall be known, referred to, and cited as the "Land Subdivision Ordinance of Denton, Maryland."
- B. Applicability. This chapter shall apply to the incorporated territory of Denton, Maryland. The regulations contained herein are adopted under the authority of Article 66B, Code of Public General Laws of Maryland, as amended, and shall be in addition to any regulations pertaining to land subdivision promulgated by the State Department of Health or other agency of the State of Maryland, and, in the case of any conflict, the more exacting regulation shall prevail.

**§ 73-2. Purpose.**

This chapter has been established for the purpose of guiding and accomplishing the coordinated and harmonious development of the Town of Denton, Maryland, and its environs, in order to promote, in accordance with present and future needs, the health, safety, morals, order, convenience, prosperity, and general welfare of the citizens of the Town. In the accomplishment of this purpose, the regulations as herein established provide for, among other things, efficiency and economy in the process of development; the proper arrangement of streets, in relation to each other and to the existing and planned streets and other features of the Comprehensive Plan of the Town; adequate open spaces for recreation, light and air; convenient distribution of population and traffic; adequate provision for public utilities and other public facilities; and other requirements for land subdivision which will tend to create conditions favorable to the health, safety, convenience and prosperity of the citizens of Denton, Maryland and its environs.

**§ 73-3. Definitions.**

- A. General rules of construction. The following general rules of construction shall apply to the regulations of this chapter:
  - (1) The singular number includes the plural and the plural the singular, unless the context clearly indicates the contrary.

- (2) Words used in the present tense include the past and future tenses, and the future the present.
- (3) The word "shall" is always mandatory; the word "may" is permissive.
- (4) The word "public" means "open to common use," whether or not public ownership is involved.
- (5) Words and terms not defined herein shall be interpreted in accord with their normal dictionary meaning the customary usage.

B. Definitions. For the purpose of this chapter, certain terms and words are hereby defined:

**ADMINISTRATIVE SUBDIVISION** - The replatting, redefining or reboundarying of two or more existing lots, tracts or parcels that does not result in any additional lots.

**ALLEY** - A narrow public thoroughfare, not exceeding 16 feet in width, which provides a secondary means of vehicular access to abutting properties, and which is not intended for general circulation.

**ARTERIAL ROAD (PRINCIPAL AND MINOR)** - A state road that is a moderate or high-capacity through route providing direct service between Maryland Eastern Shore cities and towns.

**BUILDING LINE** - A line within a lot, so designated on a plat of subdivision, between which line and the street line of any abutting street, no building or structure may be erected.

**COLLECTOR STREET** - A street which is intended to collect traffic from the minor streets within a neighborhood or a portion thereof and to distribute such traffic to arterial roads, in addition to providing access to properties abutting thereon.

**CONCEPT PLAN** - A sketch of the property, drawn to appropriate scale, showing the boundaries, general topography, important physical features, and other significant information, as well as the proposed scheme for development of the property, including the proposed street and lot locations, areas to be reserved for public use, and proposed improvements.

**CORNER LOT** - A lot contiguous to two intersecting streets and having access to both streets.

**CRITICAL AREA COMMISSION** – Critical Area Commission for the Chesapeake and Atlantic Coastal Bays

**CROSSWALKWAY** - A public way intended for pedestrian use and excluding motor vehicles, which cuts across a block in order to furnish improved access to adjacent streets or properties.

**CUL-DE-SAC** - A minor street having but one end open for vehicular traffic and with the other end permanently terminated by a turnaround or backaround for vehicles.

**DEDICATION** – The deliberate setting aside or appropriation of land by its owner for any general and public uses, reserving to the owner no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

**DIRECTOR OF PLANNING** - The Denton Director of Planning and Codes Administration.

EASEMENT - An area of land for which the owner grants a right of use to someone else for one or more designated purposes, which purposes are consistent with the general property rights of the owner.

ENGINEER - The Engineer of the Town of Denton.

EXISTING LOT - A lot of record which exists at the time the application for administrative subdivision is filed.

FINAL PLAT - A plan or map prepared in accordance with the provisions of this regulation and those of any other applicable local regulation, and is prepared to be placed on record in the office of the Clerk of the Circuit Court of Caroline County.

FLAG LOT - Shape of a property, where access to a road is provided along the long, narrow "flag pole" and the usable land itself is the rectangular "flag" at the end of the pole. "Flagpole" shall have a minimum width of 50 feet.

GEOGRAPHIC INFORMATION SYSTEM (GIS) - A system that captures, integrates, stores, analyzes, manages, and displays data that are linked to location and merges cartography, statistical analysis, and database technology.

HEALTH OFFICER - The Health Office of Caroline County.

GREENWAY - A long, narrow piece of land, often used for recreation and pedestrian and bicycle traffic.

GROWTH ALLOCATION - Process whereby the Town may provide for conversion of a property or properties from a less intense Critical Area management area to a more intense Critical Area management area which allows increased density.

IMPROVEMENTS – Those physical additions, installations and changes, such as streets, curbs, sidewalks, water mains, sewers, drainage facilities, public utilities, and other appropriate items required to render land suitable for the use proposed.

IMPROVEMENT PLANS – Construction plans of the required improvements.

LOCAL ACCESS STREET - A Town-only street that is primarily used to gain access to the property bordering it

LOT - A portion of a subdivision or other parcel of land intended for the purpose of building development whether immediate or future and having access to a street. Also used interchangeably with plot.

LOT AREA - The total horizontal area within the lot lines of the lot.

LOT DEPTH - The horizontal distance between the front and rear building lot lines.

LOT LINE - The boundary line of the lot.

LOT WIDTH - The horizontal distance between the side lot lines measured at the required front and rear building setback line.

MAJOR COLLECTOR - Relatively low-speed, low-volume state, county or Town street that provides circulation within and between neighborhoods and is intended for collecting trips from local access streets.

**MINOR COLLECTOR** - Relatively low-speed, Town-only, lower-volume than major collector, street that provides circulation within and between neighborhoods and is intended for collecting trips from local access streets

**PARCEL** – Used interchangeably with Lot, although a parcel may include more than one lot. Also used interchangeably with plot.

**PLANNING COMMISSION** - The Denton Planning Commission.

**PLANNED RESIDENTIAL DEVELOPMENT (PRD)** - A development constructed on a tract of at least five acres under single ownership, planned and developed as an integral unit, and consisting of single-family detached residences combined with either duplexes, townhouses, or multi-family residences, or all of the above, all developed in accordance with Chapter 128, Article XIII (Density and Dimensional regulations).

**PLANNED UNIT DEVELOPMENT (PUD)** - Development of a mixture of commercial and residential units based on a unified master plan on a single site, or adjoining sites under the control of a single entity.

**PLANNING STAFF** – Members of the Town of the Denton Department of Planning and Codes Administration.

**PLAT** - A plan or map of a piece of land.

**PLOT** - used interchangeably with lot.

**PRELIMINARY PLAT** – A map made for the purpose of showing the design of a proposed subdivision and the existing conditions in and around it.

**REGULATIONS** - The whole body of regulations, text, charts, diagrams, notations, and references contained or referred to in this chapter.

**RESULTING LOT** - A lot which will exist if the application for administrative subdivision is approved.

**ROADWAY** - That portion of a street or highway available and intended for use by motor vehicle traffic.

**SERVICE DRIVE OR SERVICE ROAD** - A minor street, also called a frontage road, which is local access street running parallel to and adjacent to an arterial road or major collector and which provides access to abutting properties and restricts access to the arterial or major collector road.

**STREET** - A public or private thoroughfare which affords the principal means of access to abutting properties, and whether designated as a freeway, expressway, highway, road, avenue, boulevard, lane, place, circle, or however otherwise designated.

**STREET LINE** - A dividing line separating a lot, tract, or parcel of land and a contiguous street, and also referred to as a right-of-way line.

**SUBDIVIDER** - Any person, individual, contract purchaser (option holder), firm, partnership, association, corporation, LLC, estate, trust, or any other group or combination, acting as a unit, dividing or proposing to divide land so as to constitute a subdivision as defined herein, and including any agent of the subdivider.

SUBDIVISION - The division of any tract or parcel of land into two or more plots, parcels, lots, or sites, for the purpose, whether immediate or future, of transfer of ownership or of building development. The term shall include resubdivision, and, where appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

SUBDIVISION, ARCHITECTURALLY INTEGRATED or CLUSTER - A subdivision in which approval is obtained not only for the division of land into lots but also for a configuration of principal buildings to be located on such lots. The plans for an architecturally integrated or clustered subdivision shall show the dimensions, height, and location of all such buildings to the extent necessary to comply with the purpose and intent of architecturally integrated or clustered subdivisions as set forth in Chapter 128, Zoning.

SUBDIVISION, MAJOR - Any subdivision other than a minor subdivision.

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

TECHNICAL ADVISORY COMMITTEE (TAC) – A team of Town staff members, no more than two Planning Commission members and Town professionals for the explicit reason of reviewing proposed plan submittals.

**§ 73-4. General provisions.**

- A. Subdivider must prepare and record a plat. From and after the effective date of this chapter, any owner, agent, or proprietor of any tract of land located within the Town of Denton to which these regulations shall apply, who subdivides such land into lots, blocks, streets, alleys, public ways, or public grounds, shall cause a plat of such subdivision to be made in accordance with the regulations set forth herein and the laws of the State of Maryland, and shall cause a copy of said plat to be recorded in the office of the Clerk of the Circuit Court.
- B. Approval of plat required. No plat of subdivision shall be recorded by the Clerk of the Circuit Court unless it has been approved by the Planning Commission or the Director of Planning as provided herein. The Planning Commission or the Director of Planning shall not approve said plat unless and until the plat satisfactorily complies with the requirements of these regulations.
- C. Transfer of land; building permits. No parcel of land in a subdivision created after the effective date of this chapter shall be transferred, sold, or offered for sale, nor shall a building permit be issued for any structure thereon, until a plat of subdivision shall have been recorded with the Clerk of the Circuit Court in accordance with these regulations and the laws of the State of Maryland. Any person who violates this provision shall be subject to the penalties contained herein.
- D. Requirements for plat preparation. In the preparation of a plat of subdivision, the subdivider shall comply with the general principles of design and minimum requirements for the layout of subdivisions as set forth in § 73-6, and with the rules and regulations concerning required improvements as set forth in § 73-8 and in the standards and

specifications for improvements as adopted by the Town Council, and in every case the preparation of such plat shall be in accordance with the procedure of § 73-5.

E. Delegation of power of approval.

- (1) The Planning Commission may authorize the Director of Planning to approve an administrative subdivision or a minor subdivision. However, only the Planning Commission may approve a subdivision which contains more than three lots or involves the creation of a private road or opening of a public street or road.
- (2) The Director of Planning to whom the authority is granted in accordance with this section may approve a final plat and shall have those powers conferred on the Planning Commission by this chapter which are necessary to exercise such authority. With respect to any subdivision which may be approved by an administrative official, the words "Planning Commission" in other sections of this chapter shall be construed to mean Director of Planning.

**§ 73-5. Procedure for plat submission and approval.**

A. Preliminary conference.

- (1) Before undertaking the preparation of a subdivision plat, the subdivider shall have prepared a concept plan of the property in question, drawn to appropriate scale, showing the boundaries, general topography, important physical features, and other significant information, as well as the proposed scheme for development of the property, including the proposed street and lot locations, areas to be reserved for public use, and proposed improvements. The subdivider shall provide the Planning Commission with 12 copies of the concept plan.
- (2) The subdivider shall then consult with the Planning Commission and/or its staff to ascertain the location of proposed major streets, highways, open space, parks, playgrounds, school sites, and any other planned public improvements, and to determine the zoning regulations and other requirements relating to, affecting, or applying to the proposed subdivision. The subdivider shall also consult with the Engineer, the Health Officer, and others including but not limited to the Denton Volunteer Fire Department, Emergency Management Services, on the proposed street layout and the proposed facilities for sanitary sewage disposal, stormwater management, and water supply to serve the proposed subdivision. Large subdivisions may require consultation with the Technical Advisory Committee. The purpose of the Technical Advisory Committee is to assist the subdivider by furnishing information and advice, in order to expedite matters for the subdivider, save him unnecessary expense, and promote the best coordination between the plans of the subdivider and those of the Town.
- (3) The results of consultations and the preliminary conference in no way constitute or imply subsequent preliminary and/or final plat approval by the Planning Commission.

B. Submission of preliminary plat.

- (1) The subdivider shall then prepare a preliminary plat of the proposed subdivision conforming to the requirements for the preparation of such plat as set forth in § 73-7. At least 45 days prior to a regularly scheduled meeting of the Planning Commission at which action on such plat is desired, the following items shall be filed with the Secretary of the Planning Commission: 12 black-line or blue-line prints of the preliminary plat supporting statements on required improvements and proposed deed restrictions, as set forth in § 73-7; and an application for the approval of the plat on a form to be supplied by the Planning Commission. Appropriate application fees shall be paid at the time of application submittal. Property taxes on the property proposed to be subdivided or other owner's taxes owed to the Town shall not be in arrears.
- (2) The preliminary plat shall be checked by the Planning Staff and Planning Commission for its conformity with the Comprehensive Plan of the Town, the applicable zoning and other regulations, the design principles and standards and requirements of submission as set forth in this chapter, and any other standards and specifications for improvements as adopted by the Town Council. Copies of the preliminary plat shall be referred to the Engineer, Health Officer, and other appropriate public officials concerned with public improvements or health and safety requirements, for review and approval.

C. Preliminary plat approval.

- (1) A review of the preliminary plat shall be held at the next regular meeting of the Planning Commission (within at least 45 days after an application has been deemed complete and is accepted by the Town). No hearing shall be held by the Planning Commission until notice thereof shall have been sent to the subdivider and to each other interested parties as may be determined by the Planning Commission and as required notification requirements as indicated in Chapter 128, Zoning, Article XX1, Requirements for Public Notice. At the hearing, the Planning Commission shall submit its findings and recommendations, together with those of the other public officials to whom copies were referred. The Planning Commission shall either tentatively approve or disapprove the preliminary plat, or it may approve the plat subject to specific changes or modifications. One copy of the preliminary plat, with any comments, shall be returned to the subdivider, with other copies retained in the files of the Planning Commission.
- (2) Approval of the preliminary plat shall be valid for not more than nine months, except that the Planning Commission may grant one extension for an additional six-month period. Unless a final plat, substantially in accordance with the approved preliminary plat and including any required changes or modifications, shall be filed with the Planning Commission within six months from the date of approval of the preliminary plat or any extension thereof, the Planning Commission's approval thereof shall be deemed canceled; provided, however, that the final plat may include only a portion of the area in the preliminary plat, and that the final plat for remaining portions may be filed at a later date without a

new preliminary plat, but subject to any changes in the regulations contained herein made after such six-month period or any extension thereof.

- (3) The Planning Commission may appoint a Subdivision Technical Advisory Committee to review, comment, and make recommendations with respect to subdivision applications and improvements plans.
- D. Installation of improvements. Following approval of the preliminary plat, the subdivider shall prepare and submit plans for the installation of those improvements which he is required to make under the provisions of this chapter. Copies of such improvement plans shall be submitted to appropriate public officials for approval. Upon being notified that such improvement plans have been approved, the subdivider may furnish the Mayor and Council with a cash deposit or performance bond or letter of credit executed in accordance with the provisions of § 73-8A of this chapter.
- E. Submission of final plat.
- (1) Following completion of the required improvements to the satisfaction of the appropriate public officials, or following the posting of a performance bond or letter of credit in lieu of such completion, the subdivider shall prepare a final plat of the subdivision. Such final plat may be for all the property included in the preliminary plat, or it may be limited to any portion thereof which is intended to be developed as a unit. Additional final plats, covering additional units of the property, may be submitted later, provided that the preliminary plat is still valid. Every final plat shall be substantially in accordance with the approved preliminary plat, including any changes or additions required by the Planning Commission as a prerequisite for its approval, and it shall conform in every respect with the requirements for the preparation of such plat as set forth in § 73-9.
  - (2) At 45 days prior to a regularly scheduled meeting of the Planning Commission at which action on the final plat is desired, the subdivider shall have filed the following items with the Secretary of the Planning Commission: five copies of the plat on vellum or dimensionally stable plastic film; 12 black-fine or blue-line prints of the plat; a digital copy of the parcel layer GIS in NAD83 coordinate system tied to state-certified survey point; a properly executed statement of dedication of all streets in the subdivision to the appropriate jurisdiction, constituting an irrevocable offer to dedicate for a period of not less than five years from the date of its filing with the Planning Commission; and an application for approval of the plat on a form to be supplied by the Planning Commission. Appropriate application fees must be paid at the time of application submittal. Property taxes on the property proposed to be subdivided shall not be in arrears.
- F. Final plat approval and recording.
- (1) Upon receipt by the Planning Commission of required documentation, the Planning Commission shall consider approval of the final plat at its next regular meeting. If the final plat is found to comply with the requirements of this Chapter 73, Subdivision and with the preliminary plat as approved, the Planning

Commission shall approve said plat and shall endorse the fact of such approval on each of the several copies submitted by placing the signature of its Chairman thereon.

- (2) The Planning Commission shall approve or disapprove the final plat within 30 days after the filing of such plat with the Secretary of the Planning Commission; otherwise, such plat shall be deemed to have been approved, and a certificate to that effect shall be issued by the Planning Commission on demand; provided, however, that the subdivider may waive this requirement and consent to an extension of such period. The grounds for the disapproval of any final plat shall be stated upon the record of the Planning Commission.
  - (3) Upon approval of the final plat by the Planning Commission, the five signed copies of the plat on (2 Mylar's & one paper for Clerk) vellum or plastic film shall be filed by the subdivider with the Clerk of the Circuit Court. Proof of filing shall be provided to the Planning Commission secretary. The signed black-line or blue-line prints shall be forwarded by the Planning Commission to the Supervisor of Assessments, the State Department of Health, the Health Officer, the Town Clerk, the Police Chief and the Engineer, with one print retained by the Planning Commission and one print returned to the subdivider.
- G. Prior to the recordation of the final plat, the owner and/or developer of the Property shall execute a public works agreement, with and in a form acceptable to the Town. Such agreement shall outline the standards and responsibilities of the owner and/or developer with respect to the required improvements. The public works agreement shall include provisions for payment of the fees, costs, and expenses incurred by the Town in enforcing the public works agreement.
- H. Administrative subdivision.
- (1) Applicability. This section applies only to a subdivision which is made for a purpose referred in Subsection H(2) below and which:
    - (a) Involves the replatting, redefining or reboundarying of three or fewer existing lots;
    - (b) Will provide a number of resulting lots equal to or less than the number of existing lots involved in the subdivision;
    - (c) Does not affect required improvements or existing covenants or guarantees required by this Chapter 73, Subdivision; and
    - (d) Does not involve the creation of new roads or new rights-of-way.
  - (2) Purpose and limitations.
    - (a) An administrative subdivision may be approved only for one of the following purposes:
      - [1] Establishment of one or more resulting lots which conform to all of the provisions of this Chapter 73, Subdivision and Chapter 128, Zoning.

- [2] Increasing the size of one or more nonconforming existing lots by adding contiguous land.
  - [3] Combining existing lots, or parts of existing lots, for the purpose of meeting any requirements of this Chapter 73, Subdivision and Chapter 128, Zoning, which could not be met by any of the existing lots.
- (b) Resulting lots. The administrative subdivision shall not be approved unless:
- [1] All resulting lots will comply with all requirements of this Chapter 73, Subdivision and Chapter 128, Zoning.
  - [2] The administrative subdivision results in an increase in the size of one or more existing nonconforming lots and increases only the area of nonconformity on any existing lots, while meeting all other requirements of this Chapter 73, Subdivision and Chapter 128, Zoning.
  - [3] An administrative subdivision shall be applied for in the same manner as a minor subdivision.

**§ 73-6. Design requirements and standards.**

A. General requirements.

- (1) The subdivision layout shall be consistent in all essential respects with the Transportation Element in the Town Comprehensive Plan and other aspects of the Town Comprehensive Plan.
- (2) The subdivision layout shall be in full compliance with the provisions of the zoning districts in which it is located.
- (3) The subdivision layout shall be designed in accordance with the principles and standards contained in this section and any other standards and specifications for improvements as adopted by the Town Council, with the objective of achieving the most advantageous development of the subdivision and adjoining areas.

B. Suitability of land.

- (1) Land subject to periodic flooding shall not be subdivided for residential occupancy or for any other use which might involve danger to health, life, or property, or aggravate the flood hazard, and such land within any proposed subdivision shall be reserved for uses which will not be endangered by periodic or occasional inundation. See Chapter 58, Floodplain Zones.
- (2) A plat for the subdivision of land with poor drainage or other adverse physical conditions will be considered for approval only if the subdivider shall agree to make whatever improvements are necessary, in the judgment of the Planning Commission, to render the land safe and otherwise acceptable for development.

C. Street layout.

- (1) The street layout shall be designed to create desirable building sites while respecting existing topography, minimizing street grades, avoiding excessive cuts and fills, insuring compliance with stormwater regulations, protecting environmentally constrained areas, and preserving natural resources including trees to the maximum extent possible.
- (2) Streets shall be spaced to allow for blocks meeting the dimensional requirements contained herein and to minimize the number of intersections with existing or proposed major collector streets.
- (3) Where the subdivision adjoins or embraces any part of major collector streets as designated on the Transportation Element of the Comprehensive Plan, the layout of such subdivision shall provide for the platting and dedication of such part of the major collector streets in the location and at the width indicated on such plan, except that the subdivider shall not be required to dedicate that part of such major collector streets which is in excess of 60 feet in width.
- (4) Wherever deemed desirable to the layout of the subdivision and adjoining areas, the Planning Commission may require platting and dedication of one or more collector streets, or parts thereof, to serve the subdivision.
- (5) Local access streets, intended primarily for access to individual properties shall be so arranged as to discourage their use by through traffic.
- (6) Streets shall be laid out to intersect one another at right angles (90 degrees) unless topography and the limiting factors of good design prohibit. Proposed streets intersecting at less than 90 degrees shall be required to obtain Planning Commission approval. No street shall intersect another street at an angle of less than 60°.
- (7) Proposed streets in the subdivision shall provide for the continuation of existing, planned, or platted streets on adjacent tracts, unless such continuation shall be prevented by topography or other physical condition, or unless such extension is found by the Planning Commission to be unnecessary for the coordination of development between the subdivision and such adjacent tract.
- (8) Where the Planning Commission deems it desirable or necessary to provide access to adjacent tracts not presently subdivided, proposed streets in the subdivision shall be extended to the boundary lines with such adjacent tracts, and temporary turnarounds shall be provided at the ends of such streets, by means of temporary easements or otherwise.
- (9) Where the subdivision abuts or contains a major or minor collector street as designated in the Transportation Element of the Comprehensive Plan, the Planning Commission may require that measures be taken to reduce the impact of heavy traffic on the residential lots abutting or fronting upon such major or minor collector street and to afford separation of through and local traffic, by one of the following means:

- (a) Provide vehicular access to such lots by means of a service drive separated from an arterial or major collector by a buffer strip of berm and planting and connecting therewith at infrequent intervals.
  - (b) Design reverse frontage lots having access only from a parallel local access street or from loop streets, and with vehicular access to such lots from the arterial prohibited by deed restrictions or other means. A buffer strip of berm and planting shall be provided on the reverse frontage lots. The property owner, whether an individual or a Homeowners Association shall be responsible for buffer strip maintenance of vegetation.
  - (c) The choice of the most appropriate method accomplishing the desired purpose in a specific instance shall be made by the Planning Commission, giving consideration to topography and other physical conditions, the character of existing and contemplated development in the subdivision and its surroundings, and other pertinent facts.
- (10) Cul-de-sac streets are not preferred, however they shall be permitted where they are necessitated by topographic conditions or where, in the judgment of the Planning Commission, they are appropriate to the type of development contemplated. Cul-de-sac streets shall not exceed 600 feet in length.
  - (11) Alleys shall be provided in commercial and industrial areas, unless adequate access to parking and loading areas is provided by other means. Alleys may be permitted in residential areas, for providing rear access to multi-family dwellings or where required by topographic or other unusual conditions. In the absence of alleys, easements will be required for utility lines or stormwater facilities.
  - (12) Half streets will be prohibited, except where they are essential to the reasonable development of the proposed subdivision in conformity with the other requirements of these regulations, and where the Planning Commission finds that it will be practicable to require dedication of the remaining half when the adjoining property is subdivided. Wherever a half street adjoins the proposed subdivision, the remaining half of the street shall be platted within such subdivision.
  - (13) Private streets shall not be permitted in any proposed major subdivision.
  - (14) Traffic impact studies or operational analyses shall be provided for any proposed major subdivision.
- D. Street design standards.
- (1) Right-of-way widths.
    - (a) Right-of-way widths for minor arterials or major collectors as designated in the Transportation Element of the Comprehensive Plan shall be not less than 150 feet for minor arterials and 60 feet for major collectors; provided, however, that widths above these minimums may

be required for state roads by the State Highway Administration to meet particular traffic conditions.

- (b) Right-of-way widths for other streets types shall be not less than 60 feet for minor collector streets, commercial and industrial areas; 50 feet for local access streets in residential areas; 40 feet for service drives and 24 feet for alleys.

(2) Roadways widths.

- (a) Roadway widths for minor arterial and major collector streets shall be not less than the minimum specified for state roads by the State Highway Administration, but in any case not less than 24 feet with ten-foot shoulders.

- (b) Roadway widths for other street types shall be not less than the following:

- [1] Minor collector streets and local access streets in multiple-family residential: 36 feet inside of curb to inside of curb. Streets serving lots of one acre or more may have, with the approval of the Planning Commission, a minimum roadway width of 30 feet inside of curb to inside of curb.

- [2] Minor collector streets and local access streets in commercial and industrial areas: 40 feet inside of curb to inside of curb.

- [3] Local access streets in single-family residential areas and service drives: 26 feet inside of curb to inside of curb. Streets serving lots of one acre or more may have, with the approval of the Planning Commission, a minimum roadway width of 20 feet inside of curb to inside of curb.

- [4] The Denton Planning Commission may reduce the above street standards of width in accordance with good planning techniques and concurrence by the Town Engineer.

- [5] Alleys: 14 feet

- (c) Cul-de-sac: Cul-de-sac streets shall have a circular turnaround of not less than 100 feet in diameter to the street line, and with a roadway of not less than 80 feet in diameter. The use of cul-de-sac street design is discouraged.

- (d) Street grades: Street grades shall not exceed 5% for arterial and collector streets and 8% for local access streets, service drives, and alleys, except that the Planning Commission may permit a variation of not greater than 2percentage points from these maximums where topographic conditions warrant. Street grades shall be not less than 1/2 of 1%.

- (e) All changes in street grades of more than 1 percentage point shall be connected by vertical curves with a minimum length of 50 feet or 15 times the algebraic difference in the change in grade, whichever is greater.
- (f) Curvature. The radius of curvature on the center line shall be not less than 400 feet for arterial streets, 300 feet for collector streets, and 100 feet for local access streets, service drives and alleys. Between reversed curves, either of which has a radius of less than 200 feet, there shall be a tangent section at least 100 feet in length.
- (g) Street intersections shall be designed in conformance with the following requirements.
  - [1] The design of the intersection should provide clear sight distance for oncoming vehicles, and there should be a suitable leveling of the street grade within and approaching the intersection
  - [2] No more than two streets shall cross at the same point.
  - [3] Each property corner at street intersections shall be rounded off by an arc. Curbs at street intersections shall be rounded off concentrically with the property lines. Minimum curb or edge of pavement radii shall be provided in accordance with the following:
    - [a] Alleys - 12 feet back of curb or edge of pavement
    - [b] Collector Streets - 30 feet back of curb or edge of pavement or as required to adequately serve the maximum size vehicle expected to use the street.
    - [c] Minor Residential Streets - 25 feet back of curb or edge of pavement
  - [4] Right-of-way lines at intersections shall be rounded by tangential arcs that are concentric with the paved radii lines and having a minimum radius of the paved radii plus an additional 10 feet.
  - [5] Proper sight lines shall be maintained at the intersections of all streets. Clear sight triangle shall be measured along the center lines of intersecting streets to a point 75 feet from the center of intersection.
  - [6] Signage shall be in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) as adopted by MD SHA.
- (h) Geometric design requirements such as a vertical curve shall be required for a change in vertical alignment (slope) exceeding 1%. A

combination of minimum radius horizontal curve and maximum grade is not permitted.

- (i) Proper sight distances for driveways, entrances and intersections shall be based on safe sight stopping distance.
- (j) Signage and pavement markings shall be in accordance with the MUTCD as adopted by the Maryland State Highway Administration.
- (k) Easements of 10 feet shall be created on all road-front property lines.

E. Blocks.

- (1) Residential blocks shall normally not exceed 1,300 feet in length, nor be less than 500 feet in length, between street lines. In any residential block more than 800 feet in length, a crosswalkway of not less than 10 feet in width shall be required where necessary to provide convenient access to community open space, schools, playgrounds, shopping centers, and other community facilities.
- (2) Residential blocks shall normally be of sufficient width to provide two tiers of lots of appropriate depth.
- (3) Blocks for business or industrial use shall be of such length and width as may be necessary to serve their prospective use, including making adequate provision for off-street parking and for the loading and unloading of delivery vehicles.
- (4) Irregularly-shaped blocks indented by cul-de-sacs or looped streets, and containing interior parks or playgrounds, will be acceptable when they are properly designed, including making provision for adequate parking and for any maintenance of the public or joint-use areas.

F. Lots.

- (1) The lot arrangement, design and orientation shall be such that all lots will provide satisfactory building site, properly related to topography and the character of surrounding development.
- (2) The dimensions and areas of all lots shall comply with the requirements of the zoning district in which they are located.
- (3) Excessive lot depth in relation to lot width shall be avoided. A ratio of depth to width of two to one shall be considered a desirable maximum.
- (4) Corner lots shall desirably have extra width to permit appropriate building setback from both streets in accordance with Chapter 128, Zoning.
- (5) Every lot shall abut upon, and have access to, a public street.
- (6) Double frontage and reverse frontage lots shall be avoided, except where their use is essential to overcoming special topographic problems or to separating residential development from heavy street traffic.

- (7) Residential lots fronting or abutting on major arterial or major collector streets shall desirably have extra lot depths and deeper building setbacks, including a buffer strip of berms and plantings. See Chapter 128, Zoning, Article XVI.
- (8) Insofar as possible, side lot lines shall be substantially at right angles or radial to the street line, except where a variation to this requirement will provide an improved street and lot layout.
- (9) The size and shape of lots intended for single-family residential use shall be sufficient to permit the ultimate provision of a garage on each lot, except that the Planning Commission may permit the grouping of garages into a compound serving several such lots.

G. Easements.

- (1) Where alleys are not provided in appropriate locations, easements of not less than 10 feet in width shall be provided where necessary to meet public utility requirements. Easements of greater width may be required along lot lines or across lots where necessary for the extension of trunk sewers or other primary utility lines.
- (2) Where a proposed subdivision is traversed by any stream, watercourse, or drainageway, the subdivider shall make adequate provision for the proper stormwater management of surface water, including the provision of easements along such streams, watercourses, and drainageways.
- (3) Utility easements in private rights-of-way or in joint-use open space areas may be permitted at the discretion of the Planning Commission, if the design considerations of the proposed subdivision warrant such easements. Stormwater management facilities, other than on-site swales and other minor Environment Site Design improvements, shall not be permitted in designated open space areas.
- (4) No building or structure, including propane gas farms, shall be constructed on any easement without the written authorization of the Mayor and Council.
- (5) Where a proposed greenway shown in the Comprehensive Plan of the Town or Caroline County crosses a proposed subdivision, a greenway public use easement of at least 25 feet shall be provided.

H. Public sites and open spaces.

- (1) Where the proposed subdivision includes lands proposed for use as open space, recreation and parks, playgrounds, playfields, public landings, and/or school sites under the Comprehensive Plan, the subdivider shall indicate the location of such lands on the subdivision plat and shall dedicate such lands to the appropriate jurisdiction.
- (2) Where deemed essential by the Planning Commission, upon consideration of the type and size of development proposed in the subdivision, the subdivider may be required to dedicate open space, sites and recreational facilities, of a character, extent, and location suitable to meeting the needs of such development. In lieu of

dedicating such additional areas, they may be reserved for the common use of all property owners in the proposed subdivision through deed restrictions.

- (3) Additional requirements for common open space and use areas and/or facilities are contained in Article XVII of Chapter 128, Zoning.

## I. Drainage and Storm Sewers

### (1) Requirement and General Design Standards

- (a) No subdivision or land development plan shall be approved which does not make adequate provision for stormwater or floodwater runoff channels, or basins.
- (b) Stormwater drainage systems shall be separate and independent of any sanitary sewer systems. The system shall be designed to meet the guidelines established in this Chapter.

### (2) Open Channel Standards

- (a) When open channels are proposed, an engineering analysis shall be submitted supporting the proposal with respect to feasibility, capacity design, and soil stabilization within the channel.
- (b) The engineering analysis shall adhere to the following requirements.
  - [1] Open channels shall be designed to adequately convey a 25-year storm frequency. The depth of the water in the ditch shall not be higher than six inches below the edge of the proposed top of bank for contributory drainage areas less than five acres and not higher than one foot below the proposed top of bank for contributory drainage areas greater than five acres.
  - [2] Documentation of the seasonal high water table elevation with respect to the proposed channel depth shall be provided to evaluate the potential of the ditch intersecting the groundwater table causing the channel to receive greater flows than design capacity and the possibility for continually wet surfaces within the channel.
  - [3] Channels shall be trapezoidal or parabolic in shape. In either case, accessibility for maintenance shall be considered in the design.
  - [4] Maximum side slopes: three (3) feet horizontal to one (1) foot vertical (3:1) for unpaved (vegetated side slopes) and two (2) feet horizontal to one (1) foot vertical (2:1) for paved side slopes. Paved side slopes shall only be implemented in locations where the required conveyance capacity requires paved side slopes, or existing conditions physically prohibit the width requirements of three (3) feet horizontal to one (1) foot vertical (3:1) side slopes.

- [5] Minimum bottom width shall be three (3) feet where the depth exceeds one (1) foot.
- [6] Minimum design velocity shall be two (2) feet per second, unless otherwise approved by the Town Engineer.
- [7] The maximum design velocity in a grassed channel shall not exceed the permissible values stated in the Maryland State Highway Administration Highway Drainage Manual, except as provided with structural measures as detailed therein. Also, sustained wet conditions in a channel are not amenable to the establishment of adequate vegetative cover; therefore, where conditions will exist which indicate a base flow in the channel, the channel shall be provided with a stone center.
- [8] If designed with a paved bottom, the bottom shall be reinforced Portland cement concrete with a minimum six (6) inch thickness.
- [9] The maximum flow depth for the design storm event in an open channel on a residential lot and/or the easement adjacent to a residential lot shall be one (1) foot. The maximum channel depth shall be two (2) feet. The depth at any given cross section shall be measured from the bottom of the channel to the height at which the side slope becomes less than five (5) feet horizontal to one (1) foot vertical.
- [10] A backwater analysis will be required by the Town to assess the impact of post-development flows if apparent constrictions exist downstream.

(3) Storm Sewer Standards.

- (a) Cover over pipe shall meet the manufacturer's recommended cover requirements. In no case shall the minimum soil cover over pipe be less than one (1) foot without approval of the Town.
- (b) Inlet and grate specifications design shall conform to Maryland State Highway Administration Highway Drainage Manual standards.
- (c) Rock outlet protection, designed in accordance with the Maryland State Highway Administration Highway Drainage Manual, shall be provided at each outfall.
- (d) Drainage easements of a minimum 20 foot width shall be provided where closed drainage systems are proposed. In subdivisions, storm sewers located outside of the Town right-of way shall be located on properties lines unless otherwise approved by the Town.

- (e) A backwater analysis may be required by the Town to assess the impact of post-development flows if apparent constrictions or high tailwater conditions exist downstream.
- (f) Conveyance systems shall outfall to a stormwater management facility or watercourse capable of accepting the design runoff.
- (g) The following criteria shall be used for storm sewers.
  - [1] A 25-year storm frequency shall be used.
  - [2] The hydraulic gradient shall be no higher than one foot below the top of the grate for 25-year storms.
  - [3] The following criteria shall be used in calculating HGL.
    - [a] Tail water elevation of the outfall, if it is higher than the normal crown of the outfall pipe, or
    - [b] Normal crown of the outfall pipe. For wet ponds, the pipe invert elevation shall be equal to or higher than the normal pool elevation of the pond, unless otherwise approved by the Town Engineer.
  - [4] Minimum pipe size shall be fifteen (15) inches in diameter, unless otherwise approved by the Town Engineer.
- (h) For a storm drain system discharging into a stream, the invert of the discharging pipe shall be no lower than the level of the base flow. If the stream is dry most of the time, the invert shall be at least a foot above the stream bottom, unless otherwise approved by the Town Engineer. The HGL shall start from the crown of the pipe.
- (i) A culvert is a drainage structure which transports water from a natural drainage course. The following criteria shall be used for culverts:
  - [1] A 25-year storm frequency shall be used.
  - [2] The maximum headwater elevation shall be one foot below the edge of the proposed roadway shoulder or other embankment. The resulting ponding shall not negatively impact the street or the adjacent property.
  - [3] Outlet protection, designed in accordance with the Maryland State Highway Administration Highway Drainage Manual, must be provided at all culverts
  - [4] The minimum pipe size shall be 18 inches in diameter.
- (j) Culverts and storm sewers can be made from Reinforced Concrete Pipe (RCP) or High Density Polyethylene (HDPE). Metal pipe will only be allowed if coated (such as aluminized pipe) in order to provide a minimum 50 year life span. Minimum pipe cover shall be in accordance with the pipe manufacturers' minimum cover requirements.

The actual cover and minimum cover requirements shall be provided in the drainage calculation report.

- (k) Inlet design shall be in accordance with the following criteria:
  - [1] A 25-year storm frequency.
  - [2] The spread of water shall be no greater than 8 feet from the flow line of the curb in streets. For areas other than streets or paved areas, inlets shall be located to ensure a minimum of 95% of the flow is captured by the inlet.
  - [3] Maximum spacing of inlets is 300 feet.
  - [4] In order to maintain structural integrity, inlet box corners shall not be cut.
  
- (l) Drainage design report containing the following minimum data shall be prepared for each project.
  - [1] Drainage area plan.
  - [2] Time of concentration.
  - [3] Weighted runoff coefficient.
  - [4] Design discharge.
  - [5] Type and slope of drainage facility.
  - [6] Spacing of drainage inlets.
  - [7] Erosion protection methods – riprap sizing calculations.
  - [8] Inlet spread calculations.
  - [9] Culverts – headwater elevations.
  - [10] Hydraulic Grade Line (HGL) calculations.
  - [11] Full flow pipe velocity.
  - [12] Actual flow pipe velocity.
  - [13] Difference between inlet grate elevation and HGL elevation.
  
- (m) Personnel grates shall be installed on pipe inlets to improve safety by preventing people, animals and debris from entering stormwater pipes 12 inches and larger with open inlets (i.e., without a grate or drainage inlet) for which full daylight is not visible when looking through the pipe to the other end.
  - [1] Since safety grates become blocked by debris, thus potentially decreasing drainage flow and increasing maintenance needs, engineers shall evaluate designs to avoid open inlets to stormwater pipes. One alternative to consider is creating a separation of pipe runs by realigning pipes in a long pipe run

into relatively short, straight runs, with daylight visible from the openings.

- [2] A personnel grate for a pipe inlet shall be considered as the last resort in designing inlets for storm drain systems. Grates shall be secured to prevent entry by the public but allow access to the storm drainpipe for maintenance and repair. Construction details and specifications shall be included in the construction plans.
- (n) The Rational Method of estimating the storm runoff, shown in Figure 1, shall be utilized for all storm sewers and waterway openings equal to or less than 19 square feet. The proposed method for computing the storm runoff requiring a waterway opening greater than 19 square feet shall be approved by the Town Engineer.
  - (o) Manning's Equation, shown in Figure 2, shall be utilized to determine the flow of water in open channels.
  - (p) Any structure, including supports, erected over a depression or an obstruction, such as water, a highway or a railway, for carrying vehicular or pedestrian traffic will be reviewed by the Town Engineer. All structural designs shall be in accordance with the Maryland State Highway Administration Bridge Standards and AASHTO's Load and Resistance Factor Design (LRFD) Bridge Design Specifications. If there are structural designs required on a plan and not included in the Maryland State Highway Administration Bridge Standards, shop drawings signed and sealed by a professional engineer registered in the State of Maryland shall be submitted for review and approval.
  - (q) The outfall shall be carried to a point of positive outfall in order to prevent downstream flooding. A detailed hydraulic and stormwater analysis downstream any distance as deemed necessary shall be required to determine the impacts to the drainage system and to ensure that stormwater impacts for surrounding property owners is minimized.
  - (r) New or improved drainage conveyance systems shall be designed and constructed to require economical maintenance. Improvements to watercourses in existing developments must be designed and constructed to retain the character of the surrounding area as much as practicable. Adequate rights-of-way must be provided for access for construction and afterwards for maintenance.
  - (s) An as-built topography plan of open channels that drains an area greater than one acre shall be provided for review and approval by the Town. The as-built shall include profiles and cross sections at fifty (50) foot stations and computations that demonstrate that the channel meets design objectives. All stormwater piping systems shall be as-built upon completion of construction. As-built drawings shall be signed and

sealed by a registered professional surveyor and submitted to the Town for review and approval prior to the issuance on building permits.

- (t) Stormwater management basin/pond as-builts shall meet the requirements of the Caroline County Conservation District.

Figure 1. Rational Method of Design

$$Q = CiA$$

Where,

$Q$  = Rate of runoff in cubic feet per second.

$C$  = Weighted runoff coefficient (average of the coefficients assigned to the different types of contributing areas).

$i$  = Average rainfall intensity, inches per hour, for the selected frequency and for duration equal to the time of concentration.

$A$  = Drainage area, in acres, tributary to the point under design.

Values of runoff coefficient ( $C$ ) for various types of contributing areas, indicated in Table 1 and Table 2, shall be utilized in the solution of this method of design.

Table 1. Runoff Coefficient (C) for Use in Rational Method

Type of Surface	Runoff Coefficient (C)	Notes
Rural areas	0.15-0.3	1. For flat slopes or permeable soil, use the lower values. For steep slopes or impermeable soil, use the higher values. 2. Contributing drainage areas shall be evaluated based on the fully developed land in accordance with the existing or proposed zoning.
Concrete or sheet asphalt pavement	0.8-0.9	
Asphalt macadam pavement	0.6-0.8	
Gravel roadways or shoulders	0.4-0.6	
Bare earth	0.2-0.9	
Steep grassed areas (2:1)	0.5-0.7	
Turf meadows	0.1-0.4	
Forested areas	0.1-0.3	
Cultivated fields	0.2-0.4	

Table 2. Runoff Coefficient (C) for Different Types of Surfaces

Type of Surface	Runoff Coefficient (C)
Flat residential, with about 30% of area impervious	0.40
Flat residential, with about 60% of area impervious	0.55
Moderately steep residential, with about 50% of area impervious	0.65
Moderately steep built up area, with about 70% of area impervious	0.80
Flat commercial, with about 90% of area impervious	0.80

Figure 2. Manning's Equation

$V = 1.49 R^{2/3} S^{1/2} / n$ <p>Where,</p> <p><math>V</math> = Velocity in feet per second.</p> <p><math>n</math> = Manning's coefficient of channel roughness.</p> <p><math>R</math> = Hydraulic radius, in feet.</p> <p><math>S</math> = Slope, in feet per foot.</p> <p>Values of Manning's coefficients (<math>n</math>) for various types of channel linings shall be used as indicated in Table 3.</p>
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Table 3. Manning’s Roughness Coefficients (n)

Type of Conduit	Roughness Coefficient (n)
<i>Closed Conduits</i>	
Reinforced Concrete Pipe (RCP)	0.012
Corrugated Metal Pipe (CMP) or Pipe Arch Plain or Fully Coated (Unpaved)	0.024
High Density Polyethylene (HDPE)	0.011
25% of circumference paved	0.021
Fully paved	0.012
<i>Lined Open Channels</i>	
Concrete (float finish)	0.014
Plain riprap	0.040
Grouted riprap	0.035
<i>Swales And Channels With Maintained Vegetation</i>	
Grass (mowed to 2’)	0.045
Grass (good stand - 12” height)	0.09
<i>Street Gutters</i>	
Concrete	0.012
Asphalt	0.013

**§ 73-7. Preliminary plat.**

- A. General requirements. The preliminary plat of the proposed subdivision shall comply with the following general requirement with regard to style and content:
  - (1) It shall be prepared by a registered land surveyor, preferably at a scale of one inch to 50 feet, but in any case at a scale not smaller than one inch to 100 feet.
  - (2) It shall provide all the pertinent information on existing site conditions, property ownership, and the like, which may be necessary for the Planning Commission to properly consider that proposed subdivision, and such information shall be accurate and reliable.
  - (3) It shall show the general plan for the ultimate development of the property, including so much of the surrounding areas as may be necessary for an adequate consideration of the land to be subdivided. Such plan shall be accurately drawn to scale, but surveyed dimensions are not required.
- B. Information to be shown. The preliminary plat shall be drawn in a clear and legible manner and shall contain the information required for preliminary plats shown in Appendix 1 at the end of this Chapter 73, Subdivision.
- C. Supporting statements. Accompanying the preliminary plat shall be the following written and signed statements in support of the subdivider's application for tentative approval:

- (1) Statements explaining how and when the subdivider proposes to provide and install required water supply, sewers or other means of sewage disposal, street, pavements, curbs and gutters, stormwater management facilities and private utilities including but not limited to electricity, telephone, cable and propane or natural gas.
- (2) Statement concerning any proposed deed restrictions to be imposed by the subdivider (owner).

**§ 73-8. Improvements.**

A. Required improvements by subdivider.

- (1) The subdivider shall be required to provide and install, or to enter into public works and stormwater management agreements to provide and install, certain minimum improvements in the subdivision as a condition for approval of the final plat by the Planning Commission. All such required improvements shall be constructed in accordance with the minimum requirements of these regulations and the construction standards and specifications adopted by the Town Council or such other governmental agency as may have jurisdiction over a particular improvement. Nothing contained herein, however, shall be construed as prohibiting the subdivider from installing improvements meeting higher standards than the minimum requirements.
- (2) Prior to filing the final as-built plat with the Planning Commission, the required improvements shall be completed, inspected, and approved by the proper authorities, except that in lieu of completing all improvements prior to submission of the final plat, the subdivider may furnish the Town Council with a cash deposit, a secured line of credit, or a performance bond executed by a surety company and running to the Town, such financial instrument shall be in an amount sufficient to cover the cost of the improvements required to be installed of such improvements prior to, or in no case later than, the time that such improvements are needed to serve buildings placed on abutting lots. The cost or required improvements shall be estimated by the Engineer or other authority having jurisdiction. In the event of any dispute concerning the amount of cash deposit or bond required, the Town Council shall make the final decision based upon at least two additional cost estimates.

B. Inspections, Warranties and Bonding.

- (1) Inspection of Improvements
  - (a) Prior to commencing construction, the Developer shall notify the Town Engineer of the proposed construction schedule.
  - (b) Pursuant to notification by the Developer, the Town Engineer shall inspect required improvements during the initial construction phase, and on a periodic basis thereafter, as may be required to ensure proper adherence to this Ordinance.

- (c) The Town Engineer shall submit reports to the Town specifying those items of construction, material and workmanship, which do not comply with the Town Construction Standards or the approved final plan.
  - (d) The Developer, upon notification from the Town, shall proceed at his own cost to make such corrections as shall be required to comply with the Town Construction Standards and approved final plans; and shall notify the Town Engineer and Town Council upon completion requesting final inspection.
  - (e) If such inspection reveals that the repair work is not in accordance with approved plans and the Town Construction Standards, the Town Council may suspend subdivision approval and issue a cease and desist order which may include any or all of the following sanctions.
    - [1] That no lot or subdivision shall be conveyed or placed under agreement of sale.
    - [2] That all construction on any lots for which a building permit has been issued shall cease; and/or
    - [3] That no further building permits for any lots shall be issued.
  - (f) Said cease and desist order shall be terminated upon determination by the Town Engineer that said defects and deviations from plan requirements have been corrected.
  - (g) No underground pipes, structures, subgrade, subbase or base course shall be covered until inspected and approved by the Town Engineer.
  - (h) The Developer shall notify the designated representative of the Town, usually the Town Engineer, at least 48 hours in advance of completion of any construction operations requiring an inspection.
  - (i) The Town Engineer shall make a final inspection, with the Developer, of all required improvements.
  - (j) Within 30 days after completion and Town approval of subdivision or land development improvements as shown on final plans and before Town acceptance of such improvements, the Developer shall submit to the Council as-built plans, showing actual dimensions and conditions of streets and all other improvements, certified by a professional engineer to be in accordance with actual construction.
  - (k) The Town Council shall notify the Developer of acceptance of the required improvements if satisfied that the Developer has complied with all specifications and ordinances of the Town.
- (2) Bonding
- (a) The Developer shall deposit with the Town financial security in an amount sufficient to cover the construction cost of all improvements required by the approved final plans.

- (b) Financial security required herein shall be in the form of a federal or state chartered lending institution's irrevocable letter of credit, a restrictive or escrow account in such institution or with a financially responsible bonding company or such other type of financial security which the Town may, in its reasonable discretion, approve. The bonding company may be chosen by the party posting the financial security, provided that said bonding company or lending institution is authorized to conduct business within the State and stipulates that it will submit to Maryland jurisdiction and Caroline County venue in the event of legal action.
  - (c) Said financial security shall provide for and secure to the public the completion of all improvements required by the approved final plans for which such security is being posted on or before the completion date fixed in the formal action of approval or development agreement.
  - (d) When requested by the Developer, the Town Council shall furnish the Developer with a signed copy of a resolution indicating approval of the final plan contingent upon the Developer obtaining a satisfactory financial security. The final plan shall not be signed nor recorded until the financial improvements agreement is executed. The resolution of contingent approval shall expire and be deemed to be revoked if the financial security agreement is not executed within 90 days, unless the Town Council grants a written extension.
  - (e) The amount of the financial security shall be equal to 125% of the cost of completion of all improvements required by the approved final plans. The amount of the financial security shall be based on an estimate of the cost of completion of the required improvements, prepared by a licensed professional engineer or a contractor's cost estimate and submitted by the Developer for review and approval by the Town Engineer.
- (3) Release From Performance Guaranty. (Initial Construction)
- (a) Partial Release of Performance Guaranty - As the work of installing the required improvements proceeds, the party posting the financial security may request the Town Council to release or authorize to be released, from time to time, such portions of the financial security necessary for payment to the Developer performing the work. Any such requests shall be in writing, addressed to the Town Council, and the Council shall have 45 days from receipt of such request within which to allow the Town Engineer to certify, in writing, that such portion of the work upon the improvements has been completed in accordance with this Ordinance and the approved plans. Upon such certification, the Council may authorize release by the bonding company or lending institution of an amount as estimated by the Town Engineer fairly representing the value of the improvements completed. The Town

Engineer, in certifying the completion of work for a partial release, shall not be bound to the amount requested by the Developer but shall certify to the Council his/her independent evaluation of the proper amount of partial releases. The Council may, prior to final release at the time of completion and certification by the Town Engineer, require retention of 10% of the estimated cost of the aforesaid improvements.

- (b) Incomplete Improvements - If the required improvements are not completely installed within the period fixed or extended by the Town, the Town Council shall declare the financial security in default to collect the amount payable thereunder. Upon receipt of such amount, the Town shall install such improvements as were covered by the security and are commensurate with the extent of building development which has taken place in the subdivision or land development, not exceeding in cost, however, the amount collected upon the security.
  - (c) Release in Full - When the Developer has completed all of the necessary and appropriate improvements; he shall notify the Council, in writing, by certified or registered mail, of the completion of the aforesaid improvements and shall send a copy thereof to the Town Engineer to inspect all of the aforesaid improvements. The Town Engineer shall, thereupon, file a report, in writing, with the Town Council and shall promptly mail a copy of the same to the Developer by certified mail. The report shall be made and mailed within reasonable time period after receipt by the Town Engineer or the aforesaid authorization from the Town Council. Said report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part. If said improvements, or any portion thereof, shall not be approved or shall be rejected by the Town Engineer, said report shall contain a statement of reasons for such non-approval or rejection.
  - (d) Notification - The Town Council shall notify the Developer, in writing, by certified mail, of the action of the Council with regard to approval, non-approval or rejection of improvements.
  - (e) Rejection of Improvements - If any portion of said improvements shall not be approved or shall be rejected by the Council, the Developer shall proceed to complete those improvements, and, upon completion, the same procedure of notification as outlined herein shall be followed.
  - (f) Maintenance of Improvements - The Developer shall be responsible for maintenance of all subdivisions or land development improvements until such improvements are offered for dedication and are accepted by the Town. In addition, 10% of the performance guaranty shall be held back by the Town until the Developer has posted the maintenance guaranty and as-built plans are verified and accepted by the Town.
- (4) Maintenance Guaranty (Maintenance Period)

- (a) Where the Town Council accepts dedication of all or some of the required improvements following completion, the Council shall require the posting of financial security to secure the structural integrity of the improvements and the functioning of the improvements in accordance with the design and specifications as depicted on the approved final plan. The security shall be in the form as is authorized for the deposit of the performance guaranty and shall be for a term of 5 years from the date of the acceptance of dedication and shall be in an amount equal to 10% of the actual costs of installation of the improvements so dedicated.

C. Minimum requirements. The minimum requirements for the installation of improvements in subdivisions shall be as follows:

(1) Roads and streets.

- (a) All new roads and streets shall be constructed in accordance with the minimum requirements of these regulations and the minimum construction standards as indicated in the “Standards Specifications and Details for Public Works Construction” as amended by the Director of Public Works. Existing roads and streets which do not meet these specifications with regard to width or type of construction shall be widened and brought into conformity on that portion of the road or street within or adjoining the subdivision.

- (b) The roadbed and roadway wearing surface shall be constructed in accordance with applicable Town standards. See “Standard Specifications and Details for Public Works Construction.” Curbs and gutters shall be provided in all subdivisions where the average lot area is less than one acre. Where curbs and gutters are not required, stabilized shoulders and stabilized drainageways outside the shoulders shall be provided. Street name signs of an approved design shall be erected at each new street or road intersection. All stormwater facilities shall be maintained by the property owner and/or the applicable homeowners association. Provisions for maintenance and assessment of costs for maintenance shall be provided in a form acceptable to the Town.

- (2) Stormwater facilities. The subdivision shall be provided with such storm drains, culverts, drainageways, or other works as are necessary to collect and dispose of surface and storm water originating on or flowing across the subdivision, in order to prevent inundation and damage to streets, lots, and buildings. All stormwater facilities must conform to the requirements of Chapter 106 – Stormwater Management whose goal is to manage stormwater by using environmental site design to the maximum extent practicable.

- (3) Water supply facilities. Every subdivision shall require a public water supply under the regulations of the State Department of Health. Where a public source of water supply will not be available, private on-site sources of water supply,

approved by the Health Officer, shall be provided. All major subdivisions shall require a public source of water supply, availability and allocation.

- (4) Sanitary sewerage facilities. Every subdivision shall require a public sewer system under the regulations of the State Department of Health. Where a public sewer system will not be available, private on-site septic systems, approved by the Health Officer, shall be provided. All major subdivision shall require a public sewer system, availability and allocation.
- (5) Plantings. Street trees and other landscaping shall be required by the Planning Commission on all new streets, and parking lots (of over five cars). The proposed location and the species of plant material to be used shall be subject to approval of the Planning Commission.
  - (a) It will be the responsibility of the developer to landscape all public rights-of-way which are contained in the proposed development. A minimum of one tree per each 35 feet of linear roadway will be required, species of which shall meet Town arborist specifications. Each tree must be of at least 1 1/2 inch diameter as measured four feet from ground level and the lowest branch of six feet. Trees shall be properly staked and maintained. . The preservation of existing trees along the right-of-way will compensate for the required new plantings.
  - (b) All parking areas shall be landscaped with trees planted at a rate of not less than one tree per 2,500 square feet of gross parking area.
  - (c) All residential lots shall be planted with at least one one-and-one-half-inch diameter yard tree, in addition to buffers, forestation, or critical area requirements. Yard tree species and quantities shall meet Town arborist specifications.
  - (d) Additional landscaping, shading, and bufferyard requirements are contained in Article XVI of Chapter 128, Zoning.
- (6) Sidewalks, pedestrian paths and cycleways. The minimum width of sidewalks shall be five feet along all streets. Where the Planning Commission determines projected pedestrian traffic volumes warrant, a wider sidewalk may be required. The construction specifications for sidewalks shall comply with “Standards Specifications and Details for Public Works Construction” as amended by the Director of Public Works.
  - (a) Sidewalks may be required on all streets; sidewalks may be placed on at least one side of any road; and may, at the discretion of the Planning Commission, be required on both sides of the street. The Planning Commission will require depressed curbs for handicapped access on sidewalks at street and driveway crossings.
  - (b) Where a development fronts on an existing state road, county road or Town street and where a sidewalk terminates at the property line of the

- proposed development the sidewalk shall be extended along the entire road frontage of the proposed development.
- (c) Pedestrian and cycle paths shall be provided in accordance with the Transportation Element of the Denton Comprehensive Plan. Pedestrian-only paths shall be at least five feet wide. Shared cycle and pedestrian paths shall be at least seven feet wide.
- (7) Streetlighting. Purchase and installation of the required lighting shall be the responsibility of the subdivider in accordance with “Standards Specifications and Details for Public Works Construction” adopted by the Town Council and as amended by the Director of Public Works.
- (8) Driveways shall be designed in conformance with the following requirements.
- (a) The minimum width of driveways shall be 10 feet and the maximum width shall be 20 feet for the area within the limits of the Town right-of-way. The total width of driveway within the limits of the Town right-of-way on a single lot shall not exceed 20 feet. Driveways shall not be placed within 5 feet of a property line.
  - (b) Driveways on corner lots shall be located at least 40 feet from the point of intersection of the nearest street right-of-way lines.
  - (c) In order to provide a safe and convenient means of access, grades on private driveways should not exceed 8%, unless specifically authorized by the Town, and in no case shall the grade exceed 5% for the first 30 feet of driveway as measured from the road cartway. The minimum slope shall not be less than 1.0%.
  - (d) Sight distance from a point on the driveway 10 feet from the edge of the public road cartway upon which the driveway opens shall not be less than 150 feet in either direction with respect to the view of oncoming traffic.
  - (e) All driveways shall be located, designed and constructed in such a manner as not to interfere or be inconsistent with the design, maintenance and drainage of the street.
- (9) Site Grading – An overall site grading plan with detailed requirements as to minimum and maximum slopes, grading around structures, ditch/swale grading, retaining walls, etc. shall be provided by the developer. The site grading plan shall be designed in conformance with the following requirements.
- (a) The ground on which structures are located shall be graded to carry stormwater runoff away from the buildings and dispose of it without causing water to pond, except in approved designated areas. Land grading shall comply with the following specific standards.
  - (b) Minimum Protective Slopes Around A Dwelling - Grading of pervious areas for a minimum distance of eight (8) feet away from any building

shall slope perpendicularly away from the building toward areas designated to accept runoff. The minimum slope in this area shall be sixteen (16) feet horizontal to one (1) foot vertical (16:1) (net differential in grade five-tenths (0.50) of a foot). Lesser slopes or shorter distances may be approved in specific cases where application of these requirements is not feasible and where an alternative method of foundation protection is provided to the satisfaction of the Town. If the sloped area is greater than eight (8) feet in length, the slope may be reduced. However, the net differential in grade must be at least five-tenths (0.5) of a foot and provide at least 2.00 percent slope.

- (c) **Maximum Protective Slopes Around a Dwelling** - In grading of pervious areas for a minimum of four (4) feet from the foundation of any building the slope shall not be steeper than four (4) feet horizontal to one (1) foot vertical (4:1). The maximum man-made slope at any place on a developed lot shall not be steeper than two (2) feet horizontal to one (1) foot vertical (2:1), and any man-made slope steeper than three (3) feet horizontal to one (1) foot vertical (3:1) shall be designed to ensure slope stability and minimize maintenance requirements.
- (d) **Driveways** - The maximum grade slope shall be eight (8) percent. Driveways sloping toward buildings shall be graded to a low point located at least eight (8) feet from the building with a minimum five-tenth (0.50) foot vertical elevation difference between the elevation at the building and the low point. The low point shall be graded to drain away from the building.
- (e) **Fill Slopes** - The toe of slope on any fill steeper than four (4) feet horizontal to one (1) foot vertical (4:1) on any individually developed lot must be maintained at a minimum of two (2) feet from the nearest property line.
- (f) **Retaining Walls** - Construction details must be provided for all retaining walls greater than two (2) feet in height. Retaining walls in excess of four (4) feet exposed height shall be located as far as necessary from the property line to accommodate structural components. In addition, retaining walls more than three (3) feet exposed height shall be designed according to the International Building Code, and calculations sealed by a Maryland Professional Engineer shall be submitted for review and approval by the Town.
- (g) **Minimum Slopes** - The minimum slope, beyond the protective slope shall be five-tenths (5/10) percent on impervious surfaces, one (1) percent on all other pervious surfaces. When acceptable to the Town, the grade on pervious surfaces may be reduced to five-tenths (5/10), providing soil testing and assessment by a qualified professional are provided to ensure adequate infiltration potential is available through

all layers of the soil horizon and that the local water table characteristics are amenable to such practices. It must be demonstrated that the lesser gradient is adequate to drain the lot without detrimental effect upon buildings or upon essential uses. Conditions that result in standing water, in excess of 24 hours, are not acceptable, except in areas where delineated wetlands are shown on the lot.

- (10) Community facilities. All residential plans submitted to the Planning Commission, preliminary or final, will be referred to the Caroline County Board of Education for an advisory report and recommendation. The Board of Education will determine the projected school population anticipated from the subject development, and compare the future school-age population to existing and proposed school capacities in determining whether that agency can endorse the development.
- (11) Public utilities. The subdivider shall place or cause to be placed underground extensions of electric and telephone distribution lines necessary to furnish permanent residential electric and telephone service to new detached, semidetached, group, or townhouse single-family residences within a new residential subdivision, or to new apartment buildings, in accordance with the rules and regulations of the Public Service Commission of Maryland, effective July 1, 1968, and subject to the further order of that Commission.
- (12) Off-street parking.
  - (a) Applicability. Every subdivision plan submitted to the Planning Commission for approval, shall provide off-street parking space and facilities in accordance with the requirements of Chapter 128, Zoning.
  - (b) Design.
    - [1] Parking spaces and all access and maneuvering space for off-street parking shall be surfaced and maintained with a dustless, all-weather material, except for single-family and two-family dwellings.
    - [2] Every parking facility shall have a safe and efficient means of vehicular access to a recorded street.
    - [3] No driveway serving a parking facility shall be closer than five feet to a side property line.
    - [4] No motor vehicles shall be parked in any yard or court closer than five feet to any door, window, or other opening of a dwelling, institution or other property.
    - [5] In the design of off-street facilities for multiple dwellings, the public right-of-way shall not be obstructed by the use of the same as aisle space or maneuvering space. Each off-street parking facility shall provide sufficient maneuvering space within the boundaries of the lot or lots on which it is located,

and shall be so designed that no unreasonable difficulty or inconvenience will be entailed in making necessary maneuvers for parking and removing a vehicle. Maneuvers shall not entail driving over any other required parking space. The layout of parking areas shall conform to the minimum dimensions for spaces and accessways.

- [6] Each parking facility shall be so designed that ingress or egress to a parking space entails no backing maneuver across a sidewalk or established footway, or a backing maneuver into or from the public right-of-way.
- [7] Neither the turnaround diameter or a cul-de-sac or rotary shall be used for the parking of vehicles.
- [8] In a multifamily residential subdivision, no parking area shall exceed 108 feet in length, and no portion of a motor vehicle shall be closer than 20 feet from the right-of-way line of public street.
- [9] Any fixture used to illuminate any off-street parking areas shall be so arranged as to reflect the light downward and away from adjacent residential sites, institutional sites and public roads.
- [10] The Planning Commission, at its discretion, may require off-street parking facilities to be screened by a wall, berm, fence, or compact planting when adjoining the side or rear lot line. Screening, at time of planting, shall be at least 3 1/2 feet high. Screening shall not be so placed or maintained as to constitute a traffic hazard by obstruction of visibility.
- [11] Drive Isles within parking lots shall conform to the following dimensions:
  - [a] 24-foot width to two-way traffic drive isles.
  - [b] 17- foot width to one-way traffic drive isles.
- [12] Entrance from public or private streets shall conform to the following dimensions:
  - [a] One-way traffic entrances shall be not less than 17 feet in width.
  - [b] Two-way traffic entrances shall not be less than 24 feet nor more than 35 feet in width; such entrances shall be not less than 15 feet apart.
  - [c] Monumental entrances shall be provided with a six-foot wide median, and the traffic lanes shall not be less than 17 feet in width.

[d] All entrances shall be not less than 7 1/2 feet from a side lot line.

[13] Additional off-street parking requirements and standards are contained in Article XII of Chapter 128, Zoning.

- (13) Refuse collection. In a residential subdivision, if refuse is to be collected at points exterior to a structure, such points shall be shielded from view on three sides by screening and landscaping, and placed on a pad of concrete where necessary in a location approved by the Town. A clear and acceptable pathway to the receptacle for refuse pickup shall be provided.
- (a) In a residential subdivision, if refuse is to be collected at points within a structure, the marginal notes to the subdivision plan shall so indicate.
  - (b) In a multifamily, commercial or industrial subdivision, refuse storage and collection points shall be housed in containers and shielded from view by screening made of brick, masonry, or wood, and completely enclosed and landscaped.
- (14) Street signs.
- (a) Street names. Street names shall be approved by the Town Council and other appropriate non-Town agencies.
  - (b) Improvements required. The subdivider shall erect at every intersection a street sign or street signs having thereon the names of the intersection streets. At intersections where streets cross, there shall be at least two such street signs, and at the intersections where one street ends or joins with another street, there shall be at least one such street sign.
  - (c) Construction standards. Street signs shall conform to the requirements of the Town's document entitled "Standards and Specifications for Public Works Construction."
- (15) Reference monuments.
- (a) Permanent reference monuments, of stone or concrete and at least 30 inches in length and four inches square with suitable center point, shall be set flush with the finished grade at such locations as may be required by the Planning Commission and the laws of the State of Maryland.
  - (b) Each subdivision parcel shall have reference monument, of stone or concrete and at least 30 inches in length and four inches square with suitable center point, shall be set flush with the finished grade at each parcel corner.
  - (c) Open space shall have reference monument, of stone or concrete and at least 30 inches in length and four inches square with suitable center point, shall be set flush with the finished grade at each parcel corner.
  - (d) Conservation easements shall have reference monument, of stone or concrete and at least 30 inches in length and four inches square with

suitable center point, shall be set flush with the finished grade at each easement corner.

- (e) Monuments of metal pipe, 3/4 inches in diameter and at least 18 inches in length, shall be set in place flush with the finished grade at all lot corners.
- (f) All monuments shall be specified with NAD83 latitude and longitude coordinate points and documented on detailed engineering drawings of the monument as it was actually placed.

D. Improvement plans. Plans, profiles, and specifications for the required improvements shall be prepared by the subdivider and submitted for approval by the appropriate public authorities prior to construction. Plans and profiles shall be drawn to a horizontal scale of one inch to 50 feet or less and a vertical scale of one inch to 10 feet or less, unless the Engineer shall specify otherwise, and such plans and profiles shall be sufficiently detailed to show the proposed location, size, type, grade and general design features of each proposed improvement. The plans, profiles, and specifications to be submitted shall include the following:

- (1) Plans and profiles of each street, showing proposed grades and street intersection elevations.
- (2) Cross sections of proposed streets, showing the width of roadways, present and proposed grade lines, and the location and size of utility mains, taken at intervals of not more than 100 feet along each street center line if required by the Engineer. Such cross sections shall extend laterally to the point where the proposed grade intersects the existing grade, except that in no case shall less than the full width of the street right-of-way be shown.
- (3) Plans and profiles of proposed sanitary sewers and storm drains, with proposed grades and pipe sizes indicated.
- (4) Plans of the proposed water distribution system, showing pipe sizes and the locations of all valves and fire hydrants.
- (5) A site plan of proposed street trees and other landscaping improvements.
- (6) Plans of proposed curbs and gutters and sidewalks.
- (7) Plans and profiles of proposed stormwater management facilities.
- (8) Plans for traffic plans.
- (9) Plans for lighting plans.
- (10) Construction Details
- (11) Written specifications for all proposed improvements.
- (12) Calculations for stormwater management facilities; drainage facilities including piping, culverts and swales; and structures including retaining walls

E. Inspection and acceptance.

- (1) All construction work on improvements required herein shall be subject to inspection and approval by the Engineer, Health Officer, and other authorized public officials, during and upon completion of such construction work. Upon the completion of each improvement, the subdivider shall furnish the appropriate official with accurate and detailed engineering drawings of the improvement as it was actually constructed.
- (2) The final as constructed plat of the subdivision shall not be approved by the Engineer until all required improvements shall have been satisfactorily completed and approved as being in compliance herewith, or satisfactory bond posted in lieu of such completion. No such bond shall be released until all improvements secured by such bond shall have been completed and approved as being in compliance herewith; provided, however, that a partial release may be approved for such improvements as may have been completed and approved by appropriate officials.
- (3) This improvement guaranty shall be conditioned upon:
  - (a) The developer constructing and installing, or causing to be constructed or installed, in strict accordance with the standards, regulations, and specifications of the Town, as finally approved, the required improvements;
  - (b) The developer in maintaining at this own cost the said improvements, until the same are accepted by the Town for community use;
  - (c) The faithful performance by the developer of the public works and stormwater management agreements.
- (4) Approval of the final plat by the Engineer shall not be deemed to constitute or effect and acceptance by the Town of the dedication of any street or other proposed public way or public grounds shown on said plat. The Town shall have no obligation to accept and to make public any street in a subdivision unless:
  - (a) All required improvements shown on the approved final plat have been constructed in conformity with the required standards and specifications; or
  - (b) A petition signed by the owners of at least 50% of the frontage of the street in questions, requesting that the street be taken over and made public, is filed with the Town, and it is established by Town Council that there is a need for the street to be taken over and made public.
- (5) The Town shall have no responsibility with respect to any street within a subdivision, notwithstanding the use of such street by the public, unless the street is accepted by resolution of the Town.
- (6) Acceptance of rights-of-way shall be by deed conveyance in a form acceptable to the Town.

F. Sediment control.

- (1) Nothing in this Chapter 73, Subdivision shall be deemed as relieving any person or corporation of Chapter 49, Erosion and Sediment Control.
- (2) All subdivision applications must incorporate an approved sediment control plan prior to final approval of the plat.

**§ 73-9. Final plat.**

A. General requirements. The final plat of the subdivision shall comply with the following general requirements with regard to style and content:

- (1) It shall be drawn in black India ink on tracing vellum or dimensionally stable plastic film, and shall comply with the applicable provisions of the laws of the State of Maryland relative to the making of plats. In addition, the final plat shall be provided digitally in GIS (shapefile or geodatabase), CAD (dwg) and pdf formats.
- (2) It shall be prepared by a registered land surveyor, preferably at a scale of one inch to 50 feet, but in any case at a scale not less than one inch to 10 feet, and it shall be drawn on sheets not less than eleven inches by 17 inches and not more than 24 inches by 36 inches in size, including a margin of 1/2 inch outside rules border lines.
- (3) All dimensions and bearings of lines and all areas shall be based upon a field survey of sufficient accuracy and detail that the data shown thereon may be reproduced on the ground. All distances and the length of all lines shall be given to the nearest hundredth of a foot. Bearings of all lines shall be referenced to the same azimuth and coordinate system as shown on the plat of the official Town controls. Additions to existing subdivisions shall conform to the azimuth and coordinate system of the original subdivision. All bearings shall be given to the nearest minute and all areas shall be given to the nearest square foot.
- (4) Another final plat of the subdivision including only lot boundaries, roads and rights-of-way lines, easement areas, and public utilities line work shall be provided digitally in (shapefile or geodatabase format) or dxf format compatible with Geographic Information System (GIS) and utilizing NAD83 coordinate system. Point of beginning coordinate shall tie to an official state coordinate to enable alignment with existing Town GIS data.

B. B. Information to be shown. The final plat shall be legibly and accurately drawn and shall include the information required for final plats shown in Appendix 1 at the end of this Chapter 73, Subdivision as well as following information:

- (1) The Planning Commission shall make final determination on the completeness and accuracy of the plat in accordance with the provisions of this section prior to recordation of the plat. See Appendix 1 for a complete list of requirements for the final plat.
- (2) The final subdivision plat shall be submitted to the Planning Commission drawn on a reproducible sheet made of material that will be acceptable to the Clerk of the Circuit Court having dimensions of 18 inches by 24 inches. When more than

one sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate match lines on each sheet and appropriate references to other sheets of the subdivision. A location map indexing each of the sheets shall be submitted to the Planning Commission secretary and kept on file. The scale of the plat shall be at one inch equals not more than 100 feet. The applicant shall also submit 10 prints of the plat and a digital final plat of the subdivision including only lot boundaries, roads and rights-of-way lines, easement areas, and public utilities line work in dxf format compatible with Geographic Information System (GIS) and utilizing NAD83 coordinate system. Point of beginning coordinate shall tie to an official state coordinate to enable alignment with existing Town GIS data.

- (3) The accurately positioned North arrow shall be placed on the plat.
- (4) All plat lines shall be by horizontal (level) measurements. Enlargement of portions of a plat are acceptable in the interest of clarity, where shown as inserts on the same sheet.
- (5) Where a boundary is formed by a curved line, the following data must be given: actual survey data from the point of curvature to the point of tangency shall be shown as standard curve data, or as a traverse of bearings and distances around the curve. If standard curve data is used, the bearing and distance of the long chord (from point of curvature to point of tangency) must be shown on the face of the plat.
- (6) Where a subdivision of real property is set out on the plat, all streets, easements and lots shall be carefully plotted with dimension lines indicating widths and all other information pertinent to reestablishing all lines in the field. This shall include bearings and distances sufficient to form a continuous closure of the entire perimeter.
- (7) Permanent reference monuments, shown on the plat, shall be placed. Such permanent reference monuments shall be stone or concrete at least 30 inches in length and four inches square with suitable center point and shall be set flush with the ground and to finish grade. Concrete monuments shall be placed on road rights-of-way where street direction changes; at all intersections of streets; at all intersections of streets and alleys with subdivision boundary lines; at all points on boundary lines where there is a change in direction or curvature. All locations shall be approved by the Town. All monuments shall be in place when finish grading is completed. Monuments shall be placed at all block corners, and angle points as required by the Town Engineer, who shall also approve the material, size and length of such monuments. Monuments shall be set by a Maryland registered land surveyor and their Geographic Position System (GPS) coordinates marked on the plat. It shall be the responsibility of the developer to have these monuments placed prior to the acceptance of the streets by the Town of Denton and shall be guaranteed in the public works agreement. The developer shall be responsible and pay all costs necessary to replace any Town grid monuments or control points disturbed by his development activities. Replacements shall be

done by a Maryland registered surveyor to accurately place such monuments. Such payment to restore any monuments is to be secured by a public works agreement.

- (8) If the final plat is disapproved by the Planning Commission, the applicant shall be furnished with a written statement of the reasons for the disapproval.
- (9) Approval of a final plat is contingent upon the plat being recorded within nine months after the approval certificate is signed by the Planning Commission or its designee. The subdivider will furnish copies of the recorded plat to all applicable county and state agencies, as directed by the Town. If the final plat is not recorded within nine months, the approvals granted by the Planning Commission will become null and void.
- (10) Street and development names shall not be the same nor closely approximate, phonetically or in spelling, to the name of any other street in Denton or the Denton Fire Company's jurisdiction.
- (11) For subdivisions in the Critical Area, accurate outlines (metes and bounds, where required) of the following:
  - (a) Any common or reserved areas or portions of lots to be maintained by covenant, easement or similar approved instrument, in permanent forest cover, including existing forest areas, reforested areas and afforested areas.
  - (b) Any areas to be maintained as resource protection use (e.g., agriculture, natural parks, forest, etc.).
  - (c) Any areas to be maintained as permanent wildlife and plant habitat protection areas.
- (12) In addition to the information above, the preliminary plan shall be accompanied by the following when the subdivision or development is proposed in the Critical Area, as required:
  - (a) A planting plan reviewed by and addressing the comments of the Maryland Forest Service;
  - (b) A habitat protection plan, including the comments of the Maryland Fish, Heritage and Wildlife Administration, the Water Resources Administration and other agencies, as appropriate;
  - (c) Stormwater management plan;
  - (d) Sediment and erosion control plan;
  - (e) Shore erosion protection plan, if applicable;
  - (f) Natural park management plan, if applicable;
  - (g) An environmental impact assessment which provides a coherent statement of how the proposed development addresses the goals and

objectives of the Denton Chesapeake Bay Critical Area Program. At a minimum, the environmental impact assessment shall include:

- [1] A statement of existing conditions, (amount and type of forest cover, wetlands, existing agricultural activities, soil types, topography, etc.);
- [2] Description of the proposed development project, including number and type of residential and commercial units, amount of lot coverage, proposed sewer treatment and water supply, acreage devoted to development, proposed open space and habitat protection areas;
- [3] A description of the proposed development's impacts on water quality and habitat protection areas; and
- [4] Documentation of all correspondence and findings.

- (h) Total area of the subdivision to be recorded and where density restrictions apply, the acreage dedicated to development.
- (i) Total area of subdivision or parcels to be recorded in the Critical Area.
- (j) Total number of lots in the Critical Area.
- (k) Residential density in the Critical Area.

C. Certificates and supporting statements. Accompanying the final plat and made a part thereof shall be the following certificates and statements:

- (1) Notarized owner's certificate, acknowledging ownership of the property and agreeing to the subdivision thereof as shown on the plat, and signed by the owner or owners and any lienholder.
- (2) Notarized owner's statement of dedication, offering all streets, alleys, and other public ways and public grounds for dedication, and constituting an irrevocable offer to dedicate for a period of not less than five years from the date of filing the final plat with the Planning Commission.
- (3) Certificate of the surveyor that the final plat, as shown, is a correct representation of the survey as made, that all monuments indicated thereon exist and are correctly shown, and that the plat complies with all requirements of this Chapter 73, Subdivision and other applicable laws and regulations.
- (4) A brief summary of deed restrictions applicable within the subdivision, including any trust agreements for the operation and maintenance by the property owners in the subdivision of any sewage disposal system, water supply system, stormwater management facilities, park area, or other physical facility which is of common use or benefit but which is not to be held in public ownership.
- (5) Certificate of approval by the Health Officer of the means of providing water supply and sewage disposal services for the subdivision.

- (6) Certificate of approval by the Town engineers that all specifications established by the developer are in accordance with Town specifications and desires.
- (7) Certificate of approval by the Sediment Control Officer that the proposed subdivision is in conformance with Chapter 49, Erosion and Sediment Control.
- (8) Certificate of approval by the Planning Commission, ready for signature and in a form acceptable to the Planning Commission.
- (9) Certificate of approval by the Critical Area Commission for any required Growth Allocation.

**§ 73-10. Adequate public facilities.**

A. General.

- (1) Unless specifically indicated otherwise, the provisions of this article shall apply only to major subdivisions and multifamily development projects.
- (2) The Planning Commission shall review all subdivisions and site plans to determine whether existing or planned public facilities are adequate to serve the needs of the subdivision. If the Planning Commission determines that adequate public facilities do not exist or are unavailable due to constraints of the Town's water and/or sewer facilities, it may deny site plan and/or plat approval.
- (3) Public facilities which may be considered under this section include, but shall not be limited to sewer, water, roads, drainage, schools, fire protection, and solid waste collection and disposal.

B. Sewer.

- (1) The proposed development shall be served by an adequate public sewerage system.
- (2) A public sewerage system shall be considered adequate if, taking into account demands generated or projected to be generated by existing connections, buildings under construction that will be connected to the system, buildings unconnected but required by law to connect to the system, buildable approved lots for which building permits have not been issued in active developments served by the system, other buildable approved lots adjusted for the degree of inactivity, application of any water and/or sewer rules and regulations, and other proposed developments to be served by the system for which sewer allocation has been approved:
  - (a) Lateral systems to serve the proposed development are designed to accommodate expected ultimate peak flows from the development;
  - (b) Interceptors to serve the proposed development have sufficient available capacity to accommodate ultimate peak gravity flows from the development with adjustment for pump flows where applicable;

- (c) Pumping stations and force mains in the service area have sufficient available capacity to accommodate expected ultimate peak flows from the proposed development; and
  - (d) Treatment plants in the service area have sufficient available capacity to accommodate expected peak flows from the proposed development for the hydrologic system and average daily flows from the proposed development for treatment process.
- (3) The calculations required by subsection b. of this section shall be based upon criteria specified in the Comprehensive Water and Sewerage Plan and the Water Resources element of the Comprehensive Plan.
  - (4) A public sewage system shall also be considered adequate if the Town has awarded, or the developer has posted bond satisfactory to the Town, a contract for the construction or improvement of the facilities necessary to comply with the requirements of subsection b. of this section and the facilities will be available for use before the issuance of the first building permit for development.

C. Water.

- (1) The proposed development shall be served by an adequate public water supply system.
- (2) A public water supply system shall be considered adequate if, taking into account demands generated or projected to be generated by existing connections, buildings under construction that will be connected to the system, buildings unconnected but required by law to connect to the system, buildable approved lots for which building permits have not been issued in active developments served by the system, other buildable approved lots (adjusted for the degree of inactivity), and other proposed developments to be served by the system for which final plats have been approved:
  - (a) Source facilities in the service area have sufficient available capacity to provide maximum day demand to the proposed development;
  - (b) Storage tanks in the service area have sufficient available capacity to provide peak hour demand in addition to fire flow to the proposed development;
  - (c) Local pumping stations to provide water to the proposed developments have sufficient available capacity to provide maximum day demand where storage facilities are available on the discharge side or have sufficient capacity to provide for fire flow where storage facilities are not available on the discharge side; and
  - (d) The distribution system is capable of providing normal required pressure and minimum residual pressure to the proposed development under fire flow for the type of development planned.

- (3) A public water supply system shall also be considered adequate if the Town has awarded a contract for the construction or improvement of the facilities necessary to comply with the requirements of Subsection C(2) of this section and the facilities will be available for use before the issuance of the first building permit for development.
- (4) The calculations required by Subsection C(2) of this section shall be made based on criteria specified in the Comprehensive Water and Sewerage Plan and the Water Resources Element of the Comprehensive Plan.

D. Roads.

- (1) All development shall have access from a public road adequate to meet existing and projected traffic loads. Off-site road access shall not be hazardous or unsafe by virtue of inadequate site distances, width, vertical alignment, horizontal alignment, drainage, surfacing, grades, or cross sections.
- (2) Where access is from an inadequate public road, no final plat or site plan shall be approved unless and until one of the following is met:
  - (a) The road is improved by the Town, county, or state or programmed for improvement during the next year's construction program; or
  - (b) The developer has elected to place funds in an escrow account to assist in improving the road. The amount of the developer's contribution shall be determined by the Town, with consideration to the Engineer's estimate of the construction cost, the existing average daily traffic count on the road, the estimate traffic volume to be generated by the development upon build-out, and the location of the development with respect to other segments of the Town roads system.
  - (c) The developer may be required to prepare a traffic impact study to satisfy requirements for this section.

E. Stormwater Management.

- (1) All developments shall have appropriate stormwater management facilities to effectively and efficiently address stormwater requirements as required by Chapter 106 and provide drainage for roads and all lots.
- (2) The Town Engineer shall advise the Planning Commission as to the adequacy of the proposed stormwater management facilities.

F. Schools.

- (1) Schools serving the area in which the development is located shall have adequate capacity to meet the educational needs of the residents of the development.
- (2) The Caroline County Board of Education shall be consulted regarding adequacy of school facilities.

G. Fire protection.

- (1) Fire protection services and facilities for the area in which the development is located shall be adequate to protect the lives and property of the residents of the development.
- (2) Where it deems necessary, the Planning Commission shall request an evaluation from the appropriate authority as to the adequacy of the fire protection services and facilities.

H. Solid waste.

- (1) Solid waste collection facilities serving the area in which the development is located shall be adequate to handle the additional waste generated by residents of the development.
- (2) If solid waste collection facilities are determined to be inadequate, the Planning Commission may require the developer to provide the necessary facilities.

**§ 73-11. Modifications and exceptions.**

- A. Modification for unusual conditions. Where, in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this Chapter 73, Subdivision would result in extraordinary hardship to the subdivider because of unusual topography or other conditions which are not self-inflicted, or that these conditions would result in inhibiting the achievement of the objectives of these regulations, the Planning Commission may modify or waive the requirements so that substantial justice may be done and the public interest secured; provided; however, that such modification or waiver will not have the effect of nullifying the intent and purpose of this Chapter 73, Subdivision or being contrary to the goals and objectives of the Comprehensive Plan for the Town. In no case shall any modification or waiver be more than a minimum easing of the requirements, and in no instance shall it result in any conflict with the proposals of the adopted Comprehensive Plan for the Town or the applicable zoning regulations.
- B. Approval of modifications and exceptions. Modifications and waivers from the requirements of this Chapter 73, Subdivision shall be granted only by the affirmative vote of three-fourths of the members of the Planning Commission. In granting modifications and waivers, the Planning Commission may require such conditions as will, in this judgment, substantially secure the objectives of the requirements so varied, modified, or waived.
- C. Variances. Variances for yard, area or bulk requirements; bulk, area or height of structures; height or size of signs, or placement of earth satellite antennae require Board of Appeals simple majority approval.

**§ 73-11.1. Revised subdivision plat.**

Revised Subdivision Plat:

- A. Request for revisions. A revised plat may involve one or more revisions of any existing subdivision of land or recorded subdivision plat recorded whereby no additional lots are created. A request for a revision shall be determined by the Director of Planning to be

either major or minor. In no case shall a revised plat result in creation of a nonconforming situation or the worsening of an existing nonconforming situation.

B. Examples of revisions.

- (1) Major revisions. Examples of major revisions may include, but are not limited to, relocation or elimination of any public or private road; relocation or adjustment of acreage for any commonly owned open space areas or any reserved lands; or revisions of lot lines which significantly affect the overall layout of the subdivision.
- (2) Minor revisions. Examples of minor revisions may include, but are not limited to, correction of minor plat or surveying errors; minor changes to plat notations; changes to lot lines which do not significantly affect the overall layout of the subdivision.

C. Procedure for major revisions. In the case of a major revision, the application, review and approval process for minor or major subdivision approval shall be followed as determined by the Director of Planning. The Director of Planning shall also determine the specifications for application documents to be submitted. At a minimum, the revised plat shall clearly show all property lines to be abandoned and any other requested revisions or changes to the existing approved plat. An application fee shall also be required as determined by a fee schedule adopted by the Town Council.

D. Procedure for minor revisions. In the case of a minor revision, the following application, review and approval process shall be followed:

- (1) The application shall be made on the Planning Commission Review Application form available at the Planning and Codes Office.
- (2) The application shall be accompanied by an adequate number of paper copies, as determined by the Director of Planning, of the revised plat that clearly show all property lines to be abandoned, all new property lines and any other revisions or changes from the existing situation or existing approved subdivision plat.
- (3) The application shall be accompanied by all other information, plans and drawings as determined by the Director of Planning.
- (4) Upon submission of a completed application, the Director of Planning shall review the application and may refer the application to other county, state and federal agencies, as applicable for review, comment and approval. If the minor revision will impact an existing or approved water or sewer allocation (or private well or septic system) or change the size of an existing lot, the County Health Department shall review the plat. If the minor revision will impact on an existing or approved road or street, the Town Engineer shall review the plat. In most other cases, only the Director of Planning is required to review the plat.
- (5) The revised plat shall be recorded in the land records of the office of the Clerk of the Circuit Court pursuant to § 73-4.A.

- E. An appeal of the Planning Director's decision with respect to any minor revision may be made to the Denton Board of Appeals in accordance with the procedures of §73-14.

**§ 73-12. Changes and amendments.**

- A. The Town Council may, from time to time, amend, supplement, or change, by ordinance, the regulations herein established. Any such amendment or change may be initiated by the Town Council or by the Planning Commission. Before taking action on any proposed amendment or change, the Town Council shall submit the same to the Planning Commission for its recommendations and report. Failure of the Planning Commission to report within 60 days after its first meeting subsequent to the proposal being referred shall be deemed approval by the Planning Commission.
- B. The Planning Commission shall hold a public hearing on any proposed amendment or change before submitting its report to the Town Council. Notice of such public hearing before the Planning Commission shall be given at least 14 days prior to the hearing by publishing the time, the place and the nature of the hearing in a newspaper having general circulation in the Town. The published notice shall contain reference to the place or places within the Town where the full text of the proposed amendment or change may be examined.
- C. Before approving any proposed amendment or change, the Town Council shall hold a public hearing thereon, notice of said hearing to be accomplished by publication in a newspaper as prescribed above.

**§ 73-13. Violations and penalties.**

- A. Whoever, being the owner or agent of the owner of any land located within the jurisdiction of these regulations, knowingly, or with intent to defraud, transfers or sells or agrees to sell or negotiates to sell any land by reference to, or exhibition of, or by other use of a plat of land subdivision, before such plat has been approved by the Planning Commission and recorded or filed in the office of the Clerk of the Circuit Court, shall forfeit and pay a penalty of not more than \$1,000 for each lot or parcel so transferred or sold or agreed or negotiated to be sold, and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided. The Town Council may enjoin such transfer or sale or agreement by action for injunction brought in any court of equity jurisdiction, or may recover the said penalty by civil action in any court of competent jurisdiction.
- B. Every act or omission in violation of this Chapter 73, Subdivision shall be punishable as provided herein. Where such an act or omission is of a continuing nature, each and every day during which such an act or omission continues shall be deemed a separate misdemeanor.

**§ 73-14. Appeals.**

Any person aggrieved or any officer, department, board, or bureau of the Town affected by any decision of the Planning Commission, Director of Planning or Town Engineer, may, within 30

days after the decision appealed from, appeal such decision to the Denton Board of Appeals under the terms and provisions set forth in Chapter 128 Zoning, of the Denton Town Code.

## LAND SUBDIVISION

### Appendix 1 Basic Information Required with Subdivision Plats and Plans

*Note: All plats and plans must be clear and legible. Incomplete plats will be returned to the applicant for completion and re-submission.*

*Final Plats will include a GIS submittal in NAD\_1983\_StatePlane\_Maryland\_FIPS\_1900, Datum: D\_North\_American\_1983 with metadata.*

Item	Description	Development Stage			
		Concept Plan	Minor Sub. Plat	Subdivision Plats	
				Prelim.	Final
<b>I</b>	<b>Project - Plat Information</b>				
1	Name, address of owner, applicant, developer and lienholder, date of application.	X	X	X	X
2	Name and address of engineer, land surveyor architect, planner, and/or landscape architect, as applicable, involved in document preparation.	X	X	X	X
3	Date of survey.		X	X	X
4	Seal, signature and license number of engineer, land surveyor, architect, and/or landscape architect, as applicable involved in document preparation. Each sheet must have a surveyor's seal.		X	X	X
5	Title block denoting name and type of application, Tax Map sheet, block and lots, parcel, and street location.	X	X	X	X
6	A vicinity map at a specified scale (no smaller than 1 = 200') showing location of the tract with reference to surrounding properties, streets, landmarks, streams, etc. Show all of the property owned according to the Tax Map(s) if only part of the property is to be developed.	X	X	X	X
7	Existing and proposed zoning of tract and adjacent property.	X	X	X	X
8	Adjacent property owners, names, Liber and Folio.	X	X	X	X
9	Title, North arrow and scale (1 = 100'). "	X	X	X	X
10	Appropriate signature block for Planning Commission Chairman, and the Health Department.		X	X	X
11	Appropriate certification blocks.		X	X	X

Item	Description	Development Stage			
		Concept Plan	Minor Sub. Plat	Subdivision Plats	
				Prelim.	Final
I	<b>Project - Plat Information</b>				
12	Certification and dedication by the owner or owners to the effect that the subdivision as shown on the final plat is made with his or her consent and that it is desired to record same.				X
13	Monumentation, location and description.		X		X
14	Standardized sheets 18 x 24" (final: black ink on Mylar).	X	X	X	X
15	Metes and bounds survey showing dimensions, bearings, curve, data, length of tangents, radii, arc, chords, and central angles for all center lines and rights-of-way, and center line curves on streets, datum and benchmark, primary central points approved by the Town Engineer. (Boundary of proposed subdivision can be a deed plot.)		X	X	X
16	Acreage of tract to the nearest thousandth of an acre.	X (general)	X	X	X
17	Date of original and all revisions.	X	X	X	X
18	Size and location of any existing or proposed structures with all setbacks dimensioned (for concept plan general location but not setbacks). Include storm drains, culverts, retaining walls, fences, stormwater management facilities, sediment and erosion structures.	X	X	X	X
19	Number of dwelling units.	X	X	X	X
20	Location, dimensions, bearings, names of any existing or proposed roads or streets. The location of pedestrian ways, driveways. Right-of-way widths (for concept plans, general locations).	X	X	X	X
21	All proposed lot lines (width and depth) and area of lots in square feet, number of lots, lot numbers.	X (general)	X	X	X
22	Location and type of utilities.		X	X	X
23	Copy and/or delineation of any existing or proposed deed restrictions or covenants.	X (existing)	X	X	X
24	References to protective covenants governing the maintenance of undedicated public spaces or reservations.				X

Item	Description	Development Stage			
		Concept Plan	Minor Sub. Plat	Subdivision Plats	
				Prelim.	Final
<b>I</b>	<b>Project - Plat Information</b>				
25	Location and size of proposed natural park areas, play grounds and other public areas.	X	X	X	X
26	Any existing or proposed easement (drainage and utility) or land reserved for or dedicated to public use. Location, dimensions of proposed reservations, rights-of-way, open space, buffers, forested areas along with means by which these areas will be permanently maintained.	X (general)	X	X	X
27	Statement of owner dedicating streets, right-of-way, and any sites for public use.				X
28	Development stages or phasing plans (for concept plans, general phasing). Sections numbered by phase.	X (general)		X	X
29	Total number of off-street parking spaces including ratio and number of units per space.			X	X
30	List of required regulatory approvals/permits.	X	X	X	X
31	List of variances required or requested.	X	X	X	X
32	Requested or obtained design waivers or exceptions.	X	X	X	X
33	Payment of application fees.	X	X	X	X
<b>II</b>	<b>Setting -Environmental Information</b>				
34	Total area of the site that will be temporarily and/or permanently disturbed.		X	X	
35	All existing streets, watercourses, floodplains wetlands, or other environmentally sensitive areas on or adjacent to the site.	X (general)	X	X	X
36	Existing rights-of-way and/or easements on or immediately adjacent to the tract.	X	X	X	X
37	Topographical features of subject property from USGS map or more accurate source at two-foot to five-foot intervals, 50 feet beyond the boundary, with source stated on maps.	X	X		
38	Field delineated or survey topo.			X	X
39	General areas of greater than 15% slope shaded and identified as steep slopes.	X			
40	Slope analysis of greater than 15% slopes. These areas shall be shaded and identified as steep slopes.			X	X

Item	Description	Development Stage			
		Concept Plan	Minor Sub. Plat	Subdivision Plats	
				Prelim.	Final
<b>I</b>	<b>Project - Plat Information</b>				
41	Forest stand delineation.		X	X	
42	Existing system of drainage of subject site and adjacent sites and of any larger tract or basin of which it is a part.	X	X	X	X
43	A one-hundred-year floodplain based on FEMA maps.	X	X	X	X
44	Tidal and nontidal wetland delineation based on NWI maps and field review.	X	X	X	X
45	Nontidal wetlands identification based on field delineation/determination.		X	X	X
46	Location of sensitive areas and their Buffers.	X	X	X	X
47	Location and width of Bufferyards.	X	X	X	X
48	Soil types based on county soil survey.	X	X	X	X
49	Traffic impact study, as required.	X		X	
50	Statement of effect on schools district and school bus service, as required.	X			
51	Location of the Critical Area District boundary and Critical Area designation.	X	X	X	X
52	Number of acres in the Critical Area.	X	X	X	X
53	Mean high-water line and landward edge of tidal wetlands.	X	X	X	X
54	Location of existing forested areas to be disturbed by construction. Planting plan approved by the Maryland Forest Service.	X	X	X	X
55	The known locations of HPA's, the habitat of any threatened or endangered species, and the habitat of any species in need of conservation. Habitat protection plan reviewed by the MD DNR.	X	X	X	X
56	The location of the Critical Area Buffer and the expanded Buffer, as required.	X	X	X	X
57	Hydric and highly erodible soils based on the county soil survey.	X	X	X	X
58	Natural park management plan, if applicable.				X
59	Shore erosion protection plan, if applicable.				X
60	Environmental assessment.	X	X	X	
61	Statement of consistency with the Critical Area Program.	X	X	X	
<b>III</b>	<b>Plats, Improvement Plans, and Construction Information</b>				
62	Information required in § 73-9B.				

Item	Description	Development Stage			
		Concept Plan	Minor Sub. Plat	Subdivision Plats	
				Prelim.	Final
<b>I</b>	<b>Project - Plat Information</b>				
63	Grading and drainage plans including roads, drainage ditches, sediment basins, and berms.			X	X
64	Existing and proposed contour intervals as follows: Slope of less than 5% = one foot Slope of 5% to 15% = two feet or less Greater than 15% = as required for construction			X	X
65	Proposed street grades, typical cross sections and profiles, right-of-way widths, pedestrianways, total area of roads.			X	X
66	Existing and proposed utility infrastructure plans and profiles including sanitary sewer, water, storm drainage and stormwater management, as appropriate in the case of minor subdivisions.		X	X	X
67	Grades and sizes of sanitary sewers and waterlines.			X	X
68	Direction and distance to water and sewer if not available on or adjacent to the site with invert and elevation of sewer.		X	X	
69	Certification from electric and telephone utilities of adequate facilities to serve proposed development.	X (general)			X
70	Location of fire hydrants.			X	X
71	Construction details as required by ordinance.			X	X
72	Stormwater management plan.		X	X	X
73	Soil erosion and sediment control plan.		X	X	X
74	Lighting plan and details, as required.		X	X	X
75	Landscape plan and details, including required Bufferyards.		X	X	X
76	Forest conservation plan.		X	X	X
77	Proposed street names.			X	X
78	New block and lot numbers.			X	X
79	Solid waste management plan.		X	X	X
80	Preliminary architectural plan and elevations.		X	X	X

Item	Description	Development Stage			
		Concept Plan	Minor Sub. Plat	Subdivision Plats	
				Prelim.	Final
I	<b>Project - Plat Information</b>				
81	Required county, state, and/or federal or approvals, e.g., State Highway Administration, County Public Works, Army CORPS of Engineers, DNR Wetlands Permit/License, MDOE Quality Certification, MDOE sanitary construction permit, local Health Department approvals.		X		X
82	Public works agreement and surety		X		X

NOTES:

X = Item required at indicated development stage

\* Proposed restrictions or covenants do not have to be included for preapplication concept plan.

ORDINANCE NO. 612

INTRODUCED BY: Councilperson Case

AN ORDINANCE OF THE TOWN OF DENTON REPEALING AND REENACTING WITH AMENDMENTS CHAPTER 73, LAND SUBDIVISION OF THE TOWN CODE

WHEREAS, the Town of Denton is authorized by Maryland Annotated Code Article 66B §5.01 *et seq.* to enact and administer subdivision regulations, which regulations are Chapter 73 of the Denton Town Code; and

WHEREAS, the Town of Denton has recently adopted a new Comprehensive Plan for the Town; and

WHEREAS, in order to implement the provisions of the newly adopted Comprehensive Plan, the Town proposes numerous revisions to Chapter 73, Land Subdivision of the Town Code such that the Town wishes to repeal and reenact with amendments the entire Chapter 73, Land Subdivision; and

WHEREAS, the Denton Planning Commission considered the revised Chapter 73, Land Subdivision at its August 31, 2010 meeting and has recommended that the Town Council approve this Ordinance; and

WHEREAS, the Town Council held a public hearing on the revised Chapter 73, Land Subdivision on September 13, 2010.

NOW, THEREFORE, the Town of Denton hereby ordains:

Section 1: The recitals set forth above are incorporated herein by reference and made a part of this Ordinance.

Section 2: Chapter 73, Land Subdivision of the Town Code shall be repealed and reenacted with amendments to read as shown on the attached Exhibit A.

Section 3. In accordance with § C3-12 of the Town Charter, this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect seven (7) days from and after the date of its final passage and adoption.

ENACTED THIS 13th DAY OF September, 2010.

DENTON TOWN COUNCIL:

Conway Gregory  
Conway Gregory, Mayor

Robert L. Clemdaniel  
Robert L. Clemdaniel, Vice-Mayor

Dennis Porter  
Dennis Porter, Councilperson

Agnes Case  
Agnes Case, Councilperson

Dean Danielson  
Dean Danielson, Councilperson

ATTEST:

Karen L. Monteith  
Karen L. Monteith

Approved for legal sufficiency this 13<sup>th</sup> day of September, 2010.

Sharon M. Van Emburgh  
~~Stephen H. Kehoe, Esquire~~  
Sharon M. Van Emburgh

Date Introduced 8/9/10  
Date Amendments Introduced \_\_\_\_\_  
Date Passed 9/13/10  
Effective Date 9/20/10

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## **ARTICLE I.**

### **Title; Authority; Jurisdiction; Purpose**

#### **§ 128-1. Title.**

This Chapter 128 shall be known as the "Zoning Regulation." The Zoning Regulation chapter includes both the text and the Official Zoning Maps herein adopted.

#### **§ 128-2. Legislative authority.**

This Chapter 128, Zoning is established in accordance with the provisions of Article 66B, Annotated Code of Maryland.

#### **§ 128-3. Jurisdiction.**

The provisions of this Chapter 128, Zoning shall apply to the incorporated territory of Denton, Maryland.

#### **§ 128-4. Purpose and intent.**

- A. This Chapter 128, Zoning is adopted in accordance with the Denton Comprehensive Plan for the purpose of controlling congestion in the streets; securing the public safety; promoting health and the general welfare; providing adequate light and air; promoting the conservation of natural resources; preventing environmental pollution; avoiding undue concentration of population; facilitating the adequate provision of transportation, water, sewerage, schools, recreation, parks and other public requirements. Such regulations are made with reasonable consideration, among other things, to the character of the district and its suitability for particular uses, and with a view to conserving the value of buildings and encouraging the orderly development and the most appropriate use of land throughout the jurisdiction. These zoning regulations also have the purpose to preserve, improve, or protect the general character and design of the lands and improvements being zoned or rezoned through the power and authority to approve or disapprove the design of buildings, construction, landscaping, or other improvements, alterations, and changes made or to be made on subject land or lands to assure conformity with the intent and purpose of this chapter.
- B. It is also the intent of this Chapter 128, Zoning to implement the provisions of the Economic Growth, Resource Protection and Planning of 1992, Chapter 43, Critical Area Law and Chapter A129, Critical Area Program, where applicable.

#### **§ 128-5. Conflict with other regulations.**

The terms of this Chapter 128, Zoning shall be deemed to control and to have superseded the terms of any prior, conflicting ordinance.

#### **§ 128-6. Compliance required.**

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

## ARTICLE II.

### Definitions and Word Usage

#### § 128-7. Word usage.

The following rules shall apply to this Chapter 128, Zoning:

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

#### § 128-8. Terms defined.

As used in this Chapter 128, Zoning, the following terms shall have the meanings indicated:

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

**ACCESSORY STRUCTURE, MANUFACTURED HOME** - any structural addition to the manufactured home, which includes awnings, cabanas, carports, porches, and similar appurtenant structures.

**ACCESSORY USE OR STRUCTURE** - A structure or use that: a) is clearly incidental to and customarily found in connection with a principal building or use; b) is subordinate to and serves

a principal building or a principal use; c) is subordinate in area, extent, or purpose to the principal building or principal use served; d) contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and e) is located on the same lot as the principal building or use served.

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

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

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

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

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

ADULT ENTERTAINMENT OR MATERIAL - shall have the meaning set forth in § 30-1 of the Denton Town Code.

ADULT ORIENTED BUSINESS - means any business, operation, or activity, a significant amount of which consists of:

- (i) the conduct, promotion, delivery, provision, or performance of adult entertainment or material; including, but not limited to, that occurring in, at, or in connection with a cabaret, lounge, night club, modeling studio, bar restaurant, club or lodge, or other establishment; or
- (ii) the sale, provision, rental, or promotion of adult entertainment or material, in any format, form, or medium, including, but not limited to, books, magazines, videos, DVDs, CDs, sexual devices, movies, photographs, and/or coin operated or pay-per-view viewing devices, including, but not limited to, the operation of an adult book or video store or viewing booth.

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

ADULT VIDEO OR BOOK STORE - shall have the meaning set forth in § 30-1 of the Denton Town Code.

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

**AGRICULTURE** - Agriculture, including horticultural chemical, or general farming, truck gardens, cultivation of field crops, orchards, groves, or nurseries for growing or propagation of plants, turf, trees, and shrubs, and in general all uses commonly classified as agricultural, and including use of heavy cultivating machinery, spray planes, or irrigating machinery, dairy farming, keeping or raising for sale of large or small animals, reptiles, fish, birds, or poultry, and including structures for processing and sale of products raised on the premises.

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

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

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

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

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

**ANTENNA** - Equipment designed to transmit or receive electronic signals.

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

**APARTMENT HOTEL** - A building arranged for or containing apartments and individual guest rooms, with or without housekeeping facilities, and which furnishes services ordinarily provided by hotels, such as maid, bellboy, desk, and laundry service, and may include a dining room with internal entrance and primarily for use of tenants of the building, but shall not include public banquet halls, ballrooms, or meeting rooms.

**APARTMENT HOUSE** - same as “dwelling, multi-family.”

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

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

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

AREA, NET, or NET SITE AREA - Remaining area, after deducting from gross area, any area associated with a 100-year nontidal floodplain, steep slopes, certain forest stands, FIDs habitat, tidal and nontidal wetlands, stream buffers, threatened or endangered species habitat, hydric soils where septic systems are necessary, Critical Area Buffer or any other environmental constraint, important historic or archaeological site or structure, pre-existing or required easement of any kind, or any public access as identified in the Comprehensive Plan, Transportation chapter.

ASSISTED LIVING - A residential or facility-based provider that provides housing and supportive services, supervision, personalized assistance, health-related services, or a combination of these services to meet the needs of residents who are unable to perform, or who need assistance in performing, the activities of daily living or instrumental activities of daily living, in a way that promotes optimum dignity and independence for the residents. (Code of Maryland Regulations 10.07.14.02B(10)).

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

BARREN LAND - Unmanaged land having little or no vegetation.

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

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

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

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

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

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

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

**BOARD** - The Board of Appeals of the Town of Denton which is authorized to grant special exceptions and variances, and to hear appeals from administrative decisions as provided in this Chapter 128, Zoning.

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

**BOARDING SCHOOL** - A school at which meals and overnight lodging are provided on site.

**BONA FIDE INTRAFAMILY TRANSFER** - A transfer to a member of the owner's immediate family of a portion of the owner's property for the purpose of establishing a residence for that family member.

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

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

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

**BUFFER MANAGEMENT PLAN** - A plan designed and intended to describe methods and means used to protect and enhance the Buffer to provide multiple benefits that is necessary when a development activity will affect a portion of the buffer, alter buffer vegetation, or require the establishment of a portion of the buffer in vegetation.

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

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

**BUILDING, DETACHED** - A building surrounded by unimproved space on the same lot.

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

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

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

**BUILDING LINE** - a line, beyond which the foundation wall and/or any porch, vestibule, or other portion of a building shall not project, unless otherwise provided for in this Chapter 128, Zoning.

**BUILDING, MAIN** - Any building which is not an accessory building.

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

**BUILDING, PRINCIPAL** - The primary building on a lot or a building that houses a principal use.

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

**CERTIFY** - Whenever this Chapter 128, Zoning requires that some agency certify the existence of some fact or circumstance to the Town, the Town may require that such certification be made in any manner that provides reasonable assurance of the accuracy of the certification. By way of illustration, and without limiting the foregoing, the Town may accept certification by telephone from some agency when the circumstances warrant it, or the Town may require that the certification be in the form of a letter or other document.

**CRITICAL AREA COMMISSION (CAC)** - Critical Area Commission for the Chesapeake and Atlantic Coastal Bays, the body created as per § 8-1803 of the Annotated Code of Maryland and appointed by the Governor whose responsibility includes adoption of regulations and criteria for implementation of the State of Maryland's Critical Area policies.

**CHILD-CARE INSTITUTION** - An institutional facility housing more than nine (9) orphaned, abandoned, dependent, abused, or neglected children.

**CHILD DAY-CARE, FAMILY** - Any arrangement that provides day care to eight (8) or fewer children, including any relatives of the care provider on a regular basis and is regulated by the requirements of the Office of Child Care Licensing and Regulation in the Department of Human Resources of the State of Maryland.

**CHILD DAY-CARE CENTER** - An agency, institution, or establishment that, for part or all of the day, or on a 24-hour basis on a regular schedule, and at least twice a week, offers or provides child care to children who do not have the same parentage, except as otherwise provided for in law or regulation; and is regulated by the State Department of Human Resources pursuant to the Family Law Article of the Annotated Code of Maryland.

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

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

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

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

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

COLONIAL NESTING BIRDS - Heron, egrets, terns, and glossy ibis. For purposes of nesting, these birds congregate (that is, “colonize”) in relatively few areas, at which time, the regional population of these species is highly susceptible to local disturbance.

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

COMMISSION - The Planning Commission of the Town of Denton.

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

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

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

- A. The land area of lots allocated for single-family detached dwellings, single-family semidetached dwellings, and duplex dwellings, including front yards, side yards, and rear yards, whether or not the dwellings are sold or rented.
- B. The land area of lots allocated for apartment and townhouse dwelling construction, including front yards, side yards, rear yards, interior yards, and off-street parking facilities, whether or not the dwellings are sold or rented.
- C. The land area of lots allocated for total commercial use, including front yards, side yards, rear yards, and parking facilities, whether or not the commercial facilities are sold or rented.

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

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

COMPREHENSIVE PLAN or COMPREHENSIVE PLAN OF DENTON, MARYLAND - A document consisting of written and mapped information, adopted by the Planning Commission and Town Council, and intended to guide the physical development of Denton, including all changes and additions to the plan.

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

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

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

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

COVENANT - A written undertaking by an owner which is required by this Chapter 128, Zoning or imposed by the Planning Commission in accordance with authorization contained in this Chapter 128, Zoning.

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

CONVENIENCE SERVICE AREA - An area of services offered to persons living within a particular development, e.g., a coin-operated laundry, to be confined inside of a building within a

particular development, limited to an area not to exceed 1% of the total gross floor space within said building, and for the sole use of the particular development.

**CONVENIENCE STORE** - A one-story, retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a “supermarket”). It is designed to attract and depends upon a large volume of stop-and-go traffic. Illustrative examples of convenience stores are those operated by the “Fast Fare,” “7-11” and “Pantry” chains.

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

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

**COVERAGE** - The percentage of the lot covered by buildings and structures.

**CRITICAL AREA** - All lands and waters defined in § 8-1807 of the Natural Resources Article, Annotated Code of Maryland.

A. They include:

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

B. Official Maps delineating Critical Areas within the Town of Denton are available for inspection at the Denton Town Office. Regulations for development within the Town of Denton’s designated Critical Areas are contained in the Town of Denton Critical Area Program and Ordinance. See Chapters 43 and A129.

**CRITICAL AREA PROGRAM** - The Critical Area Protection Program of the Chesapeake and Atlantic Bays, including Subdivision Regulations, Zoning Ordinance and Official Maps of the Town of Denton.

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

**DEED RESTRICTION** - A private legal restriction and/or covenant on the use of land, contained within a deed of property or otherwise formally recorded in the Land Records of Caroline County, Maryland. These restrictions or covenants are designed to control the use of specific

property, and enforcement of these is through private civil action. Deed restrictions are not enforced by the Town of Denton, unless it is the Town of Denton, Maryland, that records said deed restrictions.

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

**DEPARTMENT OF PLANNING** - Department of Planning and Codes Administration

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

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

**DEVELOPER** - A person who is responsible for any undertaking that requires a zoning permit, conditional use permit, sign permit, site plan, or subdivision approval.

**DEVELOPMENT OR DEVELOPMENT ACTIVITIES** (includes the term “develop”) - Any construction, modification, extension or expansion of buildings or structures; placement of fill or dumping; storage of materials; land excavation; land clearing; land improvement; or any combination thereof, including the subdivision of land or action that results in construction, modification, extension or expansion of buildings or structures; placement of fill or dumping; storage of materials; land excavation; land clearing; land improvement; or any combination thereof, including the subdivision of land. Excavation or clearing in Buffer is not permissible, even if a grading permit is not required.

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

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

**DIRECTOR OF PLANNING** - The Director of Planning and Codes Administration, who is also the zoning administrative officer, or an authorized representative designated by the Town Council to carry out duties as specified in this Chapter 128, Zoning.

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

**DISABLED PEOPLE** - People possessing physical or mental impairments which are expected to be of long-continued and indefinite duration, substantially impede the ability to live

independently, and are of such a nature that the ability to live independently could be improved by more suitable housing conditions.

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

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

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

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

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

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

**DWELLING, ATTACHED** - A dwelling or dwelling unit which is joined to another dwelling or dwelling unit at one or more sides by a party wall or walls.

**DWELLING, MULTIFAMILY** - A structure containing three or more dwelling units on a single parcel or on contiguous parcels under the same ownership.

**DWELLING, SINGLE-FAMILY** - A building designed for or occupied exclusively by one family.

**DWELLING, TWO-FAMILY** - A building containing two dwelling units. Examples are a detached dwelling containing two dwelling units or a duplex.

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

**EARTH SATELLITE ANTENNA** (also called "satellite dish" or "dish") - A parabolic dish antenna or other device or equipment of whatever nature or kind, including its structural supports, the primary use of which is to send and/or receive television, radio, microwave, or other electronic signals from space satellites.

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

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

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

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

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

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

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

**EROSION AND SEDIMENT CONTROL (E&SC)** any structural or nonstructural practice or measure that protects soil particles from detaching by rain or wind and trapping any soil particles after having been detached and moved by rain or wind.

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

**EXCESS STORMWATER RUNOFF** - All increase in stormwater runoff resulting from:

- A. Alteration of drainageways, or regrading of slopes;
- B. Destruction of forest; or
- C. Installation of collection systems to intercept street flows or replace swales or other drainageways.
- D. Improper operation of stormwater facilities

**FAMILY** - 1) An individual; 2) two (2) or more persons related by blood, marriage, civil union, or adoption living together in a dwelling unit, and (unless the dwelling contains an accessory dwelling unit) may also include not more than two (2) unrelated persons; or 3) a group of not more than four (4) persons who need not be related by blood, marriage, or adoption living together in a dwelling unit. A family may include five (5) or fewer foster children placed in a family foster home licensed by the state.

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

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

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

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

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

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

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

FLOODPLAIN - Any land area susceptible to be inundated by water from the base flood. As used in this Chapter 128, Zoning, the term refers to that area designated as subject to flooding from the base flood (one-hundred-year flood) on the Flood Boundary and Floodway Map prepared by the U.S. Department of Housing and Urban Development, a copy of which is on file in the Town office.

FLOODWAY - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. As used in this Chapter 128, Zoning, the term refers to that area designated as a floodway on the Flood Boundary and Floodway Map prepared by the U.S. Department of Housing and Urban Development, a copy of which is on file in the Town office.

#### FLOOR AREA

- A. For commercial business and industrial buildings or buildings containing mixed uses: the sum of the gross horizontal area of the several floors of a building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings but not including attic space providing headroom of less than seven feet; basement space not used for retailing; uncovered steps or fire escapes; accessory water towers or cooling towers; accessory off-street parking spaces; and accessory off-street loading berths.

- B. For residential buildings: the sum of the gross horizontal areas, with a clear height of more than six feet, of all floors of a dwelling, exclusive of garages, basements, and open porches, measured from the exterior faces of the exterior walls.

**FOREST** - For purposes of the Critical Area, the biological community dominated by trees and other woody plants covering a land area of one acre or more. This also includes forests that have been cut but not cleared. For purposes of the forest conservation provisions of this Chapter 128, Zoning, a forest is defined as:

- A. A biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater.
- B. "Forest" includes:
  - (1) Areas that have at least 100 live trees per acre with at least 50% of those trees having a two-inch or greater diameter (caliper) at 4.5 feet above the ground and larger; and
  - (2) Areas that have been cut but not cleared.
- C. "Forest" does not include orchards which have not been abandoned.

**FOREST INTERIOR DWELLING SPECIES (FIDS)** - Species of birds which require relatively large forested tracts in order to breed successfully. (For example, various species of flycatchers, warblers, vireos, and woodpeckers).

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

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

**FRONTAGE** -

- A. **STREET FRONTAGE** - All of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.
- B. **LOT FRONTAGE** - The distance for which the front boundary line of the lot and the street line are coincident.

**GARAGE OR YARD SALE** - A public sale conducted by an individual on his or her own premises for the purpose of selling his or her own personal property.

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

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

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

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

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

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

**GRADE** -

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

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

**GRANDFATHERED** - Describes the status accorded certain properties and development uses that are of record prior to the date of adoption of this Chapter 128, Zoning or must comply with provisions of this Chapter 128, Zoning.

**GROCERY STORE** - store established primarily for the sale of food items, could also stock personal care and household cleaning products. (smaller in size than a supermarket)

**GROWTH ALLOCATION** -

- A. An area of land calculated as 5% of the total Resource Conservation Area (RCA) within a county (excluding tidal wetlands and federally owned land) in 1985, that may be converted to more intense management areas to accommodate land development; also
- B. An act of the Town Council, approved by the Critical Area Commission, that provides for conversion of a property or properties located in Resource Conservation Areas (RCAs) and/or Limited Development Areas (LDAs) in the Critical Area District to another land management classification that may allow an increase in the permitted density and more intense uses permitted by the base zoning classification.

## GROUP HOME, PRIVATE -

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

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

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

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

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

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

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

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

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

**HOSPITAL** - A building or group of buildings, having room facilities for one or more overnight patients, used for providing services for the in-patient medical or surgical care of sick or injured

humans, and which may include related facilities such as laboratories, out-patient department, training facilities, central service facilities, and staff offices; provided, however, that such related facility must be incidental and subordinate to the main use and must be an integral part of the hospital operation.

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

**HYDRIC SOILS** - Soils that are wet frequently enough to periodically produce anaerobic conditions; thereby influence the species composition or growth, or both, of plants on those soils.

**HYDROPHYTIC VEGETATION** - Those plants cited in “National List of Plant Species That Occur in Wetlands: Maryland, 1988” which are described as growing in water or on substrate that is at least periodically deficient in oxygen as a result of excessive water (plants typically found in water habitats).

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

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

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

**IMMEDIATE FAMILY MEMBER** - Spouse or civil union partner, father, mother, son, daughter, grandfather, grandmother, grandson, or granddaughter.

**IMPERVIOUS SURFACE** - Any constructed surface that prevents or retards the penetration of water into the soil.

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

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

**INTERMEDIATE-CARE HOME** - A facility maintained for the purpose of providing accommodations for not more than seven occupants needing medical care and supervision at a

lower level than that provided in a nursing care institution but at a higher level that provided in institutions for the disabled or infirm.

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

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

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

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

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

**LAND CLEARING** - Any activity that removes the vegetative ground cover

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

- A. Housing density ranging from one dwelling unit per five acres up to four dwelling units per acre;
- B. Areas not dominated by agriculture, wetland, forest, barren land, surface water, or open space;
- C. Areas having public sewer or public water, or both;
- D. Areas meeting the definition of Intensely Developed Areas above, less than 20 acres in size.

**LIQUOR STORE** - A business that sells alcoholic beverages for consumption off-premises. For the purposes of this Chapter 128, Zoning, the term “liquor store” does not include grocery stores, supermarkets, or convenience stores in which beer and/or wine is offered for sale as a minor part of an overall larger inventory of goods. It shall also not include a restaurant that is otherwise operating in accordance with its approved liquor license and all other provisions of this Ordinance.

**LIVE VIEWING BOOTH-** means any booth, cubicle, stall or room of less than six hundred (600) square feet of floor space or area to which patrons may gain admittance, wherein the following are regularly featured:

- (i) persons who appear in a state of semi-nudity; and/or
- (ii) live entertainment characterized by the depiction or description of specified anatomical areas or specified sexual activities

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

**LODGING HOUSE -** Same as “boardinghouse.”

**LOT -** A plot or parcel of land having at least the minimum area required by this Chapter 128, Zoning for a plat or parcel of land in the district in which such lot is situated and having its principal frontage on a public road or private road.

**LOT, AREA -** The total horizontal area within the lot lines of the lot.

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

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

**LOT, DEPTH -** The mean horizontal distance between the front and rear lot lines.

**LOT, FLAG -** A lot with access provided to the bulk of the lot by means of a narrow corridor.

**LOT, INTERIOR -** A lot other than a corner lot.

**LOT LINE -** The boundary line of a lot.

**LOT OF RECORD -** A parcel of land which has been legally recorded in the land records of Caroline County.

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

**LOT, THROUGH -** An interior lot having frontage on two streets.

**LOT WIDTH -** The distance between the side lot lines measured at the required front yard line.

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

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

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

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

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

**MANUFACTURED HOME** (Commonly called a **MOBILE HOME** or **TRAILER**) - Any structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling or for human habitation, with or without a permanent foundation.

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

**MANUFACTURED HOME STAND** - That part of an individual manufactured home lot which has been reserved for the placement of the manufactured home.

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

**MEAN HIGH-WATER LINE** - The average level of high tides at a given location.

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

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

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

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

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

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

**NATURAL VEGETATION** - Plant communities that develop in the absence of human activities.

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

**NEIGHBORHOOD CENTER** - permitted through a Special Exception in those districts where allowed in the Table of Uses, development within existing neighborhoods that are limited to business that primarily cater to neighborhood residents, such as small grocery store, personal and professional services, dry cleaners, video shops, cafes, tea rooms, small bakeries, and other uses that are deemed appropriate by the Planning Commission and Board of Appeals.

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

**NONCONFORMING LOT** - A lot existing at the effective date of this Chapter 128, Zoning (and not created for the purposes of evading the restrictions of this chapter) that does not meet the minimum area requirement of the district in which the lot is located.

**NONCONFORMING PROJECT** - Any structure, development, or undertaking that is incomplete at the effective date of this Chapter 128, Zoning and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

**NONCONFORMING USE** - Any building or land lawfully occupied by a use at the time of passage of this Chapter 128, Zoning or amendment thereto which does not conform to the use regulations of the district in which it is located.

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

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

**NONRENEWABLE RESOURCES** - Resources that are not naturally regenerated or renewed.

**NONTIDAL WETLANDS** - An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as “hydrophytic vegetation,” and is determined according to the Corps of Engineers Wetland Delineation Manual, 1987, as amended.

**NURSING HOME** - A place devoted primarily to the maintenance and operation of facilities for the treatment and care of any persons suffering from illnesses, diseases, deformities, or injuries who do not require extensive or intensive care such as is normally provided in a general or other specialized hospital; includes rest homes, convalescent homes, and homes for the aged. A nursing home does provide medical, nursing, convalescent, or chronic care in addition to room and board.

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

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

**OCCUPANCY, CERTIFICATE OF** - The certificate issued by the Building Official or designee which permits the use of a building in accordance with the approved plans and specifications and which certifies compliance with the provisions of the law for the use and occupancy of the building as specified in the Town Code. See Ch. 38, Building Construction, Art. I, Building Code and in this Chapter 128, Zoning.

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

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

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

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

**OFFSETS** - Structures or actions that compensate for undesirable impacts. (See also “BMPs.”).

**OFF-STREET PARKING AREA** - Space provided for vehicular parking not on a street or roadway.

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

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

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

**PARAPET** - The extension of the main walls of a building above the roof.

**PARKING AREA AISLES** - A portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

**PARKING AREA (LOT or STRUCTURE)** - A structure, or an off-street area for parking or loading and unloading, whether required or permitted by this Chapter 128, Zoning, including driveways, accessways, aisles, and maneuvering areas, but not including any public or private street right-of-way.

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

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

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

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

**PERSON** - An individual, trustee, executor, other fiduciary, corporation firm, partnership, LLC, association, organization, or other entity acting as a unit.

**PET** - Any animal kept for pleasure rather than utility.

**PHARMACY** - A place where legal drugs and medicines are prepared and dispensed.

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

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

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

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

**PLANNED UNIT DEVELOPMENT (PUD)** - A subdivision of varied land uses, residential structural types and densities developed so as to integrate all the features into a harmonious whole.

**PLANNING COMMISSION** - The Denton Planning Commission.

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

**PLOT** - A parcel of land which may include one or more platted lots occupied or intended for occupancy by a use permitted in this Chapter 128, Zoning including one main building together with its accessory buildings; the yard areas and parking spaces required by this Chapter 128, Zoning and having its principal frontage upon a street or upon an officially approved place.

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

**PREMISES** - A lot, together with all buildings and structures thereon.

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

**PRIVATE HARVESTING** - The cutting and removal of trees for personal use.

**PRIVATE PIER** - A privately owned pier that is no more than six feet wide.

**PRIVATE TIDAL WETLANDS** - Includes:

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

C. Tidal waters created by the excavation of upland unless conveyed to the state.

**PROJECT APPROVALS** - The approval of development and redevelopment, other than development and redevelopment by a state or local government agency, in the Chesapeake Bay Critical Area by the appropriate local approval authority. The term includes approval of subdivision plats, building permits and site plans; inclusion of areas within floating zones; issuance of variances, special exceptions, and conditional use permits.

**PROPERTY LINES** - The lines bounding a zoning lot, as defined herein.

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

**PUBLIC WATER-ORIENTED RECREATION** - Shore-dependent recreation facilities or activities provided by public agencies which are available to the general public.

**PUBLIC WATER AND SEWERAGE SYSTEMS** - A water or sewerage system owned and operated by a municipality or county or an authority or owned and operated by the governing body and permitted by the State of Maryland, and subject to special regulations.

**PUBLIC WAY** - Any sidewalk, pedestrian path, street, alley, highway, or other public thoroughfare.

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

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

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

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

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

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

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

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

**REDEVELOPMENT** - The process of developing land that is or has been developed.

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

**REGULATIONS** - The whole body of regulations, text, charts, tables, diagrams, maps, notations, references, and symbols, contained or referred to in this Chapter 128, Zoning.

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

**RESIDENCE, COMMERCIAL APARTMENT** - A multifamily residence located above the principal commercial use.

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

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

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

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

**RESOURCE CONSERVATION AREAS (RCA)** - Areas characterized by nature-dominated environments (that is, wetlands, forests, abandoned fields) and resource-utilization activities (that

is, agriculture, forestry, fisheries activities, or aquaculture). These areas shall have had at least one of the following features as of December 1, 1985:

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

#### RESTAURANTS;

- A. RESTAURANT, STANDARD - A food-serving establishment whose principal business is the sale of food and the principal method of operation is its service when ordered from a menu to seated customers at a table, booth or counter inside the establishment. A snack bar or refreshment stand at a public or nonprofit community swimming pool, playground or park, operated solely for the convenience of its patrons shall not be considered a restaurant.
- B. RESTAURANT, FAST-FOOD - An establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and wrapped or presented so that it can readily be eaten outside or inside the premises.
- C. RESTAURANT, FAST-FOOD CAFETERIA - Any establishment where ready-to-eat food is available upon a short waiting time and served to customers on a tray through a cafeteria line for consumption at a table, booth or counter inside the establishment.
- D. RESTAURANT, FAST-FOOD CARRY-OUT - Any establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and packaged or presented so it can readily be eaten away from the premises as there are no facilities for on-premises consumption of food.
- E. RESTAURANT, DRIVE-IN OR DRIVE-THROUGH - Any establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and packaged or presented so that it can be readily eaten inside the premises and whose method of operation is also to serve customers in motor vehicles either at a drive-through window or while parked.

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

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

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

ROAD - All ways used to provide motor vehicle access to one, two or more lots, or two or more distinct areas or buildings in unsubdivided developments.

ROOMING HOUSE - Same as "boardinghouse."

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

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

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

**SECONDARY HIGHWAY** - A highway designated as a state secondary highway by the Maryland Department of Transportation.

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

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

**SENIOR CENTER** - An establishment that may function as meal site, screening clinics, recreational clinics, recreational centers, social service agency branch offices, mental health counseling clinics, older worker employment agencies, volunteer coordinating centers and community meeting halls.

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

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

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

**SEXUAL DEVICE** – shall have the meaning set forth in § 30-1 of the Denton Town Code.

**SHOPPING CENTER** - A group of two (2) or more architecturally unified retail establishments with a total gross floor area of more than 10,000 square feet which are planned, constructed, and managed as a total entity with customer and employee parking provided on-site. A shopping center may; either be a strip center or a campus-style center and include “big-box” stores and supercenters. Non-retail uses such as general offices can be incorporated into a shopping center.

**SHORE EROSION CONTROL MEASURES** - Any number of structural and nonstructural methods or techniques used to control the erosion of shoreline areas.

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

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

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

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

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

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

**SIGN, BULLETIN BOARD** - A board or wall area on which bulletins, notices, announcements or displays are posted.

**SIGN, CHANGEABLE MESSAGE BOARD** - A freestanding, permanent or moveable sign with manually moveable and interchangeable letters or numbers.

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

**SIGN, COMBINATION** - A freestanding sign that has a permanent component advertising a business and also has a message board component.

**SIGN, CONSTRUCTION** - A sign erected during the construction of a building or other type of improvement, customarily listing the name of the owner, architect, engineer, designer, and/or contractors involved in the construction of building or improvement.

**SIGN, DECORATIVE FLAG** - A specific type of flag which is distinguished from the general definition of “flag” in that it does not relate to any national, state or local government entity. Such a flag shall contain no generally recognized commercial symbol or written message.

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

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

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

**SIGN, FLAG** - Any cloth, bunting or similar material containing distinctive colors, patterns, or symbols, used as a symbol of national, state or local government.

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

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

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

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

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

**SIGN, PERMANENT MATERIAL** - A sign constructed of materials engineered or manufactured to be durable, designed for long term use, and appropriate for the conditions where such sign is located. Examples of permanent sign materials are: exterior grade wood, such as Redwood or Cedar, High Density Urethane, Dibond, Aluminum, and Medium Density Overlay (MDO).

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

**SIGN, PORTABLE OR MOBILE** - A sign that is not permanently secured to a structure or the ground.

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

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

**SIGN, SHIMMERING** - A sign which reflects an oscillating sometimes distorted visual image.

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

**SIGN, TIME/TEMPERATURE** - An electronic or mechanical device which shows time and/or temperature, but contains no business identification or advertising.

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

**SIGNIFICANT SHORELINE EROSION** - An annual rate of erosion of two feet or greater.

**SILVICULTURE** - The care and cultivation of forest trees; forestry.

**SITE PLAN** - A drawing or plat which describes and locates required improvements of a development tract in accordance with the provisions of Article XXIII of this Chapter 128, Zoning.

- A. Concept or Sketch - An informal pre-submission of an illustration(s) demonstrating proposed development of a site.
- B. Preliminary - Drawing(s) with more substantive detail than a concept or sketch plan indicating the proposed layout of the subdivision or site including the geometric layout with all proposed streets, lots, and easements drawn to scale.

- C. Final - Detailed drawing(s) with all substantive specificity (information about the project, including, but not limited to, legal data, impact on environs, natural features, existing development and infrastructure and the site development).

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

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

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

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

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

SPECIAL EXCEPTION - Permission given by the Board of Appeals to establish a specific use that would not be appropriate generally or without restriction throughout a zoning district but which if controlled as to number, area, location, or relation to the neighborhood, would comply with the purpose and intent of this Chapter 128, Zoning. Such uses may be approved within a zoning district if specific provision for such a special exception is made in this Chapter 128, Zoning.

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

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

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

SPOT BLIGHT ABATEMENT PLAN - a written plan prepared by the owner or owners of record of the real property to address spot blight.

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

STABLE, COMMERCIAL OR CLUB - Any building or land where horses are kept for breeding, hire, sale, boarding, riding or show.

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

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

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

#### STORMWATER MANAGEMENT

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

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

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

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

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

STREET CLASSIFICATION / FUNCTIONAL SYSTEMS FOR RURAL AREAS ROAD CLASSIFICATION - Rural roads consist of those facilities that are outside of small urban and urbanized areas. They are classified into four major systems: Principal arterials, minor arterial roads, major and minor collector roads, and local access streets. The road classifications are shown conceptually in the Comprehensive Plan on Map 7.4.

STREET, CUL-DE-SAC - A street that terminates in a vehicular turnaround.

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

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

**STRUCTURE** - Anything, other than a fence or retaining wall, constructed or erected which requires location on the ground or attached to something having a location on the ground, including but not limited to advertising signs, billboards, and modular or manufactured homes. Modular or manufactured homes include factory preassembly of standardized building parts, or the shipment of component building sections for permanent installation on a site. Modular or manufactured homes do not include RV's in which mobility, or the ready means of reactivating mobility, remains an integral feature of the trailer.

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

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

**SUBDIVISION, MAJOR** - Any subdivision other than a minor subdivision.

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

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

**TATTOO STUDIO/PARLOR** - A place where people receive permanent decorative tattoos and/or body piercing from a tattoo artist.

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

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

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

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

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

**TOPOGRAPHY** - The existing configuration of the earth’s surface including the relative relief, elevations, and position of land features.

**TOURIST COURT; AUTO COURT** - Same as “motel.”

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

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

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

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

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

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

**TREE** - For purposes of the Critical Area, a woody perennial plant having a single usually elongated main stem generally with few or no branches on its lower part; a perennial shrub or herb of arborescent form. For purposes of the forest conservation provisions of this Chapter 128, Zoning, a tree is defined as a large, woody plant having one or several self-supporting stems or trunks and numerous branches that reach a height of at least 20 feet at maturity.

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

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

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

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

USE, PRINCIPAL - A use listed in the Table of Uses Regulations.

USE, SPECIAL EXCEPTION - see USE, CONDITIONAL

UTILITY FACILITIES, COMMUNITY OR REGIONAL - All utility facilities other than neighborhood utility facilities.

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

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

VARIANCE - A modification only of density, bulk or area requirements in this Chapter 128, Zoning where such modifications will not be contrary to the public interest and where owing to conditions peculiar to the property, and not the results of any action taken by the applicant, a literal enforcement of the Chapter 128, Zoning would result in unnecessary hardship.

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

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

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

WASH PLANT - A facility where sand and gravel is washed during processing.

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

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

WATER-DEPENDENT FACILITIES - Structures or works associated with industrial, maritime, recreational, educational, or fisheries activities which the Town of Denton has determined require location at or near the shoreline within the Buffer.

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

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

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

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

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

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

**YARD** - An open space other than a court, on a lot unoccupied and unobstructed from the ground upward except as otherwise provided for in this Chapter 128, Zoning. See Appendix VI at the end of this Chapter 128, Zoning.

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

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

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

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

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

**ZONING PARENT DISTRICT** - Those basic districts initially listed other than special districts in Articles IV through IX.

**ZONING PERMIT** - A written statement issued by the Director of Planning and Codes authorizing buildings, structures, or uses consistent with the terms of this Chapter 128, Zoning, and for the purpose of carrying out and enforcing its provisions.

**ARTICLE III.**

**Zoning Districts and Zoning District Maps**

**§ 128-9. Zoning districts established.**

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

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

**§ 128-10. Official Zoning Map.**

- A. The incorporated areas of the Town are hereby divided into zones (zoning districts), as shown on the Official Zoning Maps which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Chapter 128, Zoning.
- B. The Official Zoning Maps shall be identified by the signature of the Town Councilpersons, attested by the Town Administrator, and bearing the seal of the Town under the following words: "This is to certify that this is the Official Zoning Maps

referred to in § 128-10 of the Zoning Regulation of the Town of Denton, Maryland," together with the date of the adoption of this Chapter 128, Zoning.

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

**§ 128-11. Replacement of Official Zoning Maps.**

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

**§ 128-12. Interpretation of Zoning District Map.**

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

## ARTICLE IV.

### Purpose and Intent of Zoning Districts

#### **§ 128-13. SR - Suburban Residential.**

The purpose of the Suburban Residential District is to provide for single-family residential development of spacious character, together with such public buildings, schools, churches, open space, public recreational facilities and accessory uses, as may be necessary or are normally compatible with residential surroundings. This district is located to protect existing development of high character and contains vacant land considered appropriate for such development in the future. Limited amounts of two-family and multifamily residences are permitted in this district only in the context of a Planned Residential Development (PRD) as denoted in § 128-84 of this Chapter 128, Zoning.

#### **§ 128-14. TR - Town Scale Residential.**

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

#### **§ 128-15. MR - Mixed Residential.**

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

#### **§ 128-16. GC - General Commercial.**

The purpose of the General Commercial District is to provide sufficient space in appropriate locations for a wide variety of business, commercial, and service activity, but which uses are not characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or the nuisance factors of dust, odor, and noise associated with manufacturing. The overall intent of this district is to provide areas for local commercial needs within the core areas of the Town which are compatible with Town character. Specific residential uses are allowed as denoted by the Official Table of Use Regulations (§ 128:A26.23).

#### **§ 128-17. CBC - Central Business District Commercial.**

The purpose of the Central Business Commercial District is to provide retail and office development and redevelopment within the Central Business Commercial District of the Town. Appropriate uses are generally the same as for the GC District, but with altered yard requirements and altered off-street parking requirements in recognition of the practical difficulty of providing off-street parking in the Central Business Commercial District, and in recognition of the collective responsibility to provide off-street parking for smaller establishments.

Development/redevelopment in this district shall be compatible with the existing historic, aesthetic, and pedestrian character of the downtown area in terms of scale and design. Residential uses are also appropriate in this district in order to support commercial uses, and are denoted in the Official Table of Use Regulations (§ 128:A26.23).

**§ 128-18. CM - Medical District.**

The purpose of the CM Medical District is to provide an area for the orderly development of medical-related uses including care facilities within the Town. Permitted uses in the district include those uses customarily associated with medical care and assisted living. Residential uses are also appropriate in this district in order to support commercial uses, and are denoted in the Official Table of Use Regulations (§ 128:A26.23).

**§ 128-19. RHC - Regional Highway Commercial.**

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

**§ 128-20. I - Industrial.**

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

**§ 128-21. MI – Mixed Industrial**

The purpose of the Mixed Industrial District is to offer property located northeast of Lincoln and Gay Street and southwest of the old railroad spur, the opportunity to transition over time, as directed by the market, to a more mixed residential use. The current use is mainly industrial and these uses will remain as permitted, with the addition of mixed residential uses allowed as referred to in the Official Table of Use Regulations (§ 128:A26.23). A Planned Residential Development (PRD), as denoted in § 128-84 of this Chapter 128, Zoning, is permitted with conditions.

**§ 128-21.1. RA – Rural Agriculture**

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

**§ 128-21.2. RP – Recreation and Parks**

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

**§ 128-21.3. PN - Planned Neighborhood District.**

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

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

section, inures to the general benefit of the Town and is in compliance with the Town's Comprehensive Plan.

- B. Applicability. The Town Council may apply the PN Planned Neighborhood District to any lands annexed by the Town which have not been rezoned prior to the original adoption of this section Ordinance No. 446, adopted May 3, 2004 and effective May 10, 2005. The PN District is intended to apply to tracts of land exceeding 50 acres.
- C. Intent. The PN Planned Neighborhood District is intended to promote the following:
  - (1) Implement the recommendations of the Denton Comprehensive Plan;
  - (2) Develop neighborhoods that are pedestrian friendly and encourage pedestrian travel;
  - (3) Promote design that results in residentially scaled buildings fronting on, and generally aligned with, streets;
  - (4) Encourage the inclusion of a diversity of household types, age groups, and income levels;
  - (5) Promote traditional town building and site development patterns with an interconnected and broadly rectilinear pattern of streets, alleys, and blocks, to accommodate both pedestrians and automobiles;
  - (6) Encourage creation of functionally diverse, but visually unified, communities focused on central squares;
  - (7) Promote use of neighborhood greens, landscaped streets, boulevards, and "single-loaded" parkways woven into street and block patterns to provide space for social activity, parks, and visual enjoyment;
  - (8) Provide buildings for civic or religious assembly or for other common or institutional purposes that act as visual landmarks and symbols of identity;
  - (9) Promote the location of dwellings, shops, and workplaces in close proximity to each other, the scale of which accommodates and promotes pedestrian travel for trips within the community;
  - (10) Preserve open space, scenic vistas, agricultural lands, and natural areas;
  - (11) Permit design flexibility in order to achieve an appropriate mix of residential and nonresidential building uses; and
  - (12) Require efficient utilization of designated growth areas.
- D. Land uses in the PN District. The uses permitted within the PN District shall be as established by the land use table set forth in this Chapter 128, Zoning, which shall prevail over conflicting requirements of this Chapter 128, Zoning or the Subdivision regulations, Chapter 70, Land Subdivision.
- E. Density determination.
  - (1) General. The total number of dwelling units permissible in a PUD project in the PN District shall be determined in accordance with the provisions of this section (as adjusted by density bonuses as set forth below) subject to the following:

- (a) Areas used for nonresidential purposes shall be subtracted from the adjusted tract acreage, as described in Subsection E (2) below before determining permissible residential density.
  - (b) All dwelling units constructed above commercial uses in the storefront area shall be permissible in addition to the number of dwelling units otherwise authorized under this section. However, the total number of dwelling units in a development shall not be increased by more than 10 dwelling units or 5%, whichever is greater.
- (2) Base density calculation. Base density shall be determined by the land area yielded through calculations of the adjusted tract acreage (also defined as net area), as determined by Table E (2). The minimum residential density for a proposed PN District shall be 3.5 dwelling units per adjusted tract acres. Except as may be provided for below the maximum residential density for a proposed PN District shall be no more than 5.0 dwelling units per adjusted tract acre.

	<b>Density Factor</b>	<b>Description of Constraint</b>
DF 1	0.00	Street rights-of-way, floodways within 100-year floodplain. Wetlands and soils classified as “very poorly drained.” Utility easements for high-tension electrical transmission lines (less than 69 KV). Steep slopes; that is, those greater than 25%. Soils classified as “poorly drained” (in unsewered areas). 100-year floodplain (excluding floodways or wetlands within the floodplain). Additional environmental constraints, such as FIDS and other habitat areas.
DF 2	0.05	Rural Conservation Overlay District (Resource Conservation Area of Critical Area Buffer). Shall be applied only to area component not constrained by DF 1.
DF 3	0.75	Soils classified as “poorly drained” (in sewerred areas); slopes between 15% and 25%
DF 4	1.00	Unconstrained land

- (3) Density incentives to further certain public objectives.
- (a) Housing type diversity. A density increase of up to 5% is permitted at the discretion of the Town Council when the proposal provides a mixture of at least four of the five of the following types of housing:

single-family detached, two-family (semidetached), multifamily, townhouse, and apartments. The architecture of the proposed dwellings shall be harmonious among the various housing types, and they shall be integrated physically; that is, they should not be separated into different neighborhoods but rather mixed in together on the same streets so that at least two dwelling types are located together within the same block.

- (b) Implementation. For each of the public purposes described in (a) above, if the Town Council is satisfied that the public purpose objectives are being satisfied, density bonuses may be implemented by reducing the minimum lot area requirements up to 20%. The cumulative density bonuses applied to a PUD project may not exceed 10% of the maximum residential base density.

F. General design requirements.

- (1) Design standards referenced in this section shall be considered as minimum performance standards for the PN District.
- (2) Planned neighborhoods are intended to provide for a range of complementary uses and may consist of up to four use areas: single-family residential (SRA) areas, central residential (CRA) areas, storefront (SA) areas, and conservation (CA) areas. At a minimum, they must contain both an SRA and a CA. These areas are intended to provide for the diversity necessary for traditional town life, while maximizing the interactions among related uses and minimizing the adverse impacts of different uses upon each other.
  - (a) Single-family residential areas (SRA) provide locations for a broad range of housing types, including single-family detached, semidetached, and attached, and may also include accessory dwelling units. SRA may include the Rural Conservation District (Rural Conservation Area of the Critical Area), however, no more than one detached single family residential dwelling unit and one caretaker dwelling unit may be allowed per 20 acres and shall be subject to award of Growth Allocation See § 128-33 C.
  - (b) Conservation areas (CA) are permanently protected open spaces, including greens, commons, passive and active recreation areas, environmentally sensitive and constrained areas, habitat protection areas and private non-common acreage used for agriculture, wholesale nurseries, tree farms, equestrian facilities, etc.
  - (c) The central residential area (CRA) is intended to contain a variety of housing options and related uses.
  - (d) The storefront area (SA) is intended primarily to provide uses that meet the retail and service needs of a traditional community center and its vicinity within one- and two-story buildings and may contain other compatible uses, such as civic and institutional uses of community-wide importance, specifically including second-floor residential uses.

G. Development standards.

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

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

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

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

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

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

- A. Purpose. The purpose and intent of the PN District floating zone amendment process is to permit specific and detailed mapping of areas for planned unit developments (PUD) to provide for the creation of carefully planned, well-designed residential, commercial and/or mixed use communities at appropriate locations.
- B. PN District design standards. Applicants shall be guided throughout the review process by the PN Design Guidelines. Because it is recognized that design professionals, including architects, landscape architects, and land planners, are trained to strive for creative excellence, the design standards and criteria are not intended to restrict creative

solutions or to dictate all design details. The PN Design Guidelines serve as a tool for the Town planning staff by providing a checklist of elements to be considered. The standards also inform the design professionals of items that should be considered or included from the outset of the design process.

- C. Preliminary application. Preliminary application for a floating zone amendment for a PN Planned Neighborhood District approval and a proposed PUD plan conditional approval shall be made to the Town Council. Preliminary applications shall include:
- (1) A written petition for location of a PN Planned Neighborhood District and approval of a PUD plan, signed by the owners and contract purchasers, if any, of the property that is the subject of the petition.
  - (2) A narrative describing the following:
    - (a) Statement of present and proposed ownership of all land within the development;
    - (b) Overall objectives of the proposed planned unit development and a statement of how the proposed planned unit development corresponds to and complies with the goals and objectives of the Zoning regulations, Chapter 128, Zoning, the proposed PN District, and the Comprehensive Plan;
    - (c) Method of providing sewer and water service and other utilities, such as but not limited to telephone, cable, gas, and electric services;
    - (d) Storm drainage areas and description of stormwater management concepts to be applied;
    - (e) Method of and responsibility for maintenance of open areas, private streets, recreational amenities, and parking areas;
    - (f) School availability and school population impact analysis;
    - (g) General description of architectural and landscape elements, including graphic representations; and
    - (h) If petitioner desires to develop the property in phases, a preliminary phasing plan, indicating:
      - [1] The phase(s) in which the project will be developed, indicating the approximate land area, uses, densities, and public facilities to be developed during each phase.
      - [2] If different land use types are to be included within the planned unit development, the plan should include the mix of uses anticipated to be built in each phase.
  - (3) A concept PUD plan, which includes:
    - (a) Boundary survey, prepared by a professional land surveyor, of the area subject to the application;

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

D. Referral of preliminary application to Planning Commission. If the Town Council finds that the preliminary application for a PN Planned Neighborhood District approval and a proposed PUD plan conditional approval is generally consistent with the Comprehensive Plan and the standards of the PN District, the preliminary application shall be conditionally approved and referred to the Planning Commission for review in accordance with Subsection E below. "Conditional approval," as used herein, means only that the Town Council has made a preliminary finding that the proposal is generally consistent with the Comprehensive Plan and this Chapter 128, Zoning. Conditional approval shall authorize the Planning Commission, planning staff, and Town consultants to continue to analyze the proposal subject to all applicable review processes and procedures. No development may occur until:

- (1) A floating zone has been applied to the property by legislative action of the Town Council;
- (2) A final PUD plan is approved for the floating zone by the Town Council; and
- (3) A final PUD plan is approved by the Planning Commission and the subdivision plat is recorded according to provisions of this Chapter, 128, Zoning.

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

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

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

- [b] The phase(s) in which the project will be developed, indicating the approximate land area, uses, densities, and public facilities to be developed during each phase.
  - [c] If different land use types are to be included within the planned unit development, the plan should include the approximate mix of uses anticipated to be built in each phase.
- (b) Studies and reports by qualified professionals:
  - [1] Traffic study that evaluates traffic impacts of proposed entrances on existing public (state, county and town) roads and major existing intersections within one mile of the project that may be impacted by traffic generated by the proposed project;
  - [2] Nontidal wetlands delineation;
  - [3] Endangered species study prepared by qualified professionals; and
  - [4] Historical and archeological survey.
- (c) PUD design standards, which shall generally conform to the elements of the PN Design Guidelines. The PUD design standards should provide specific detail regarding:
  - [1] Site design standards in designated neighborhood and/or commercial areas, including permitted uses, building types, frontage, setbacks and lot sizes, building heights, parking, street widths and cross sections, sidewalks, lighting, and road geometry. Lighting should comply with standards set forth in Article XXII of this Chapter 128, Zoning.
  - [2] Building standards for designated neighborhood and/or commercial areas, including size and orientation, building facades, regulated architectural elements (windows, trim, etc.), rooflines, architectural styles, fencing, parking, and signage.
  - [3] Landscape, buffer and environmental standards, including location and scope, materials, and scheduling.
- (d) Project scheduling information, including anticipated permitting hearings, approvals, construction start, phasing, anticipated absorption, and completion of key site elements. (Note: This information is understood to be representative of a best estimate and will be used by the Town planning agencies as a tool for long-range planning activities but shall not be binding.)
- (e) The PUD plan shall also include a management statement regarding the anticipated ownership, construction, operation, and maintenance of:
  - [1] Sanitary sewers, water mains, and all stormwater management systems;

- [2] Streets, road, alleys, driveways, curb cuts, entrances and exits, parking and loading areas, and outdoor lighting systems; and
    - [3] Parks, parkways, walking paths, cycleways, playgrounds, and open spaces.
  - (2) The PUD plan shall comply with requirements of this section and the requested floating zone and may be accompanied by such other written or graphic material that may aid the decisions of the Planning Commission and Town Council.
  - (3) The Town Council may establish additional and supplemental requirements for the PUD plan during its consideration of the preliminary application, if the Town Council determines such requirements are necessary to enable the Town Council to evaluate the particular floating zone amendment request.
- F. Planning Commission review and recommendation on floating zone amendment and PUD plan.
- (1) The Planning Commission shall review the PN Planned Neighborhood District floating zone amendment request and the proposed PUD plan and PUD plan for compliance with the requirements of this Chapter 128, Zoning and consistency with the Comprehensive Plan and the PN Design Guidelines.
  - (2) The Planning Commission shall evaluate the degree to which the floating zone request and PUD plan incorporates and/or addresses the PN Design Guidelines and furthers the goals and objectives of the Comprehensive Plan.
  - (3) The Planning Commission may make reasonable recommendations to the petitioner regarding changes to the PUD plan proposal which, in the judgment of the Commission, shall cause the proposal to better conform to the requirements of the Comprehensive Plan, the PN Design Guidelines and the goals and objectives of this Chapter 128, Zoning. The petitioner may resubmit the PUD plan to the Planning Commission in consideration of the Commission's comments.
  - (4) If after four PUD plan submissions, the PUD plan has not received a favorable recommendation from the Planning Commission, the Commission shall make a negative recommendation to the Town Council setting forth its reasons as to why the PUD plan should not be approved.
  - (5) The Planning Commission shall consider and comment on the findings required of the Town Council by Subsection G (2) and shall make a favorable or negative recommendation to the Town Council.
  - (6) The Planning Commission shall return the PUD plan with any revisions, together with written comments and recommendations and its floating zone comments, to the Town Council for action pursuant to the floating zone and PUD plan approval process.
- G. Town Council approval of floating zone and PUD plan.
- (1) The Town Council shall review the PUD plan and other documents, together with such comments and recommendations as may have been offered by the Planning Commission.

- (2) The Town Council may approve or disapprove the proposed floating zone map amendment and associated PUD concept plan and shall follow the procedures set forth in Article XX for a zoning reclassification. However, the change or mistake standard set forth in § 128-169A shall not apply to a floating zone amendment which locates a PN District in accordance with this section, and the Town Council shall apply the criteria as set forth in this section. Concurrently with the location of a floating zone, the Town Council may approve the PUD concept plan, which in addition to the provisions of PN District shall govern the subdivision and/or development of the property. In approving the PN District floating zone map amendment, the Town Council shall make findings of fact, including but not limited to the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development for the areas, and the relationship of the proposed amendment to the Comprehensive Plan. The Town Council may approve the PN District map amendment if it finds that the proposed floating zone amendment is:
  - (a) Consistent with the Comprehensive Plan;
  - (b) Consistent with the stated purposes and intent of the PN District;
  - (c) Complies with the requirements of this Ordinance; and
  - (d) Is compatible with adjoining land uses.
- (3) After approval of a floating zone amendment by the Town Council, two complete copies of the approved PUD concept plan shall be filed with the Town Clerk. Eight additional complete copies of the approved PUD concept plan shall be filed with the Director of Planning for Planning Commission reference during its subsequent review and approval of subdivision plats and/or site plans.
- (4) As part of the final PUD concept plan approval, the Town Council shall approve a date for initiation of the proposed development.
- (5) In the event that a floating zone amendment or a prior annexation agreement with a PN floating zone is approved by the Town Council without subdivision and approval of an associated PUD concept plan, the subject property may not be subdivided until the owner complies with the PUD review and approval provisions of this Chapter 128, Zoning, and may not be developed except in conformance with a subdivision plan as required by and in conformance with this Chapter 128, Zoning.

H. Additional required procedures.

- (1) The administrative procedures for approval of a subdivision plan for property located within the PN District are set forth in Article XXIII of this Chapter 128, Zoning. Subdivision plans shall conform to the approved PUD concept plan, including the PUD design standards.
- (2) The administrative procedures for approval of a subdivision located within the PN District shall be those of Chapter 73, Land Subdivision. Final subdivision plats shall conform to the approved PUD concept plan.

(3) Any development, site plan or subdivision approval for land in a PN District shall be consistent with the provisions of the PN District and the specific PUD concept plan applicable to the property, as approved or amended by the Town Council.

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

(1) Using the guidelines set forth below, the Director of Planning shall determine whether the proposed amendment is a minor amendment. An amendment shall be deemed a “minor amendment,” provided that such amendment:

- (a) Does not conflict with the applicable purposes and land use standards of this Chapter 128, Zoning;
- (b) Does not prevent reasonable emergency vehicle access or deprive adjacent properties of adequate light and air flow;
- (c) Does not significantly change the general character of the land uses of the approved PUD plan (concept, preliminary or final);
- (d) Does not result in any substantial change of major external access points;
- (e) Does not increase the total approved number of dwelling units or height of buildings; and
- (f) Does not decrease the minimum specified setbacks, open space area, or minimum or maximum specified parking and loading spaces.

(2) The phrase “minor amendments” includes, but is not limited to, changes to the location, number or types of uses within the planned unit development or any phase(s) thereof, subject to Subsection I (1) (c), above; internal road locations or configurations; the number, type or location of dwelling units, subject to Subsection I (1) (e), above; and the location of public amenities, services or utilities.

(3) The Planning Commission may only approve minor amendments that increase residential density or intensify nonresidential uses if the amendments provide for enhancement of the architectural design and landscaping of the area subject to the amendment.

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

**§ 128-21.5. PN Design Guidelines.**

A. Purpose and intent. The purpose and intent of establishing design guidelines for the PN Planned Neighborhood District is:

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

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

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

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

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

- (1) Residential design styles should reflect vernacular architecture.

- (2) Repetitious housing styles within individual neighborhoods are discouraged.
  - (3) Porch frontages are encouraged on all single-family detached homes.
  - (4) Residential buildings should front on public ways and be located so as to create a sense of enclosure along the street.
  - (5) Build-to-lines (BTL) should include appropriate variations to encourage neighborhood identity and creativity.
  - (6) Lot widths within individual neighborhoods should be varied. Orientation of housing can also vary.
  - (7) Lot widths should be designed to ensure that garages do not dominate the front facade of residential structures.
  - (8) Traditional roof pitches and multiple rooflines are encouraged.
- G. Central Residential Areas (CRA). In addition to the general design provisions set forth in Subsection E above, the following guidelines generally apply in the central residential areas (CRA) of the PN District.
- (1) In general, townhouse and multifamily units should adhere to the architectural guidelines for single-family and two-family dwellings.
  - (2) Townhouse and multifamily units should blend into the overall character of the neighborhoods.
  - (3) Multifamily structures should appear as large single-family units. Small groups of townhomes, four or less, may be designed to appear as large single-family structures.
  - (4) Single-family residences should be mixed with other permitted housing types.
  - (5) No more than four units should be included in a single townhouse unit group. Each unit should have a distinct architectural appearance, but the overall appearance of the units should be compatible with and complementary to adjacent single-family residential units and with the other units in the neighborhood.
  - (6) Parking for townhouse and multifamily structures should be located to the rear or side of the units.
  - (7) The majority of multifamily and townhouse units should be located in the central residential area (CRA) of the community.
- H. Conservation Areas (CA). The following design provisions generally apply in the conservation areas (CA) in the PN District.
- (1) The open space provided within planned neighborhoods should include areas known as “conservation areas,” consisting of greenbelts, greens, parks, and other open spaces.
  - (2) The greenbelt parts of conservation areas should be designed to create a visual and physical distinction between the proposed development, the surrounding countryside, and any neighboring developments.

- (3) Greens and squares are spatially defined and distributed open spaces within the planned neighborhood, designed to serve a variety of outdoor leisure and assembly needs of planned neighborhood residents and to enhance the form and appearance of the development.
- (4) There should be a main village green, located within 500 feet of the planned neighborhood's geographical center. When a storefront area is part of the development proposal, this main green should be located in close proximity to it. Other, smaller greens should be dispersed throughout the remainder of the planned neighborhood in such a way that no lot is more than a walking distance of 1,350 feet from a green, square, or park. The main village green should be designed to a pedestrian scale, meaning that it should not be longer or wider than 300 feet and should be between 20,000 and 40,000 square feet in area. The other, smaller greens, squares, and parks (but not including the central open space within loop lanes) should be no less than 8,000 square feet in size. All greens should be planted with shade trees along their edges, at intervals not greater than 50 feet, with groups of trees located at various points throughout their area.

I. Storefront Area (SA). In addition to the general design provisions set forth in Subsection E above, the following guidelines generally apply in the storefront area (SA) of the PN District.

- (1) Maximum size. New commercial buildings in the storefront area and their associated parking spaces should not occupy more than 5% of the adjusted tract area of the entire planned neighborhood. Commercial buildings may occupy up to 10% of the adjusted tract area if they include second-story office uses. Commercial buildings may occupy up to 15% of the adjusted tract area if they include second-story residential units. In order to qualify for the 15% figure, at least half of the new commercial building coverage (foundation footprint) should be of two-story construction, and at least 25% of the second-story space shall be designed for residential uses.
- (2) Uses. The mixed-use/commercial portions of the planned neighborhood should be contained within the storefront area. This area should be designed to provide a variety of retail shops and services to support the day-to-day needs of planned neighborhood residents and other local residents, complemented by other compatible business, civic, and residential uses in commercial-type buildings in a manner consistent with a small downtown or central marketplace in the community.
- (3) Commercial areas should surround, be located adjacent to, or be across the street from a public park, green, or square of at least 10,000 square feet, which area may be credited as part of the open space required of the development.
- (4) New commercial buildings may be either traditional in their architectural character or be a contemporary expression of traditional styles and forms, respecting the scale, proportion, character, and materials of shops in the community. Shopfront design should be based upon historic examples in the area, with large display windows having sills between 12 and 18 inches above sidewalk level and lintels nine to 12 feet above sidewalk level. Commercial buildings

should also articulate the line between the ground and upper levels with a cornice, canopy, balcony, arcade, or other visual device.

- (5) The massing of larger commercial buildings should be de-emphasized in a variety of ways, including the use of projecting and recessed sections, to reduce their apparent overall bulk and volume. Such breaks in their facades and rooflines should occur not more frequently than the width of two historic shopfronts (generally about 25 feet each), nor less frequently than 100 feet. To harmonize with the traditional scale of commercial buildings in historic towns and villages, new commercial buildings should not contain more than 3,500 square feet (above grade), and those with more than 1,500 square feet of floor space (above grade) should be of at least one and-one-half-story construction.
- (6) A majority of buildings should be designed for multiple uses, with offices and/or residential units above.
- (7) Buildings should be topped with pitched roofs with overhanging eaves, but flat roofs with articulated parapets and cornices may be allowed. Desired materials on pitched roofs include slate (either natural or man-made), shingle (either wood or asphalt composition), and metal formed to resemble standing seams. Roof color should be traditional, meaning that it should be within the range of colors found on existing buildings in the community. Specifically excluded are white, tan or blue shingles, red clay tiles, and corrugated metal. The use of fascias, dormers, and gables is encouraged to provide visual interest. All gables should be functional.
- (8) Gas station canopies should have pitched roofs and the lighting should be from luminaries completely recessed into the ceilings of said canopies so that the lighting elements themselves are not visible from or beyond the lot lines.
- (9) Exterior wall materials may include stucco, wood clapboard (including vinyl or aluminum imitation clapboard siding), native stone, split-face aggregate block, or brick of a shape, color, and texture very similar to that found in the historic villages and towns of Caroline County. Specifically prohibited should be brick that is white, tan, or spray-painted, and T-111 plywood siding. Except on rear walls, all forms of concrete block should also be prohibited. In addition, metal buildings should also be excluded from this subdistrict.
- (10) Large work area doors or open bays shall not open toward or face the public ways.
- (11) HVAC and other fixed operating machinery shall be either screened from view or located so that such items are not visible from the highway, public rights-of-way, or adjoining noncommercial areas. Large trash receptacles, dumpsters, utility meters, and aboveground tanks, etc., shall be similarly treated.
- (12) All signage should:
  - (a) Be affixed to a building facade, canopy, or arcade;
  - (b) Be located no higher than the sills of second-story windows;

- (c) Be visible to both pedestrians and drivers;
  - (d) Be illuminated with steady external lighting (if lighted at all); and
  - (e) Use lighting conforming to the standards contained in Article XXII of this Chapter 128, Zoning.
  - (f) All signage shall be consistent with Article XV, Signs, of this Chapter 128, Zoning.
- (13) Traditional canvas awnings without interior illumination are encouraged, and any signage consistent with Article XV, Signs, of this Chapter 128, Zoning, lettering.
  - (14) Storefront buildings should have at least 60% of their front facade coincident with their street frontage, including frontage onto courtyards.
  - (15) Principal entrances to buildings should be from the front sidewalk, except in courtyard designs.
  - (16) Storefront buildings fronting on the same street and located on the same block should be attached, except as necessary to accommodate pedestrianways.
- J. Lighting design provisions. An exterior lighting plan shall be submitted to the Town whenever subdivision or site plan approval is sought in the PN District in order to determine whether the provisions of this section have been met and that adjoining property will not be adversely impacted by the proposed lighting.
- (1) In general, the following provisions apply to lighting proposed as part of any development (see also Article XXII. Outdoor Lighting of this Chapter 128 Zoning):
    - (a) Lighting should be designed so as to prevent direct glare, light spillage and hazardous interference with automotive and pedestrian traffic on adjacent streets and all adjacent properties.
    - (b) Light fixtures should be designed as an integral design element that complements the design of the neighborhood through style, material, and color.
    - (c) All utility lines shall be installed underground.
    - (d) Street pedestrianway lights should be decorative and blend with the architectural style of the neighborhood and should not exceed 14 feet in height.
    - (e) Flickering or flashing lights are prohibited.
    - (f) Light sources should not be located within buffer areas except on pedestrian walkways.
    - (g) Lighting that unnecessarily illuminates any other lot and substantially interferes with the use or enjoyment of another lot is prohibited.
    - (h) Lighting fixtures should not exceed the minimum height and power necessary to accomplish their intended function.

- (i) Lighting fixtures shall not cause light to shine upward or beyond lot boundaries.
  - (j) Lighting fixtures shall not use Metal Halide or similar form of bright white light source.
  - (k) Spot lights shall be discouraged.
- (2) Residential. In addition to the general provisions set forth in Subsection J (1) above, the following provisions apply to lighting for residential development.
- (a) Multifamily residential units should be properly lighted to ensure public safety and the security of the buildings.
  - (b) Lighting on individual streets should be designed consistent with the planned function of the street without excessive illumination.
  - (c) Porch light and yard post lighting should be incorporated into the street lighting design in residential developments.
- (3) Nonresidential. In addition to the provisions set forth in Subsection J (1) above, the following provisions apply to lighting used for nonresidential uses (including but not limited to commercial, civic, recreational, fraternal, and religious facilities).
- (a) All exterior lighting should be shielded so as not to shine directly onto surrounding properties or public ways or rights-of-way, except as planned and approved for safety purposes. In addition, the globe, lens, bulb, or filament should be shielded to not be visible from adjoining properties.
  - (b) Lighting should be designed to provide uniform illumination of the property to prevent extreme contrasts between light and dark areas and to provide for adequate safety and security.
  - (c) Lighting may be used to accent key architectural elements and/or to emphasize landscape features. Architectural lighting should be recessed under roof overhangs or generated from concealed, low-level light fixtures.

- K. Parking provisions. A parking plan shall be submitted to the Town whenever subdivision or site plan approval is sought in order to determine whether the requirements of this section have been met. Parking standards are flexible and take into account off-site parking. The Planning Commission shall review the parking plan to ensure adequate parking is available, and that it is appropriately integrated into the overall PUD plan. The parking plan should comply with Article XII of this Chapter 128, Zoning, entitled "Parking, Loading and Unloading Area Requirements." In addition to the provisions set forth in Article XII, the following standards generally apply to parking in the PN District.
- (1) Parking areas should be small scale and highly landscaped.
  - (2) Parking shall not be a dominant site feature and should be screened, landscaped, and lit to assure public safety.

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

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

- (1) Streets should be designed to accommodate the pedestrian, the cyclist, and the vehicle.
- (2) Street layout should be composed of interconnecting narrow streets laid out in a modified grid.
- (3) Streets should connect to at least two other streets. Cul-de-sacs and dead end streets should be avoided.
- (4) Distinct (e.g., patterned) pedestrian crosswalks should be installed at intersections and any other location where pedestrian systems cross a street.
- (5) Traffic calming should be an integral part of the overall street design.
- (6) Development plans should address improvements to off-site roads that serve a project, including off-site pedestrian linkages.
- (7) The view from the long axis of a street should terminate at a significant design feature.
- (8) The design speed for all streets within the PN District should be a maximum of 25 mph.
- (9) A separate bicycle lane should be provided on streets planned for high traffic volumes (greater than or equal to 4,000 Average Daily Trips).
- (10) Direct access onto collector streets from residential property is discouraged.

- (11) Curb radii should be 20 feet with a clear zone radius of 30 feet.
- (12) Curb radii should be sufficiently small to reduce vehicle speed.
- (13) On-street parking on minor streets should be provided on one or both sides, as appropriate.

M. Sidewalks, curbs and gutters. In addition to the provisions relating to sidewalks, curbs and gutters as set forth in the Subdivision Regulations, Chapter 73, Land Subdivision, the following standards generally apply in the PN District.

- (1) Sidewalks.
  - (a) A continuous sidewalk system should provide pedestrian access from all residential units to all other land uses.
  - (b) The minimum width for sidewalks in residential neighborhoods and recreational areas is five feet.
  - (c) The minimum width for sidewalks in commercial areas is eight feet. However, wider sidewalks may be necessary depending on the anticipated volume of pedestrian traffic or type of business use in a specific commercial area.
  - (d) Pedestrian crosswalks should be located at all major pedestrian crossings.
  - (e) Bump-outs should be provided at major pedestrian crossings on commercial streets and undivided major collector streets.
  - (f) Utility structures and mailboxes should not be located so as to reduce the width of sidewalks.
  - (g) In commercial areas, sidewalks may be used for outdoor retail display or outdoor dining areas, provided that they do not impede pedestrian flows or create a hazard.
  - (h) Where appropriate, durable street furniture, trash receptacles, and other amenities should be placed along sidewalks.
- (2) Curbs and gutters.
  - (a) Curbs and gutters are required on the entire street frontage of any parcel or lot, except alleys; however these shall comply with the Stormwater Regulations, Chapter 106, Stormwater Management.
  - (b) Curbs and gutters shall be built to the construction standards and specifications as determined by the Town.
  - (c) Only one curb cut per street frontage should be allowed on residential lots that do not have alley access.
  - (d) There should be a maximum of two curb cuts per commercial lot per street frontage.

- N. Landscaping, shading and buffers. All development proposals in the PN District shall comply with Article XVI of this Chapter 128, Zoning, entitled “Environmental Standards, Landscaping, Shading and Buffers.”
- O. Denton Pattern Book. In addition to the design standards set forth in this section, development proposals in the PN District shall meet the standards set forth in the Denton Pattern Book, prepared by Urban Design Associates, copies of which are available in the Town Office. The Pattern Book is intended to supplement existing applicable design guidelines. Persons proposing development in a PN District should consult the Denton Pattern Book and incorporate the design concepts and standards into the proposed PUD or PN design standards for the particular project. Failure to adhere to the design principles set forth in the Pattern Book may be a basis for the denial of PUD plan approval by the Town. The Town may approve a PUD plan that meets or exceeds the goals and objectives of the Denton Pattern Book, and the Town may waive the Denton Pattern Book standards where the applicant proposes specific design standards that are determined to be consistent with the goals and objectives of the PN District, as well as the Comprehensive Plan.

**§ 128-21.6. A and E Arts and Entertainment District.**

- A. Purpose. The Arts and Entertainment District (AE) District is a floating zone. That means that while provisions and regulations are made to govern any development within an AE District, no such district will be pre-mapped on the Official Zoning Map until approved as an AE district by the Town Council. The AE District is intended to permit master planned, mixed-use infill and redevelopment with an emphasis on for-profit and nonprofit artistic, cultural, educational and musical uses of properties in identified redevelopment areas of the Town. The AE District permits development and land use pursuant to a master development plan approved by the Town Council at the time the AE District zoning is applied to specific land(s).
- B. Intent.
  - (1) The intent of the A and E District is to accomplish the following:
    - (a) Promote the arts and to achieve public and cultural benefit through flexible and creative land use regulation in return for significant contributions to the arts;
    - (b) Utilize cultural and economic development as a tool to encourage the infill and redevelopment in planned redevelopment areas of the Town;
    - (c) Encourage public/private projects that make the direct link between art and economic development;
    - (d) Serve some of the needs of our arts community and stimulate revitalization by promoting the reuse of underused and vacant properties for artist live/work space, affordable housing, performance venues, galleries, and other creative commercial and retail enterprises;
    - (e) Create an arts and entertainments destination point for the region;

- (f) Encourage a scale of development, a mixture of building uses, and other attributes such as safe and efficient conditions for pedestrian and vehicular movement;
  - (g) Encourage pedestrian activity, especially retail, entertainment, and residential uses; and
  - (h) Expand the Town's housing supply in a variety of rent and price ranges.
- (2) The district standards encourage appropriate development of underutilized properties and consolidation of developable land for art use where it will achieve a more efficient land use and improved site design. Design standards promote compatible infill and redevelopment by, among other things, allowing development on sites that may not meet the minimum land area and dimension requirements of the current zones.

C. **Definitions.** The following definitions apply within the A and E District.

**ART GALLERY** - building or space for the exhibition of art, usually visual art.

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

**ART/CRAFT STUDIO** - A facility for art use as defined above that is separate from any residential uses.

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

**ARTIST LIVE/WORK SPACE** - The use of all or a portion of a building for both art use and the habitation of artists.

- D. **Applicability.** The Town Council may apply the A and E District to any lands identified on the Official Zoning Map as being eligible for the A and E District floating zone designation.
- E. **Permitted uses.** Permitted uses shall be limited to those allowed in the original zone(s) on which the A and E floating zone is applied. In addition, art galleries, art craft/studio uses, artist live work space, art use, and artistic work use shall be permitted and encouraged if not already permitted in the original zone.

F. Development standards. The following development standards shall apply to the A and E District:

- (1) Density, design, materials, use and scale should reflect local style, climate, heritage and materials unique to Denton.
- (2) Flexible development standards to reduce lot areas, lot frontage, lot widths and yards and to increase building heights may be permitted consistent with a master development plan approved in accordance with the provisions of this section.
- (3) The master development plan should be compatible with existing uses and architecture. In general, the following compatibility standards shall apply:
  - (a) Building size, height, bulk and scale. Buildings should be similar in height and size or be designed in such way that they appear similar in height and size, creating an overall mass that is consistent with the prevalent mass of other structures in the area, e.g., by dividing walls into units of similar proportions to adjacent structures.
  - (b) Building orientation. Primary facades and entries face the adjacent street or internal pedestrian courts with a connecting walkway that does not require pedestrians to walk through parking lots or across driveways and that maintains the integrity of the existing streetscape.
  - (c) Privacy. Optimize privacy of residents and minimize infringement on the privacy of adjoining land uses by considering appropriate bufferyards, the placement of windows and door entrances. Create opportunities for interactions among neighbors in common pedestrian circulation areas of the project.
  - (d) Building materials should be similar to materials of the surrounding neighborhood or use other characteristics such as scale, form, architectural detailing, etc., to establish compatibility.
- (4) All planned uses shall comply with the Denton Critical Area and floodplain regulations. See Chapter A129, Critical Area Program, and Ch. 58, Floodplain Zones, respectively.
- (5) Where the creation of a new lot is proposed, the Town shall have the discretion to waive the requirement set forth in § 73-6F (5) of the Town Code that the lot front on a public street, provided there is sufficient pedestrian accessways and access for emergency services.
- (6) Where the design standards set forth above conflict with any provision of this Chapter 128, Zoning or the Chapter 73, Land Subdivision, these standards shall control.

G. Public facilities and utilities.

- (1) Existing and planned public facilities should be shown on development plans.
- (2) All public streets, walkways and alleyways shall be shown on development plans. All through streets and walkways must be public. The local street and walkway

system shall be safe, efficient, convenient, attractive, and shall accommodate use by all segments of the population.

- (3) The street and walkway system should provide multiple, direct and continuous intra- and inter-neighborhood connections between destinations.
- (4) Additions to the Town's street network shall include sidewalks.
- (5) Closed street systems are prohibited, but short cul-de-sacs (less than 120 feet long) that connect to the main grid system are allowed when consistent with the surrounding community. The Planning Commission may permit flag lots where appropriate.
- (6) Street widths should be consistent with the surrounding community and sized to promote walkability and multimodal use (i.e., pedestrians, bikes, cars, trucks, buses, etc.).
- (7) Roads, lighting, sidewalks, street furniture, utilities and other public facilities should enhance pedestrian circulation.
- (8) Parking shall generally comply with the parking standards set forth in the Town's Commercial Infill Guidelines, Residential Infill Guidelines and other provisions of this Chapter 128, Zoning. Parking requirements can be waived where adequate public parking is available in close proximity, and the new parking demand does not interfere with the established parking patterns in the neighborhood. If public parking is proposed as the means of providing any required parking, such arrangement shall be documented on the master development plan and approved by the Mayor and Council.

#### **§ 128-21.7. Redevelopment District.**

- A. Purpose. The Redevelopment District (RD) is a floating zone. That means that while provisions and regulations are made to govern any redevelopment within the Redevelopment District, no such district will be pre-mapped on the Official Zoning Map until Town Council adopts a Redevelopment District "Eligible" (RDE) zoning district. The Redevelopment District is intended to permit rehabilitation and redevelopment of properties within the Town which are 1) considered blight and slum pursuant to state law and the Town's ordinances and regulations, or 2) are older industrial or commercial areas intended for redevelopment or in situations where buildings or properties are surrounded by incompatible zones or have traditionally been used for incompatible purposes (when it is not economically feasible to continue those buildings or properties in their current use). The Redevelopment District floating zone permits the redevelopment and land use pursuant to a master development plan approved by the Town Council at the time that the Redevelopment District is "Applied" (RDA) to the specific lands. The PR District is intended to overlay and supplement, but not eliminate the existing zoning classification which it is put over. The PR District is intended to legalize and allow the rehabilitation, redevelopment, and orderly and controlled expansion of commercial and residential uses within such buildings and upon such properties lacking practical potential to continue present use under the current land use plan and to preserve and expand the number of jobs in the Town, while protecting and preserving the adjacent residences and the character of the surrounding neighborhoods.

B. Conditions.

The Redevelopment District classification may be granted by the Town Council upon application by the property owner or upon the motion of the Denton Planning Commission or the Town Council and after complying with the procedures necessary to zone or rezone a property under Article XX of this Chapter 128, Zoning. When a redevelopment area is approved to be “Applied” (RDA) to a specific area that area shall be so designated (RDA) on the Official Zoning Map, and such applied redevelopment area shall be treated as a zone classification for the purpose of establishing and interpreting its boundaries.

In order to be eligible for rezoning to a PR District there must be a finding by the zoning authorities that:

- (1) The development or redevelopment potential for the subject property is consistent with the purpose and intent of this overlay classification and designated as such in the Town’s Comprehensive Plan;
- (2) The proposed development or redevelopment of the subject property is compatible with adjoining land uses;
- (3) The general standards and limitations set forth in this Chapter 128, Zoning can be met at the subject property;
- (4) The granting of the RD classification will not be detrimental to the health, safety and welfare of the inhabitants of the Town; and
- (5) The granting of the RD classification will promote the general welfare of the inhabitants of the Town as a whole.

C. Intent.

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

- (2) The Redevelopment District is further intended to encourage appropriate development of underutilized properties and consolidation of developable land for redevelopment where it will achieve a more efficient land use and improved site design. Design standards promote compatible infill and redevelopment by, among other things, allowing development on sites that may not meet the minimum land area and dimension requirements of the current zones.
- D. **Applicability.** The Town Council may apply the Redevelopment District (RDA) to any lands identified on the Official Zoning Map as being “Eligible” (RDE) for the Redevelopment District floating zone designation. Lands approved as RDA shall be so designated (RDA) on the Official Zoning Map.
- E. **Permitted uses.** Permitted uses shall be limited to those allowed in the original zone(s) over which the Redevelopment District is to be applied.
- F. **Development standards.** The development standards set forth in § 128-21.6F shall apply to development plans for any development proposed in the Redevelopment District.
- G. **Public facilities and utilities.** Public facilities and utilities proposed for development within a Redevelopment District shall comply with § 128-21.6G.

**§ 128-21.8. Procedure for approval of A and E District Floating Zone or Redevelopment District Floating Zone amendment and master development plan.**

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

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

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

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

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

- C. Town Council approval of floating zone and master development plan.
- (1) The Town Council shall review the master development plan and other documents, together with such comments and recommendations as may have been offered by the Planning Commission.
  - (2) The Town Council may approve or disapprove the proposed floating zone map amendment and associated master development plan, and shall follow the procedures set forth in Article XX for the approval of a floating zone. Concurrently with the location of a floating zone, the Town Council may approve the master development plan, which, in addition to the provisions of the applicable floating zone district shall govern the subdivision and/or development of the property. In approving the floating zone Official Zoning Map amendment, the Town Council may approve the floating zone Official Zoning Map amendment if it finds that the proposed floating zone amendment is:
    - (a) Consistent with the Comprehensive Plan;
    - (b) Consistent with the stated purposes and intent of the applicable floating zone district.
    - (c) Complies with the requirements of this Chapter 128, Zoning;
    - (d) The plan is internally and externally compatible and harmonious with existing and planned land uses in the area; and
    - (e) Existing or planned public facilities are adequate to service the proposed development.
  - (3) In the event that a floating zone amendment is approved by the Town Council without subdivision and approval of an associated master development plan, the subject property or properties may not be subdivided until the owner complies with the master development plan review and approval provisions of this Chapter 128, Zoning, and may not be developed except in conformance with a site plan as required by and in conformance with this Chapter 128, Zoning.
- D. Additional required procedures. In addition to the procedures set forth above, where applicable, the petitioner shall also comply with the Town's site plan approval procedures set forth in Article XXIII of this Chapter 128, Zoning, as well as the Town's subdivision regulations. Any development, site plan or subdivision approval for land in a floating zone district shall be consistent with the provisions of the applicable floating zone district, and the specific master development plan applicable to the property, as approved or amended by the Town Council.
- E. Amendment of master development plan.
- (1) Any minor amendment of an approved master development plan may be approved by the Planning Commission at a regular meeting. An amendment will be considered minor if the Planning Commission determines that the amendment:
    - (a) Does not conflict with the applicable purposes and land use standards of this Chapter 128, Zoning;

- (b) Does not prevent reasonable access of emergency vehicle access or deprive adjacent properties of adequate light and air flow; and
  - (c) Does not significantly change the general character of the land uses of the approved master development plan.
- (2) Any amendment of a master development plan that adversely impacts upon the delivery or the Town's cost of public utilities, public services, public infrastructure, or otherwise adversely affects amenities available to the public or the public health and safety shall not be considered a minor amendment

**§ 128-21.9. Rural Conservation District.**

The purpose of the Rural Conservation (RC) overlay District is to preserve and protect areas of the Town which are within the Critical Area Rural Conservation Area (RCA). Development is limited to one single family residence per 20 acres. Part of this district is also regulated by Rural Agriculture (RA), Suburban Residential (SR), and/or Planned Neighborhood (PNA and PNE overlay) districts.

## **ARTICLE V.**

### **Special District: FP Floodplain District**

#### **§ 128-22. Purpose.**

It is the purpose of the Floodplain District to designate all areas within the Town subject to inundation by floodwaters of the one-hundred-year frequency, as defined by the U.S. Department of Housing and Urban Development, Federal Insurance Administration. It is the intent hereof that the FP District shall protect the general welfare of the Town of Denton residents and value of property by preventing excessive damage to buildings, structures and land due to the conditions of flooding.

#### **§ 128-23. Higher standards to control.**

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

#### **§ 128-24. Delineation.**

The FP District shall include all area subject to inundation by floodwaters of the one-hundred-year frequency, as defined by the U.S. Department of Housing and Urban Development, Federal Insurance Administration.

#### **§ 128-25. Regulations.**

The following restrictions shall apply to all new construction occurring in the Town's designated FP District.

- A. No modification, alteration, repair, or new construction of buildings, structures, fill, or any combination of these shall be permitted in the floodway which would impair its ability to carry and discharge floodwaters or increase the water surface elevation of the one-hundred-year flood by more than one foot, except where the effect on flood heights is fully offset by stream improvements.
- B. Basements or first floor levels in buildings not containing dwelling units may be constructed below the level of the one-hundred-year flood, provided that they are designed to withstand the hydrostatic load of the one-hundred-year floodwaters.
- C. Buildings containing dwelling units, or intended to be used for dwelling purposes, shall not hereafter be located, erected, constructed, extended, enlarged, converted, or altered unless the lowest habitable floor level shall be above the elevation of the one-hundred-year flood.
- D. Water supply systems and sanitary sewage systems shall be designed to preclude infiltration of floodwaters into the systems and discharged from the systems into floodwaters.

**ARTICLE VI.**

**(Reserved)**

**formerly “Special District: PR Planned Redevelopment District”, combined with § 128-21.7. Redevelopment District.**

**§ 128-26. (reserved).**

**§ 128-27. (reserved).**

**§ 128-28. (reserved).**

## ARTICLE VII.

### Special District: Planned Unit Development, Mixed-Use District

#### § 128-29. Purpose.

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

#### § 128-30. Planned Unit Development (PUD).

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

- (d) An office, temporary or permanent, belonging to the developer and clearly incidental to management and sales operations of the PUD.
  - (e) Temporary structures incidental to construction.
  - (f) In a PUD of over 50 acres or more, a planned commercial center may be permitted. Such commercial center shall be an integral part of the plan for the PUD. The total aggregate area of all the commercial establishments and their parking area shall be established in the approval of the general development plan but in no case shall be more than 20% of the gross area of the PUD. Planned commercial centers shall be a group of commercial uses compatible with the residential nature of the PUD and the remainder of the Town of Denton. These may include any use listed as permitted, conditional or special exception uses in § 128-60. No construction on the planned commercial center shall begin until 30% of the total planned residential units are completed.
  - (g) Land and places for public assembly, recreational buildings, public buildings and accessory buildings, or may require the reservation of lands for such uses if it is deemed they are advantageous or necessary for the purpose of serving the planned unit development and the local community.
- (2) Where permitted. Planned unit developments are permitted in the SR, TR, MI, MR and PN floating zone Districts. In general, a planned unit development is contemplated in residential zones where tracts of suitable location, size, and character exist. The uses/structures proposed are to be planned and developed according to the requirements and procedures of this Chapter 128, Zoning. Planned unit developments shall be approximately located with respect to the general pattern of urban development existing or proposed, and to existing public and private facilities and services.
  - (3) Computation of dwelling units permitted. The total density in the planned unit development will not be greater than if conventionally developed (i.e., as computed from net area of the site). The total permitted dwelling units may be averaged over the entire PUD or clustered in various groupings.
  - (4) The setback, lot size, lot dimensions, lot coverage, height, and yard requirements in the planned unit development shall be established for each individual project by the Planning Commission. In establishing these requirements the Planning Commission shall consider such factors as the proposed intensity of the project and the existing character of the neighborhood.
  - (5) Land coverage. The maximum amount of land that may be built over (covered) by parking lots, roads, sidewalks, or plazas, buildings, or other structures shall be 60% of the net land area of the PUD.
  - (6) Area. The proposed PUD shall in no case contain less than five acres of land.
  - (7) Open space. Common open space shall comprise not less than 25% of the gross area and shall comply with the provisions of Article XVII. All open space shall be

designated for the common use of all occupants of the PUD and at least 50% of such space shall be developed as recreational areas. **[Amended 4-5-2004 by Ord. No. 441, effective 4-12-2004]**

- (8) Sanitary facilities. No PUD plan shall be approved unless the proposed development can be served by public water and sewer disposal systems, which shall be existing at the time the plan receives final approval in accordance with all water and sewer rules and regulations existing at the time of approval. Satisfactory evidence must be furnished to the Planning Commission and the Town Council that the existing Town sewer and water systems can handle the increased demand placed upon them by the proposed PUD and meet current Health Department requirements for standards of operation.
- (9) Parking. At least two usable off-street parking spaces shall be provided for each dwelling unit, either on the lot it occupies or within 150 feet of such lot or of an apartment. Additional parking may be required as determined by the Planning Commission.

A Administrative procedures.

- (1) Preliminary application shall be made to the Town Council and referred to the Planning Commission for stage one consideration of the PUD Zone and shall include, but not be limited to:
  - (a) A general diagram showing the PUD relation to the Town of Denton and major public access to the PUD (15 copies).
  - (b) The general development plan or concept plan setting forth preliminary information as identified in Appendix I at the end of this Chapter 128, Zoning. In addition to such information, the Planning Commission may require, but shall not be limited to the following:
    - [1] Elevations and percentages of each building type, number of units and location of buildings.
    - [2] Proposed convenience centers, open spaces, their size, their location, their uses, and their proposed ownership (Town and/or association).
    - [3] General statement concerning provision of utilities (draft terms and provisions of a public works agreement).
    - [4] Statement of expected Town responsibilities.
    - [5] Cost Benefit Analysis of the proposed PUD for the Town.
    - [6] Tentative timetable and staging of development (schedule of construction).
    - [7] Applicant shall pay an application fee as previously established by the Town.
    - [8] Property and any other taxes on the property proposed to be developed shall be current.

- (c) After the Planning Commission makes its findings, the application will be forwarded to the Town Council for consideration. If the Town Council finds that the proposal has merit, it will be conditionally approved.
- (2) Preliminary site plan. The developer shall submit the following to the Planning Commission for its review after receiving conditional approval from the Town Council:
  - (a) 15 copies of a preliminary site plan shall be filed with the Town. The preliminary site plan shall comply with the requirements of this article and be accompanied by such other written or graphic material as may be necessary or desirable in aiding the decisions of the Town Council and the Planning Commission.
  - (b) The Planning Commission shall review the site plan for compliance with the requirements of this Chapter 128, Zoning. In their review of the preliminary site plan the Planning Commission shall consult with such Town officials and its consultants as may be appropriate, and may offer such comments as may be appropriate.
  - (c) Preliminary site plan shall include but not be limited to the requirements set forth in Appendix I of Chapter 128, Zoning.
  - (d) The preliminary site plan shall be accompanied by a schedule of construction or timetable (acceptable to the Town Council and Planning Commission).
  - (e) The developer shall provide a statement detailing the means by which the PUD and all its various aspects shall be managed. This shall include deed restrictions and covenants designed to ensure perpetuity of agreements.
  - (f) The preliminary site plan shall also include a management statement governing the construction, operation, and maintenance of:
    - [1] Sanitary and storm sewers, water mains, stormwater facilities, and other underground structures.
    - [2] Streets, alleys, driveways, curb cuts, entrances and exits, parking and loading areas, and outdoor lighting systems.
    - [3] Parks, parkways, cycleways, playgrounds, open spaces, fences, walls, screen planting, and landscaping and signs.
  - (g) The Planning Commission and/or Town Council may establish additional requirements for preliminary site plans for the PUD.
  - (h) After review and a public hearing on the proposed zoning, the Planning Commission shall return the site plan, together with comments and recommendations to the Town Council for appropriate action.
- (3) Final review and approval procedure.

- (a) The Town Council shall review the final preliminary site plan and other documents.
- (b) The Town Council shall hold a public hearing in the manner required in Article XX of this Chapter 128, Zoning.
- (c) The Town Council may approve or disapprove the proposed PUD zoning. In granting approval, the Town Council shall secure:
  - [1] A surety bond or equivalent to be filed for/or deposited in escrow with the Town Council in an amount sufficient to ensure completion of all requirements established by the Town Council.
  - [2] A final site plan in the form of a final plat shall be prepared, filed, and recorded. The final plat shall comply with the specifications set forth in Appendix I, and applicable state, county and Town laws, regulations, and ordinances governing the subdivision of land (See Chapter 73, Land Subdivision).
  - [3] Permits for building shall be issued in accordance with the schedule for construction approved by the Town Council as part of the final approval.
  - [4] When a PUD is to be developed in stages, each stage shall be processed as a separate development after first submitting and receiving approval of the PUD Zone for the entire project.
  - [5] As part of the final approval, the Town Council shall approve dates for initiation and completion of the PUD and/or its phases. Any departure from these dates shall constitute material breach of contract and outstanding bonds can be called in. The Town Council may waive for cause
  - [6] or to issuance of more than one residential building permit for the Property, the Applicant and Town shall execute a Public Works Agreement that memorializes the rights and obligations of the Applicant and Town with respect to public and private improvements and right-of-ways.
- (4) Conflict with other articles.
  - (a) Provisions of the PUD Zone when found to be in conflict with other provisions of this Chapter 128, Zoning shall supersede those other provisions with which they conflict.
  - (b) Provisions of the PUD Zone when found to be in conflict with other provisions of Chapter 73, Land Subdivision, shall supersede those other provisions with which they conflict.

## ARTICLE VIII.

### Special District: CA Critical Area District

#### § 128-31. Purpose.

- A. The purpose of the Critical Area District is to implement land use regulations and conservation measures designed to protect and enhance water quality and habitat resources located within the Town of Denton's Chesapeake Bay Critical Area. The geographic area for which the following district regulations apply shall be those lands and waters located within 1,000 feet of the landward boundaries of all tidal waters and tidal wetlands as designated on the Official Denton Chesapeake Bay Critical Area Maps.
- B. No person shall develop, alter, or use any land for residential, commercial, industrial, or institutional uses, nor conduct agricultural, fishery or forestry activities in the Denton Critical Area except in compliance with the applicable provisions contained herein and the Denton Critical Area Program. *See Chapter 128, Zoning Appendix A129, Critical Area Program.*
- C. The intent of the Critical Area Overlay District is to provide special regulatory protection for the natural resources located within the Town's Chesapeake Bay Critical Area and to foster more sensitive development activity in shoreline areas that minimizes adverse impacts to water quality and natural habitats. To ensure this end, no development or resource utilization activity shall be permitted until the applicable Town's approving authority, i.e., Planning Commission, Board of Appeals, or Town Council or their designee shall make specific findings that the proposed development or activity is consistent with the goals and objectives of the Denton Critical Area Program.
- D. The Critical Area District imposes specific regulations for the development, use and conservation of land within the Denton Critical Area in addition to those regulations stipulated for the underlying zoning districts in other sections of this Chapter 128, Zoning. In the event of inconsistency between the Critical Area District provisions and the provisions established in other sections of this Chapter 128, Zoning, the more restrictive or stringent provisions shall apply.
- E. In addition to any other penalty applicable under state law or municipal ordinance, a person who violates a provision of Natural Resources Article, Title 8, Subtitle 18, or the Town's Critical Area Program, ordinance, or regulations is subject to a fine not to exceed \$10,000. In determining the amount of the penalty to be assessed under this Subsection E, the Town may consider the following:
  - (1) The gravity of the violation;
  - (2) Any willfulness or negligence involved in the violation; and
  - (3) The environmental impact of the violation.

#### § 128-32. Official Critical Area District Maps.

- A. Official Critical Area District Maps shall be prepared and maintained in force as part of the Official Zoning Maps of the Town of Denton. These maps shall delineate the extent of the Critical Area District that shall correspond to the Chesapeake Bay Critical Area. Within the Critical Area District, there shall be three land use management area

classifications, which shall be shown on the Official Critical Area Maps. These land use management area classifications shall be as follows:

- (1) Intensely Developed Areas (IDA's);
  - (2) Limited Development Areas (LDA's); and
  - (3) Resource Conservation Areas (RCA's).
- B. These land use management areas correspond to the definitions established in the Chesapeake Bay Critical Area Criteria, as amended, for each area and specifically as identified on the Official Denton Chesapeake Bay Critical Area Maps, adopted as part of the Denton Critical Area Program. Mapped land use management area classifications are based on land uses established on or before December 1, 1985, except for areas where the land use classification may be changed by granting the Growth Allocation (GA) Floating Zone District classification as provided in § 128-175. The Critical Area District Maps may be amended by the Town Council in compliance with amendment provisions in this Chapter 128, Zoning, the Maryland Critical Area Law and Critical Area Criteria.
- C. The Critical Area shall include all lands and waters defined in § 8-1807 of the Natural Resources Article, Annotated Code of Maryland. They include:
- (1) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the state wetlands maps, and all state and private wetlands designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland.
  - (2) All land and water areas within 1,000 feet beyond the landmark boundaries of state or private wetlands and the heads of tides designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland; and
  - (3) Modification to these areas through inclusions or exclusion proposed by local jurisdictions and approved by the Critical Area Commission as specified in § 8-1807 of the Natural Resources Article, Annotated Code of Maryland.
  - (4) The Town Council may elect to amend the Critical Area Map only at such time as new Official Wetland Maps are adopted by the State of Maryland showing a modification to the Critical Area, subject to approval by the Critical Area Commission, or an area of the Critical Area has been approved by the Chesapeake Bay Critical Area Commission for exclusion. The Town Council may elect to add areas to the Critical Area at any time, subject to approval by the Critical Area Commission. Such changes shall be treated as amendments to the Critical Area District.

**§ 128-33. Density provisions.**

- A. Density in the Intensely Developed Areas (IDAs) shall be as established in the underlying base zone.
- B. The development density and minimum lot sizes permitted within a Limited Development Area (LDA) shall be governed by prescriptive densities within the applicable underlying base zoning districts that permit residential use.

- C. Residential densities (not lot sizes) in Resource Conservation Areas (RCAs) shall not exceed one unit per 20 acres regardless of densities permitted in applicable underlying base zones, except as provided in Subsection D below. Determination of density shall be based on the gross site area of the parcel, excluding state tidal wetlands.
- D. In determining residential densities for a site, private wetlands may be included in the calculation of the one dwelling unit per twenty-acre density provided the development density on the upland portion of the site does not exceed one dwelling unit per eight acres. The area of private wetlands shall be estimated on the basis of vegetative information as designated on the state wetland maps. Documentation of the vegetative analysis shall be provided by the applicant to the Town.
- E. The one dwelling unit per twenty-acre density limitation may be exceeded in cases involving a bona fide intrafamily transfer subject to the following limitations:
  - (1) Intrafamily transfers will be permitted on portions of certain parcels in the Critical Area where it is shown that the parcel was recorded on or before March 1, 1986, and where such parcel is at least seven acres and not more than 60 acres in size.
  - (2) A bona fide intrafamily transfer shall be subject to all requirements of this Chapter 128, Zoning and Chapter 73, Land Subdivision. A notation shall be placed on the final subdivision plat denoting the lot or lots that are created under these provisions.
  - (3) Subdivision of land under the bona fide intrafamily transfer provision contained herein shall be subject to the following limitations:
    - (a) Parcels 7 acres to less than 12 acres cannot be subdivided into more than a total of two lots.
    - (b) Parcels 12 acres to less than 60 acres cannot be subdivided into more than a total of three lots.
  - (4) A lot created pursuant to these provisions may not be subsequently conveyed to any person except as provided herein:
    - (a) Where the conveyance is to a member of the owner's immediate family.
    - (b) Where the conveyance of the lot is as part of a default on a mortgage or deed of trust.
  - (5) Lots created pursuant to these provisions shall not be created for purposes of ultimate commercial sale. In addition, any lot created under this section may not be transferred or sold to a third party that is not a member of the owner's immediate family or a holder of a mortgage or deed of trust on the property, unless and until the Planning Commission has determined that the following can be conclusively proved:
    - (a) A change in circumstances has occurred since the original transfer was made that is not inconsistent with this section and that warrants an exception; or

- (b) Other circumstances necessary to maintain land areas to support protective uses of agriculture, forestry, open space, and natural habitats in RCA's warrant an exception.
- (6) Deeds of transfer shall include the provisions contained in Subsection (e) above as covenants. Such covenants shall prevent the subsequent transfer or sale of a lot or lots created pursuant to the intra-family transfer provisions contained herein to a third party, not a member of the owner's immediate family or a holder of a mortgage or deed of trust on the property, except as provided in Subsection E(5) above.

**§ 128-34. Buffer requirements.**

- A. Where a tract of land bordering tidal water, tidal wetlands, or tributary streams in the Critical Area is proposed for development or redevelopment, a Buffer of at least 100 feet shall be established in natural vegetation (but may include areas of the Buffer which are planted in vegetation where necessary to protect, stabilize, or enhance the shoreline). No development including septic systems, impervious surfaces, parking areas, roads, or structures, are permitted in the Buffer. However, approved development or expansion of water-dependent facilities, as provided in § 128-37, may be permitted.
- B. The Buffer shall be expanded to include contiguous sensitive areas on the parcel whose development or disturbance may impact streams, wetlands, or other aquatic environments including the following:
  - (1) Sensitive areas that have the following features: hydric soils and soils with hydric properties as designated by the Soil Conservation Service; highly erodible soils; and steep slopes.
  - (2) This expansion is required whenever new land development or other land disturbing activities, such as clearing natural vegetation for development, are proposed.
  - (3) The Buffer expansion, when required, shall meet the following standards:
    - (a) In the case of contiguous steep slopes of 15% or greater, the Buffer shall be expanded four feet for every 1% of slope or to the top of slope, whichever is greater in extent.
    - (b) The Buffer shall be expanded to the upland limit of adjacent hydric soils, soils with hydric properties, and highly erodible soils, within the Critical Area.
    - (c) The expanded Buffer must be shown on plans required for such development.
- C. No natural vegetation shall be removed nor shall the slope of the land surface be altered in the Buffer, including clearing of existing natural vegetation to create new agricultural lands, except as provided below. Limited cutting or clearing of trees and understory may be permitted under an approved buffer management plan for the following purposes:
  - (1) To provide access to permitted water-dependent uses;

- (2) To install or construct a permitted shore erosion protection device or measure, provided reestablishment of forest vegetation takes place following installation;
  - (3) For personal use if there is no impairment of water quality and habitat value or other functions of the Buffer provided that the trees and understory cut are replaced on an equal basis;
  - (4) To remove trees that may result in stream blockage, stream bank erosion or damage to structures;
  - (5) To prevent the spread of disease afflicting vegetation and noxious weeds and plants with the advice and guidance of the Departments of Agriculture and Natural Resources; or
- D. New agricultural lands shall not be created by clearing of existing natural vegetation in the Buffer. When agricultural use of lands within the area of the Buffer ceases and lands are proposed to be converted to other uses, the Buffer shall be established in forest vegetation.

**§ 128-35. Buffer Exemption Area provisions (residential).**

- A. Definition. Buffer Exemption Area(s) means an area officially mapped by the local jurisdiction and approved by the Critical Area Commission as a Buffer Exemption Area, where it has been sufficiently demonstrated that the existing pattern of residential, industrial, commercial, institutional or recreational development in the Critical Area prevents the Buffer from fulfilling its intended functions for water-quality protection and wildlife habitat conservation. (As specified in COMAR 27.01.09.01B)
- B. General policy. The provisions herein are intended to accommodate limited use of shoreline areas in certain situations of single-family detached residential development while protecting water quality and wildlife habitat to the greatest extent possible.
- C. Applicability. The following criteria applies to new development or redevelopment on single-family detached residential properties and only applies to lots of record at the time of original program approval.
- D. Standards.
  - (1) New development or redevelopment activities, including structures, roads, parking areas and other impervious surfaces or septic systems will not be permitted in the Buffer unless the applicant can demonstrate that there is no feasible alternative.
  - (2) New development or redevelopment shall minimize the shoreward extent of intrusion into the Buffer. New development and redevelopment shall not be located closer to the water (or the edge of tidal wetlands) than principal structures on adjacent properties or the local setback for the zoning district, whichever is greater. In no case shall new development or redevelopment be located less than 25 feet from the water (or the edge of the tidal wetlands).
  - (3) Existing principal or accessory structures in the Buffer may be replaced in the same location. Any increase in impervious area within the Buffer shall comply fully with the requirements of this policy.

- (4) New accessory structures may be permitted in the Buffer in accordance with the following setback requirements:
  - (a) New accessory structures may be located closer to the water or edge of tidal wetlands than the dwelling only if there are no other locations for the accessory structure.
  - (b) The area of the accessory structures within the Buffer shall be minimized and the cumulative total area of all new and existing accessory structures on the property shall not exceed 500 square feet within 50 feet of the water and 1,000 square feet total.
  - (c) In no case shall new accessory structures be located less than 25 feet from the water (or edge of tidal wetlands).
- (5) Variances to local setback requirements should be considered before additional intrusion into the Buffer.
- (6) Development may not impact any HPAs other than the Buffer, including nontidal wetlands, other state or federal permits notwithstanding.
- (7) No natural vegetation may be removed in the Buffer except that required by the proposed construction. The applicant will be required to maintain any other existing natural vegetation in the Buffer.
- (8) BEA designation shall not be used to facilitate the filling of tidal wetlands that are contiguous to the Buffer to create additional buildable land for new development or redevelopment.
- (9) Any development in the Buffer exempt area requires mitigation, in the form of plantings, offsets, or fees-in-lieu.
- (10) Any required reforestation/mitigation/offset areas must be designated under a development agreement or other instrument and recorded among the land records of the jurisdiction.

E. Mitigation. Mitigation measures shall be implemented in the following order of preference:

- (1) Natural vegetation of an area twice the extent of the footprint of the development activity within the one-hundred-foot Buffer shall be planted on site in the Buffer or other location as may be determined by the local jurisdiction. If it is not possible to carry out offsets or other mitigation within the critical area, any plantings or other habitat/water quality improvements should occur within the affected watershed.
- (2) Applicants who cannot comply with the planting requirement may use offsets to meet the mitigation requirement. Offsets may include the removal of an equivalent area of impervious surfaces in the Buffer, the construction of best management practices for stormwater, wetland creation or restoration, or other measures that improve water quality or habitat.
- (3) Applicants who cannot comply with either the planting or offset requirements in Subsection E (1) or (2) above are required to pay into a fee-in-lieu program

administered by the local jurisdiction. A jurisdiction shall establish rates that will generate adequate funds to carry out planting or offset programs. Any fees-in-lieu collected under these provisions shall be placed in an account that will assure their use only for projects within the critical area for the benefit of wildlife habitat and water quality improvement. The status of these funds must be reported in the jurisdictions quarterly reports.

- (4) Alternative provisions for meeting the mitigation requirements may be proposed by a local jurisdiction and approved by the Critical Area Commission.

F. Notification requirements.

- (1) The local jurisdiction must make written findings documenting that all the criteria in this section are met including that the disturbance to the Buffer is the least intrusion necessary. These findings must be available to the Commission upon request.
- (2) The reporting of development activity carried out under this provision must be included in the jurisdiction's quarterly reports.

G. Requirements for mapping new BEAs.

- (1) Only grandfathered lots are eligible for mapping as a BEA by the Town.
- (2) For each BEA, the lots that comprise the BEA shall contain a buffer which is, at the time of the proposal, significantly impacted by development activities that existed at the time of program adoption and that prevent the Buffer from fulfilling its functions. Developed parcels or lots shall contain a buffer intrusion, at the time of proposal, caused by the existing principal structures (excluding utilities or septic systems). Undeveloped or vacant residential parcels or lots (i.e., infill) may be designated as a BEA if development within the Buffer cannot be avoided based on the size of the parcel or lot, area of the parcel or lot within the Buffer, or the surrounding pattern of development.
- (3) Any proposal by a jurisdiction for designation of an area as a BEA shall include, at a minimum, the jurisdiction's written findings of and supporting reasons which demonstrate the degree to which the proposed BEA does not perform each of the following buffer functions in Subsection G(3)(a) through (e):
  - (a) Provide for the removal or reduction of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the bay and its tributaries;
  - (b) Minimize the adverse effects of human activities on wetlands, shorelines, stream banks, and aquatic resources;
  - (c) Maintain an area of transitional habitat between aquatic and upland communities;
  - (d) Maintain the natural environment of streams; and
  - (e) Protect riparian wildlife habitat.

**§ 128-36. Development and land use regulations.**

- A. Except as provided below, uses, accessory uses, and special exception uses shall be those uses permitted within the applicable underlying base zoning district as shown on the Official Zoning Maps.
- B. Intensification or expansion of existing industrial, commercial, and institutional facilities and uses may, but not necessarily shall, be permitted in the RCA. A variance, in accordance with § 128-163K, is required if such intensification or expansion involves a use which does not conform to provisions of the Denton Critical Area Program.
- C. Certain new development, or redevelopment, activities or facilities, because of their intrinsic nature, or because of their high potential for adverse impact on plant and wildlife habitats and water quality, may not be permitted in the Critical Area except in Intensely Developed Areas, and only after the activity or facility has demonstrated to all appropriate agencies that there will be a net improvement in water quality to the adjacent body of water. These activities include the following:
  - (1) Non-maritime industry;
  - (2) Transportation and utility transmission facilities, except those necessary to serve permitted uses, or where regional or interstate facilities must cross tidal waters (utility transmission facilities do not include power plants); or
  - (3) Permanent sludge-handling storage and disposal facilities, other than those associated with wastewater treatment facilities. However, agricultural or horticultural use of sludge under appropriate approvals when applied by an approved method at approved application rates may be permitted in the Critical Area, except in the one-hundred-foot Buffer.
- D. Certain new development activities or facilities, or the expansion of certain existing facilities, because of their intrinsic nature, or because of their potential for adversely affecting habitat and water quality, may not be permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality or wastewater management problem. These include:
  - (1) Solid or hazardous waste collection or disposal facilities including transfer stations but excluding dumpsters and trash receptacles; or
  - (2) Sanitary landfills.
- E. The following uses are prohibited:
  - (1) New commercial or related maritime facilities in the Buffer within Resource Conservation Areas (RCA's);
  - (2) New industrial and maritime industrial uses in the Buffer in Limited Development Areas (LDA's) and Resource Conservation Areas (RCA's).
- F. Commercial timber harvesting activities or other cutting or clearing of forested land are permitted in the Critical Area provided such activities are conducted in accordance with all standards established in the Town of Denton Critical Area Program and an approved timber harvesting plan.

- G. Agriculture is permitted in the Critical Area provided all agricultural activities and land management practices are conducted in accordance with the standards established in the Town of Denton Critical Area Program.
- H. All development, alteration, or use of any land for residential, commercial, industrial, or institutional purposes, or agricultural, fishery or forestry activities in the Critical Area shall only be done in compliance with the Habitat Protection Program of the Town of Denton Critical Area Program and this Chapter 128, Zoning.

**§ 128-37. Water-dependent facility requirements.**

- A. Proposed new or expanded water-dependent facilities in the IDA and LDA shall demonstrate the following:
  - (1) They are water-dependent;
  - (2) They meet a recognized private right or public need;
  - (3) That the adverse impacts on water quality and fish, plant and wildlife habitat are minimized;
  - (4) That, insofar as possible, non-water-dependent uses or activities are located outside of the Buffer; and
  - (5) That they meet the requirements of the Town of Denton Critical Area Program and this Chapter 128, Zoning.
- B. Buildings, structures, and parking areas are prohibited within the Buffer except those that meet the standards above.
- C. Where community piers are permitted, the number of slips or piers shall be the lesser of Subsection C(1) or (2) below:
  - (1) One slip for each 50 feet of shoreline in the subdivision in Intensely Developed Area (IDA's) and Limited Development Areas (LDA's) and one slip per each 300 feet of shoreline in the subdivision in the Resource Conservation Areas (RCA's);  
or
  - (2) A ratio of slips or piers to platted lots or dwellings within the subdivision in the Critical Area District according to the following table:

<b>Platted Lots or Dwellings in the Critical Area</b>	<b>Slips Non-Commercial</b>
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Up to 15	1 for each lot
16 - 40	15 or 75%, whichever is greater
41 - 100	30 or 50%, whichever is greater
101 - 300	50 or 25%, whichever is greater
Over 300	75 or 15%, whichever is greater

- (3) The Board of Appeals may grant a variance from the provisions of this section in accordance with Article XIX et seq.
- (4) Where community slips or community piers are permitted the following shall apply:
  - (a) These facilities may not offer food, fuel, or other goods and services for sale and shall provide adequate and clean sanitary facilities;
  - (b) These facilities are community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision;
  - (c) Adverse effects on water quality and fish plant and wildlife habitat are minimized;
  - (d) Insofar as possible, non-water-dependent structures or operations associated with water-dependent projects or activities are located outside of the Buffer;
  - (e) Disturbance to the Buffer is the minimum necessary to provide a single point of access to the facilities; and
  - (f) If community piers or slips are provided as part of the new development, private piers in the development are not allowed.
- (5) Public community beaches and other public and community water-oriented recreation and education or education areas including, but not limited to, publicly owned boat launching and docking facilities and fishing piers may be permitted in the Buffer in Intensely Developed Areas (IDA). These facilities may be permitted within the Buffer in Limited Development Area (LDA) and Resource Conservation Areas (RCA), provided that:
  - (a) Adequate sanitary facilities exist;

- (b) Service facilities are, to the extent possible, located outside the Buffer;
  - (c) Permeable surfaces are used to the extent practicable, if no degradation to groundwater would result;
  - (d) Disturbance to natural vegetation is minimized; and
  - (e) Areas for passive recreation, such as nature study, and hunting and trapping, and for education, may be permitted in the Buffer within Resource Conservation Areas, if service facilities for these uses are located outside the Buffer.
- (6) Water-dependent research facilities or activities operated by state, federal or local agencies, or educational institutions, may be permitted in the Buffer, if non-water-dependent structures and facilities associated with the project are, to the extent possible, located outside of the Buffer.
  - (7) New, expanded, or redeveloped industrial or port related facilities and the replacement of these facilities may be permitted only in those portions of intensely developed areas located in a BEA.
- D. No structure connected to the shoreline, such as a dock, pier, etc., shall extend outward from the mean high-water line from where the structure is connected to the shoreline, more than 25% of the distance to the mean high-water line on the opposite shore, or more than 300 feet, whichever is the lesser distance. Notwithstanding this provision, no dock or pier shall extend to within the boundaries of any defined navigation channel established by a state or federal agency.
- E. New commercial marinas are prohibited in Resource Conservation Areas (RCA). Expansion of existing commercial marina is permitted in RCAs only if it is sufficiently demonstrated that expansion will not adversely affect water quality and that it will result in an overall net improvement in water quality at or leaving the site of the marina.
- F. Structures on piers, including boathouses, shall not be permitted.
- G. Applications for new and expanded water-dependent facilities shall address the following environmental standards:
- (1) That the activities will not significantly alter existing water circulation patterns or salinity regimes;
  - (2) That the water body upon which these activities are proposed has adequate flushing characteristics at the site;
  - (3) That disturbance to wetlands, submerged aquatic plant beds, or other areas of important aquatic habitats will be minimized;
  - (4) That adverse impacts to water quality that may occur as a result of these activities, such as nonpoint source runoff, sewerage discharge from land activities or vessels, or from boat cleaning and maintenance operations is minimized;
  - (5) That shellfish beds will not be disturbed or be made subject to discharge that will render them unsuitable for harvesting;

- (6) That dredging shall be conducted in a manner, at such time of the year, and using a method, which causes the least disturbance to water quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the Critical Area;
- (7) That dredged spoil, except for clean sand for beach nourishment, will not be placed within the Buffer or elsewhere in that portion of the Critical Area which has been designated as a Habitat Protection Area;
- (8) That interference with the natural transport of sand will be minimized;
- (9) That no disturbances will occur to aquatic areas of historic waterfowl staging and concentration areas.

**§ 128-38. Development standards in Intensely Developed Areas (IDAs).**

All uses in the IDA shall be subject to the following development standards and/or conditions in addition to those established in other sections of this Chapter 128, Zoning. Development and redevelopment in those areas designated Intensely Developed Areas (IDA's) shall be subject to the following standards:

- A. The following uses may only be permitted in an IDA and only after the applicant has demonstrated that the activity will create a net improvement in water quality to the adjacent body of water.
  - (1) Non-maritime industry;
  - (2) Transportation facilities and utility transmission facilities, except those necessary to serve permitted uses or where regional or interstate facilities must cross tidal waters (utility transmission facilities do not include power plants); and
  - (3) Permanent sludge-storage, handling and disposal facilities associated with wastewater treatment facilities.
- B. All sites for which development or redevelopment activities are proposed, and which require subdivision approval or site plan review and approval, shall identify environmental or natural features on that portion of the site within the Critical Area.
- C. Development and redevelopment shall be subject to the Buffer and Habitat Protection Criteria prescribed in COMAR 27.01.09 and those habitat protection regulations and guidelines in the Town of Denton Critical Area Program and this Chapter 128, Zoning. This information shall be made part of the environmental impact assessment report as part of the application for site plan review.
- D. Development and redevelopment shall be required to identify stormwater management practices appropriate to site development that minimize adverse impacts to water quality caused by stormwater and which achieve the following standards:
  - (1) Development and redevelopment proposals shall demonstrate that the best management practices for stormwater that result in reduction of 10% of predevelopment pollutant loadings.
  - (2) If the required improvement of 10% will not be achieved, then offsets must be provided as approved by the Town. Offsets may be provided either on or off site

as determined by the Town, provided that water quality benefits are equivalent, that the benefits are obtained within the same watershed, and that the benefits can be determined through the use of modeling, monitoring, or other computation of mitigation measures. Offsets must first be examined for use on site. Secondly, if it can be demonstrated that due to site constraints offsets cannot be achieved on site, then off-site mitigation, in the Critical Area, shall be used. Lastly, if neither on-site nor off-site mitigation cannot be achieved then a fee-in-lieu, paid to a dedicated Town Stormwater Fund, may be approved.

- (3) Residential redevelopment shall consult CBCA guidance for pollutant reduction of 10%.
- E. Development and redevelopment projects shall delineate those site areas not covered by impervious surfaces, and that are to be maintained or established in vegetation. Where vegetation is not proposed, the developer shall demonstrate why plantings for such portions of the site are impracticable. The types of planting and vegetation proposed shall be in accordance with guidelines established in § 128-39 below.
  - F. Proposed development shall be done so as to protect the hydrologic regime and water quality of identified nontidal wetlands by providing that development activities and other land disturbances in the drainage area of the wetlands will minimize alterations to the surface or subsurface flow of water into and from the wetland and not cause impairment of water quality or the plant and wildlife and habitat value of the wetland.
  - G. Development and redevelopment projects shall install vegetative shore erosion control measures (where feasible and appropriate) on portions of the site proposed for development and near such portions if the shore erosion threatens the proposed development portion. Where control of shore erosion cannot be accomplished by vegetative measures and structural measures are required, proposed development must either:
    - (1) Construct appropriate structural measures to control shoreline erosion on portions of the site proposed for development and near such portions if the shore erosion threatens the proposed development portion; or
    - (2) Set back the development behind the Buffer based on the annual shore erosion rate. To determine the setback, published data on annual erosion rates for the site must be used. (If two or more published rates are available, the highest rate must be used.) If published data are not available, either the annual rate is assumed to be two feet per year or the developer shall do a technical study to determine the annual erosion rate. The setback shall be the annual erosion rate times 25 years; and
    - (3) In all cases, conserve and protect forest and developed woodlands to the extent possible.

**§ 128-39. Development standards in Limited Development Areas (LDAs).**

Development and redevelopment in an area designated Limited Development Areas shall be subject to the following standards:

- A. All sites for which development and redevelopment activities are proposed, and which require subdivision approval or site plan review and approval, shall identify environmental or natural features on that portion of site within the Critical Area. This information shall be made part of the environmental impact assessment report as part of the application for site plan review.
- B. Site development shall be designed to assure that features or resources identified as Habitat Protection Areas are afforded protection as prescribed in COMAR 27.01.09 and the Habitat Protection Element of the Town of Denton Critical Area Program and this Chapter 128, Zoning.
- C. Roads, bridges and utilities serving development that must cross a Habitat Protection Area shall be located, designed, constructed, and maintained so as to provide maximum erosion protection and minimize negative impacts to wildlife, aquatic life and their habitats and maintain hydrologic processes and water quality. Roads, bridges or utilities may not be located in any Buffer or HPA unless no alternative exists.
- D. All development activities which cross, or are located adjacent to, streams in the Critical Area shall:
  - (1) Be designed in a manner to reduce increases in flood frequency and severity;
  - (2) Provide for the retention of natural streambed substrate;
  - (3) Minimize adverse impacts to water quality and stormwater runoff; and
  - (4) Retain the existing tree canopy so as to maintain stream temperatures in the normal range of variation.
- E. Development activities shall incorporate a wildlife corridor system on the existing site and maintain continuity with those on adjacent sites. When wildlife corridors exist or are proposed they shall include any existing Habitat Protection Areas and connect large forested areas on or adjacent to the site.
- F. Forest and developed woodlands, as defined by the Denton Critical Area Program, shall be created or protected in accordance with the following:
  - (1) When less than 15% of the site is in forest cover, at least 15% of the gross site area shall be afforested. The location of the afforested area should be designed to reinforce protection to habitats on the site or to provide connections between forested areas when they are present on adjacent sites;
  - (2) Clearing of forest or developed woodland should be minimized. When forests or developed woodlands exist on the site and the proposed development requires the cutting or clearing of trees, areas proposed for clearing shall be identified on the proposed development plan. A grading permit shall be obtained by the applicant prior to any clearing or cutting associated with proposed development. In addition, cutting or clearing associated with development shall be subject to the following limits and replacement conditions:
    - (a) All forests cleared or developed shall be replaced on not less than an equal area basis on the site or on an alternative site approved by the Planning Commission or the Director of Planning.

- (b) No more than 20% of the forest or developed woodland within the site proposed for development may be removed (except as provided in Subsection F (2) (c) below). The remaining 80% shall be maintained as forest cover through the use of appropriate instruments (e.g., recorded restrictive covenants).
  - (c) The clearing of forest or developed woodlands of up to 20% shall be replaced on an area basis of one to one. A developer may propose clearing up to 30% of the forest or developed woodland on a site, provided an area 1.5 times the entire area cleared shall be planted in forest cover;
  - (d) If more than 30% of the forest on a site is cleared, the forest is required to be replanted at three times the total extent of the cleared forest;
  - (e) If the cutting of forests occurs before a grading permit is obtained, the forest is required to be replanted according to the requirement in Subsection F (2) (d) above.
- (3) A planting plan and surety shall be provided to assure forest replacement as required in accordance with § 128-41 below.
  - (4) The forests and developed woodlands required to be retained or created through afforestation shall be maintained through restrictive covenants, easements, or similar instruments in a form approved by the Town Attorney.
- G. Development on slopes greater than 15% shall be prohibited unless such development is demonstrated to be the only effective way to maintain or improve slope stability.
- H. Impervious surfaces shall be limited to 15% of the gross site area except as follows:
- (1) If a parcel or lot one-half acre or less in size existed on or before December 1, 1985, then man-made impervious surfaces are limited to 25% of the parcel or lot.
  - (2) For a lot or parcel one-half acre or less in size, the Planning Commission may allow an applicant to exceed the impervious surface limit as prescribed herein provided:
    - (a) Impervious surfaces on the property have been minimized;
    - (b) Water quality impacts associated with runoff from the impervious surface have been minimized or best management practices have been implemented;
    - (c) On-site mitigation or fees-in-lieu are used to offset potential adverse impacts; and
    - (d) The total impervious surface does not exceed the 25% limit by more than 25% or 500 square feet, whichever is greater.
  - (3) For a lot or parcel that existed prior to December 1, 1985, and is greater than 1/2 acre but less than one acre, the Planning Commission may allow an applicant to exceed the impervious surface limits as prescribed herein provided:
    - (a) Impervious surfaces on the property have been minimized;

- (b) Water quality impacts associated with runoff from the impervious surface have been minimized or best management practices have been implemented;
  - (c) On-site mitigation or fees-in-lieu are used to offset potential adverse impacts; and
  - (d) The total impervious surface permitted does not exceed 5,445 square feet.
- (4) The allowances described in Subsection H(1), (2) and (3) above are summarized in the following table:

<b>Lot/Parcel Size (square feet)</b>	<b>Impervious Surface Limit</b>
0 to 8,000	25% of parcel + 500 sf
8,001 to 21,780	31.25% of parcel
21,781 to 36,300	5,445 sf
36,301 to 43,560	15% of parcel

- (5) If the provisions above cannot be complied with, the applicant may apply for a variance from the Board of Appeals.
- I. Proposed development and redevelopment activities shall be done so as to protect the hydrologic regime and water quality of identified nontidal wetlands by providing that development activities and other land disturbances in the drainage area of the wetlands will minimize alterations to the surface or subsurface flow of water into and from the wetland and not cause impairment of water quality or the plant and wildlife and habitat value of the wetland.
  - J. Development and redevelopment projects shall install vegetative shore erosion control measures (where feasible and appropriate) on portions of the site proposed for development and near such portions if the shore erosion threatens the proposed development portion. Where control of shore erosion cannot be accomplished by vegetative measures and structural measures are required, proposed development must either:
    - (1) Construct appropriate structural measures to control shoreline erosion on portions of the site proposed for development and near such portions if the shore erosion threatens the proposed development portion; or
    - (2) Set back the development behind the Buffer based on the annual shore erosion rate. To determine the setback, published data on annual erosion rates for the site must be used. (If two or more published rates are available, the highest rate must be used). If published data are not available, either the annual rate is assumed to

be two feet per year or the developer shall do a technical study to determine the annual erosion rate. The setback shall be the annual erosion rate times 25 years; and

- (3) In all cases, conserve and protect forest and developed woodlands to the extent possible.
- K. A sediment and erosion control plan consistent with the requirements of Natural Resources Article, §§ 8-1101 through 8-1108, and Environmental Article, §§ 4-103 through 4-108 and 4-116, Annotated Code of Maryland, and Chapter 49, Erosion and Sediment Control, shall be prepared and implemented.
- L. Development and redevelopment shall follow all applicable state water quality and quantity requirements.

**§ 128-40. Development standards in Resource Conservation Areas (RCAs).**

- A. Development and redevelopment in Resource Conservation Areas (RCAs) shall be subject to the same development standards applicable to the Limited Development Areas (LDAs).
- B. The following shall apply to commercial, institutional and industrial facilities in the Resource Conservation Area:
  - (1) Existing industrial, institutional and commercial facilities, including those directly supporting agriculture, forestry, aquaculture, or residential development (not exceeding the density specified in § 128-33128-33 shall be allowed to continue in RCAs subject to the provisions of Article XVIII and CBCA policy concerning uses in the RCA.
  - (2) Additional land in the RCA may not be zoned for industrial, institutional or commercial development.
  - (3) Commercial, industrial or institutional uses in existing structures may only be permitted as provided for in Article XVIII and are subject to current CBCA policy concerning uses in the RCA.
  - (4) Intensification or expansion of existing industrial, commercial, and institutional facilities may only be permitted as provided in Article XVIII.
  - (5) Certain nonresidential uses may be permitted in Resource Conservation Areas if it is first determined by the Planning Commission that the proposed use is one of the following:
    - (a) A home occupation.
    - (b) A resource utilization use and/or activity including agriculture, forestry, and aquaculture provided such use or uses comply with the applicable provisions of the Denton Critical Area Program, this Chapter 128, Zoning, and other applicable regulations.
    - (c) A golf course, but not including main buildings and/or structures, e.g., clubhouse, pro-shop, etc.
    - (d) A cemetery that is an accessory use to an existing church.

- (e) A bed-and-breakfast facility located in an existing grandfathered residential structure, but not a hotel or motel.
  - (f) The proposed use is a water-dependent research facility or activity operated by state, federal or local agencies, educational institutions, or nonprofit organizations provided non-water-dependent facilities or structures are, to the extent possible, located outside of the Buffer.
  - (g) The proposed use is a commercial water-dependent fisheries facility including but not limited to, structures for crab shedding, fish off-loading docks, shellfish culture operations, and shore-based facilities necessary for aquaculture operations and fisheries activities. These uses may be permitted in the Buffer.
  - (h) The proposed use is a public beach or other public water-oriented recreation or education use or activity including, but not limited to publicly owned boat launching and docking facilities and fishing piers. These uses may be permitted in the Buffer.
  - (i) The proposed use is a community marina or other noncommercial boat docking and storage facility.
  - (j) The proposed use is an essential service as defined in Article II of this Chapter 128, Zoning.
  - (k) The proposed use is a public utility structure or service other than essential services as defined in Article II of this Chapter 128, Zoning.
  - (l) The proposed use is an emergency service as defined in Article II of this Chapter 128, Zoning.
  - (m) The proposed use must be allowed, by-right, under state law in a zoning district that permits detached single-family dwellings, i.e., homes emphasizing special services, treatment and care such as group homes of less than nine people and family day care.
- (6) Local government projects may be permitted in Resource Conservation Areas without obtaining growth allocation if the Town Council certifies that the proposed project is consistent with the Denton Critical Area Program and is a project of "local significance." A project of local significance is defined as a public project of minor scale which causes environmental or economic consequences that are largely confined to the immediate area of the parcel of land on which the development is located, does not substantially affect the Denton Critical Area Program, and is not considered a major development by the Critical Area Commission.

**§ 128-41. Woodland reforestation and afforestation standards.**

Where reforestation or afforestation is required, including as mitigation or offset, the following minimum standards within the Critical Area District shall be used:

- A. The replacement or establishment of forests or developed woodlands shall assure a diversified plant community, but may include other types of tree plantings. Diverse forest plantings shall include:
  - (1) A canopy layer, an understory layer, and a shrub layer; and
  - (2) For each acre of land where woodlands must be replaced or established, plantings shall consist of trees and/or wildlife shrub species spaced approximately at ten-foot intervals in rows 10 feet apart, or other suitable spacing on a site-by-site basis.
  - (3) Offset and mitigation shall be calculated at the rate of 100 square feet per tree.
- B. A planting plan shall be submitted by the developer to the Zoning Official for approval, and must demonstrate compliance with the minimum standards for reforestation and afforestation specified above. It is required that the planting plan shall be prepared by a licensed forester, landscape architect, or an experienced landscape designer.
- C. The planting plan must be prepared in coordination with the approved site plan or preliminary and final subdivision plat and shall show:
  - (1) The site plan, building outlines (remaining and proposed), walls, fences, parking spaces, loading spaces, driveways, walks, storage areas, public rights-of-way, easements and the general location of structures and uses of abutting properties;
  - (2) Existing and proposed grades;
  - (3) Existing vegetative cover to be retained, and the location, general size and type of such vegetation;
  - (4) The method for protecting plant materials during and after construction;
  - (5) A plant schedule and plan, listing plants to be used (giving their botanical and common names), size at time of planting, and quantity of each;
  - (6) An indication of whether plants are balled and burlapped, container grown or bare root; and
  - (7) An indication of the spacing and location of all proposed trees, shrubs and ground covers.
- D. Plant materials and planting schedule:
  - (1) Although plant species should be chosen from the recommended plant list available from the Department of Planning or Maryland Department of Natural Resources, plant species that vary from this list may be substituted subject to approval by the Director of Planning. Plants for afforestation or reforestation shall be suitable with regard to their eventual size and spread, susceptibility to diseases and pests, and adaptability to existing soil and climate conditions. All Buffer plantings shall be native species.
  - (2) All planting should be done in the months of spring of each year. For the first two years, steps should be taken to control competing vegetation.

- E. The planting plan shall be accompanied by an estimate of the installation cost for all afforestation and reforestation. Upon approval of the plan and cost estimate, the developer or owner shall enter into a landscape agreement with the Town to provide plantings as required. The landscape agreement shall be in form and substance as approved by the Director of Planning and shall be accompanied by a performance bond or other approved surety executed by the owner or developer in the amount of 100% of proposed plant materials, labor and maintenance costs.
- (1) If all afforestation or reforestation is not completed within two years after the first spring planting date following recordation, or if the requirements set forth in the approved planting plan are not met, the surety shall be forfeited (or if a bond or surety has not been posted, payment in full to the Town shall be ordered). The funds so received shall be used by the Town to defray the cost of providing the approved Buffer afforestation or reforestation for the site.
  - (2) If the foregoing costs exceed the amount of the deposit bond or other approved surety, the excess shall be paid by the developer.
  - (3) All bonds or other forms of surety shall be in a form acceptable to and approved by the Director of Planning.
  - (4) All security posted will be held for a period of two years after installation of the planting, to assure the proper maintenance and growth. Failure to maintain the planting or to replace the dead portions thereof shall result in a forfeiture of the surety posted to the extent necessary to replace the dead plant materials.
  - (5) The Director of Planning or its designee may from time to time release those portions of the surety which may be appropriate.
  - (6) Where existing vegetation is to be used to meet the requirements contained herein, the surety requirement may be modified appropriately. However, to the extent that existing vegetation is or will be inadequate to meet the standards set herein; a planting plan meeting all of the requirements herein must be submitted.
  - (7) All plantings shall be inspected by Town upon notification by the developer or owner, and shall be approved according to the following standards:
    - (a) The planting shall adhere to the approved plan. Substitutions or revisions may be made with the approval of the Director of Planning.
    - (b) All plants shall be protected from vehicular encroachment by wheelstops, curbs, or other barriers unless distance provides adequate protection.
    - (c) No planting shall result in vegetative growth exceeding 36 inches in height, within 30 feet of any street intersection or otherwise obstruct sight lines.

**§ 128-42. Surfacing mining uses in the Critical Area.**

All areas having the potential for surface mining within the Critical Area are designated as unsuitable for future sand and gravel, mining or quarry operations and such uses are prohibited:

- A. Where important natural resources such as endangered/threatened species, areas of scientific value, or where rare assemblages of species occur;
- B. Where highly erodible soils exist;
- C. Where the use of renewable resource lands would result in the substantial loss of long range (25 years or more) productivity of forest or agriculture or would result in degradation of water quality or loss of valued habitat;
- D. Where mining operations would fall within the one-hundred-foot Buffer between mean high water of tidal waters and wetlands or the edge of streams; or
- E. Where surface mining operations would be incompatible with existing residential, commercial or recreational land use.

**§ 128-42.1. Notification to Critical Area Commission of project approvals and denials.**

- A. Within 10 working days after a final, nonappealable decision of the Director of Planning approving or denying a project where a factor in the approval or denial was a provision of the Town's Critical Area Program, the Director of Planning shall notify the Critical Area Commission of his decision by furnishing the Commission with a copy of the application and any permit that may have been issued or, in the case of a denial, the record of his denial of the application.
- B. Within 10 working days of the date that a written decision of the Denton Board of Zoning Appeals shall have been issued concerning a project where a factor of the Board's decision was a provision of the Town's Critical Area Program, the Director of Planning shall notify the Critical Area Commission of the Board's decision.
- C. Within 10 working days of the date that a decision of the Denton Board of Zoning Appeals shall have been appealed to the Circuit Court, where a factor of the Board's decision was a provision of the Town's Critical Area Program, the Director Planning shall notify the Critical Area Commission.

## ARTICLE IX.

### Special District: Historic Overlay Zone

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

#### **§ 128-43. Purpose.**

The purpose of the Historic Overlay Zone is to:

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

#### **§ 128-44. Definitions.**

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

**APPURTENANCES AND ENVIRONMENTAL SETTINGS** - Includes paved or unpaved walkways or driveways, trees, landscaping, rocks, and open space located within the existing or proposed Historic Overlay Zone.

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

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

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

could result in permanent damage, injury, or loss of or loss to foundations, exterior walls, roofs, chimneys, doors, or windows.

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

**HISTORIC COMMISSION** - The Denton Historic and Architectural Review Commission

**HISTORIC COMMISSION GUIDELINES** - The Denton Historic and Architectural Review Commission Guidelines

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

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

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

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

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

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

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

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

**§ 128-45. Statutory authority.**

Section 8.02, Annotated Code of Maryland gives the Town of Denton the power to designate historic landmarks, and to establish, change, lay out, and define zones which are deemed to be of historic or architectural value, following the procedures as per this article of the Chapter 128, Zoning.

**§ 128-46. Structural and site standards specifications.**

- A. The Historic Overlay Zone is a special district to be superimposed on other districts contained in these regulations and is to be so designated by a special symbol for its boundaries on the Official Zoning Map. The uses, housing types, minimum lot requirements, minimum yard requirements, maximum height, and accessory uses and accessory signs shall be determined by the regulations applicable to the underlying zone over which the Historic Overlay Zone is superimposed except as the underlying zone regulations may be modified by the applications in the Historic Overlay Zone.
- B. The Historic Commission Guidelines, adopted by Ordinance No. 472 on February 7, 2005, or as amended thereafter, shall apply to, and shall be considered during the review of all plans, site plans, subdivision plans, work permits, or other applications for new development, new construction involving structural alterations, new structures, and all applications for special exceptions or variances on all land within the Historic Overlay Zone. Where these guidelines conflict with any provision of this Chapter 128, Zoning or the Subdivision Ordinance, Chapter 73, Land Subdivision, or any other ordinance of the Town of Denton, these guidelines shall control.

**§ 128-47. Permitted uses.**

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

- A. Any use, accessory use, or sign permitted in the zoning district in which the premises is situated and upon which the Historic Overlay Zone is superimposed. The normal maintenance of a historic area or building, or the charging of admission fees for visitors, or the conduct of visitor tours, or centers or services within the Historic Overlay Zone shall not be considered as commercial uses.
- B. Any conditional use permitted in the zoning district in which the premises is located subject to the procedures and standards of this Chapter 128, Zoning for approval of conditional uses and subject in all cases to report by the Historic Commission in accordance with the purposes and standards of the Historic Overlay Zone.

- C. Any special exception or variance permitted in the zoning district in which the premises is located, subject to the procedures and standards of this Chapter 128, Zoning for approval of special exceptions and variances and subject to report by the Historic Commission and specific findings of the Board of Appeals regarding the purposes and standards of the Historic Overlay Zone; provided, however, that if said special exception or variance is of such a minor nature as to be exempted from review by the Board of Appeals by the terms of the regulation in the Historic Overlay Zone, then no such review or report shall be required.

**§ 128-48. Historic and Architectural Review Commission.**

- A. Creation of Historic Commission and membership. Pursuant to Article 66B, § 8.03 of the Annotated Code of Maryland, the Denton Town Council shall create and appoint members for a Historic Commission. The Historic Commission shall have a membership of five members, all of whom are qualified by special interest, knowledge, or training in such fields, but not limited to said fields, as history, architecture, archaeology, preservation, or urban design; and, of which two of the five shall have professional qualifications which shall be determined according to the guidelines set forth in "Procedures for State Certification of Local Government Historic Preservation Programs," as established by the Maryland Historical Trust in February 1985 in one or more of the said fields. In addition, four of the five members shall be residents of the Town. All members of the Historic Commission shall, to the extent possible, be selected to represent the geographical, social, economic, and cultural concerns of the residents of the Town.
- B. Term of membership. The members shall be appointed for terms of three years each except that, in making the initial appointments, some appointments shall be established for less than three years in order that, as these initial terms expire, all appointments shall be for three years and shall not expire at the same time. Specifically, the first Chairperson of the Historic Commission shall be appointed for a three-year term. Members of the Historic Commission are eligible for reappointment. Any vacancy on the Historic Commission shall be filled by the appointing authority for the unexpired term of the particular position. Town authorities may consult private societies or agencies to request the names of possible members to fill vacancies on the Historic Commission.
- C. Removal for cause. A member may be removed for cause from the Historic Commission by a majority vote of the Town Council.
- D. Chairperson. The Historic Commission shall elect, by the 31st of January each year, a Chairperson who shall serve for one year. If the Historic Commission fails to elect a Chairperson by the 31st of January each year the Mayor will appoint a Chairperson.
- E. Compensation. The members of the Historic Commission shall serve without compensation but, they may be reimbursed for actual expenses incurred in performance of their duties, provided said expenses are permitted by the budget and approved by the Town Council.
- F. Gifts. The Historic Commission shall have the right to accept and use gifts for the exercise of its functions.

- G. Architectural easements. The Historic Commission may purchase or accept architectural easements in connection with structures located in or adjacent to the Historic Overlay Zone. Such easement shall grant to the Historic Commission, residents of the Historic Overlay Zones, and the general public the perpetual right to have the exterior appearance of any structure upon which it is applied retained in substantially the same character as when the easement took effect.
- H. Regulations, bylaws, and rules of procedure. The Historic Commission shall adopt its own rules and regulations for organization, conduct of meetings, and other transaction of business. The bylaws and rules of procedure adopted by the Historic Commission shall be available for public inspection.
- I. Guidelines. The Town Council shall adopt and amend Historic and Architectural Review Commission Guidelines which shall be considered by the Historic Commission when reviewing applications.
- J. Meetings. The Historic Commission shall hold such regular meetings which, in its discretion, are necessary to discharge its duties. At a minimum, the Historic Commission shall hold meetings every three months; however, if an application is filed, the Historic Commission shall hold a monthly public meeting to discuss said application. Said meetings shall be open to the public whereby any interested person or his representative is entitled to appear and be heard by the Historic Commission before it reaches a decision on any matter; and all decisions by the Historic Commission shall be made in a public forum. The Historic Commission shall keep an open record of its resolutions, proceedings, and actions which shall be kept available for public inspection during reasonable business hours. Applicants shall be given written notification of the decision of the Historic Commission.
- K. Staff. There may be appointed and/or assigned to the Historic Commission such employees, including personnel to record minutes of all meetings, and the Town Administrator shall make available to the Historic Commission such services and facilities of the Town, as are necessary or appropriate for the proper performance of duties of the Historic Commission. The Town Attorney shall serve as counsel and the Town staff shall serve as staff to the Historic Commission.

**§ 128-49. Designation of Historic Overlay Zones.**

- A. Designating Body. Historic Overlay Zones shall be designated by the Town Council in accordance with the procedures established by this Chapter 128, Zoning.
- B. Petition for designation or removal of designation. Petition for designation of a Historic Overlay Zone or removal of said designation may be initiated by the owner of the site or by that owner's agent, by the Historic Commission, or by any interested person, group, or organization.
- C. Criteria for designation. The following criteria are to be considered when making the determination to designate a resource eligible for classification as a Historic Overlay Zone or an area within a Historic Overlay Zone.
  - (1) Historic and cultural significance. The historic resource:

- (a) Has significant character, interest or value as part of the development, heritage, or cultural characteristics of the Town, county, state, or nation;
  - (b) Is the site of a historic event;
  - (c) Is a site that has yielded, or may be likely to yield, information important in prehistory or history;
  - (d) Is identified with a person or a group of persons who influenced society; or
  - (e) Exemplifies the cultural, economic, social, political, or historic heritage of the Town.
- (2) Architectural and design significance. The historic resource:
- (a) Embodies the distinctive characteristics of a type, period, style, or method of construction;
  - (b) Represents the work of a master craftsman, architect, or builder;
  - (c) Possesses high artistic values;
  - (d) Represents a significant and distinguishable entity whose components may lack individual distinction; or
  - (e) Represents an established and familiar visual feature of the Town, due to its singular physical characteristics or landscape.
- D. Should a Historic Overlay Zone or an area within a Historic Overlay Zone no longer meet the above criteria and the specific criteria for which it was originally designated, the Historic Overlay Zone designation may be removed by legislative action of the Town Council after receipt of a recommendation from the Historic Commission.
- E. Should a Historic Overlay Zone or an area within a Historic Overlay Zone have received Town authorized or administered preservation grants, loans, or special property tax incentives, the Town Council may require that those funds received through grants, loans, or tax incentives be reimbursed in full to the Town prior to the site being removed from the Historic Overlay Zone designation.

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

- A. Petitions for Historic Overlay Zone designation or removal of a Historic Overlay Zone designation shall be filed with the Department of Planning and Codes Administration. The petitions concerning Historic Overlay Zone designation shall include a completed Historic Overlay Zone Application form and additional information as required by the Historic Commission to enable the Historic Commission to make a well-informed decision. The application and all attachments shall be forwarded to the Chairperson of the Historic Commission within three days of the application filing date. The Historic Commission shall have 20 days to review the application after it has been discussed at a public meeting held by the Historic Commission before forwarding the Historic Overlay Zone application, attachments (if applicable), and Historic Commission recommendations to the Town Council.

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

**§ 128-51. Outside consultation permitted.**

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

**§ 128-52. Duties of Town Council.**

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

- (1) Schedule a public hearing with relation to the case by publishing a notice of the time and place of such hearing in a newspaper of general circulation in the Town at least 14 days in advance of said hearing.
- (2) Inform the affected property owner(s) via written notice to be postmarked at least 14 days in advance of the scheduled public hearing of the date, time, and place of said hearing.
- (3) Hold a public hearing at which parties in interest and citizens shall have an opportunity to be heard.
- (4) Prepare finding of facts based upon the criteria for designation listed in this section of Chapter 128, Zoning and upon the comments of owners of property within the proposed overlay district. It shall be the policy of the Town to carefully consider the impact of any proposed zoning, special exception use, permitted uses (such as, but not limited to, public utility buildings, and structures including radio and television broadcasting stations), utility distribution lines, public buildings and structures, public (state, county, or Town) roads and rights-of-way, or development upon officially designated Historic Overlay Zones and, to the greatest degree practical, avoid or minimize any adverse effects.
- (5) Upon finding that a proposed site meets the criteria of this Chapter 128, Zoning, and that such designation is in the general interest of the citizens of Denton, the Town Council may designate or remove the Historic Overlay Zone or an area within a Historic Overlay Zone and cause the site to be posted on or removed from the Official Zoning Map.
- (6) In the event of a denial of an application, the applicant shall receive a written notification of the reasons for such denial to be postmarked within five days of the Town Council decision.

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

A. The Historic Commission shall have the following powers and duties:

- (1) To maintain and update an inventory of historic resources within the Town.
- (2) To review applications for designation or removal of a Historic Overlay Zone or an area within a Historic Overlay Zone, and to forward recommendations to the Town Council, which will approve or disapprove the designation or removal of a Historic Overlay Zone or an area within a Historic Overlay Zone.
- (3) To review and process applications for historic area work permits.
- (4) To make recommendations to the Planning Commission on courses of action in the event of subdivision of land within a Historic Overlay Zone as it relates to the preservation of the historic resource, of the architectural setting, and of the environmental setting in which the resource is located.
- (5) To recommend courses of action to the Planning Commission in the event of subdivision of land containing an identified historic resource as it relates to the preservation of the historic resource, of the architectural setting, and of the environmental setting in which the resource is located.

- (6) To review any legislation and proposal affecting historic preservation and to make recommendation on said legislation and proposals to appropriate authorities.
- (7) To research Town historic resources and recommend applicable sites, areas, and structures to the Town Council for designation as a Historic Overlay Zone.
- (8) To serve as a clearinghouse for information on historic preservation for Town government, individuals, citizens' associations, historical societies, and local advisory committees; to provide information and educational materials for the public; and, to undertake activities to advance the goals of historic preservation in the Town of Denton.
- (9) To regularly inform the Maryland Historical Trust of addition or removal of a Historic Overlay Zone or an area within a Historic Overlay Zone and of new information or data found or researched regarding historic sites or structures in the Town.
- (10) To employ consultants or other temporary personnel, consistent with Town contract provisions, as deemed necessary to assist the Historic Commission in the accomplishment of its functions. Said consultants or other personnel shall be compensated as may be provided for in the Town budget.
- (11) To write or amend the Historic Commission guidelines for Town Council approval consideration.

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

- A. Before the construction, alteration, reconstruction, repair, moving, or demolition of any structure is made within a designated Historic Overlay Zone, for any proposed changes that would affect the exterior appearance of the structure, the individual(s), firm or corporation proposing to make the construction or change shall file with the Historic Commission a historic area certificate of approval application for permission to build, alter, repair, reconstruct, move, demolish, or make an addition. If the proposed changes require a Town building permit as determined by this Chapter 128, Zoning, a completed building permit shall accompany the historic area certificate of approval application to be filed with the Historic Commission. All proposed changes shall be consistent with the Historic Commission Guidelines.
- B. Emergency repair items and residential ADA items shall be approved by the Department of Planning and Codes Building Official.
- C. Every such certificate of approval application shall be referred to and considered by the Historic Commission and accepted or rejected by the Historic Commission. No building permit for any such change may be granted until the Historic Commission has acted thereon as hereinafter provided.
- D. Application to the Historic Commission is not required for ordinary maintenance as defined in § 128-44, Definitions.
- E. Specific items requiring historic area certificate of approval. A historic area certificate of approval shall be filed for the following specific items whether or not a building permit is required.

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

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

- A. In reviewing applications for certificates of approval and work permits filed under the provisions of § 128-54, Historic area certificate of approval, the Historic Commission shall review each application or permit for consistency with the Historic and Architectural Review Commission Guidelines. In addition to the Guidelines, the Historic Commission shall give consideration to:
- (1) The historic or architectural value and significance of the structures and its relationship to the historic value of the surrounding area;
  - (2) The relationship of the exterior architectural features of the structure to the remainder of the structure and to the surrounding area;

- (3) The general compatibility of exterior design, arrangement, texture and materials proposed to be used;
  - (4) The extent to which the building or structure would be harmonious with, or incongruous to, the environmental setting of a designated Historic Overlay Zone. It is not the intent of this Chapter 128, Zoning to discourage contemporary architectural expression, or to encourage the emulation of existing buildings or structures of historical architectural interest in specific detail. Harmony or incompatibility will be evaluated in terms of the appropriateness of materials, scale, size, height, and placement of new buildings in their relationship with existing structures; and
  - (5) Any other factors including aesthetic and environmental factors which the Historic Commission deems pertinent.
- B. Limitation of considerations. The Historic Commission normally shall consider only exterior features of a structure, but in cases where the owner voluntarily subjects the interior arrangement and materials to review by the Historic Commission; those interior features shall also be considered. The Historic Commission shall not disapprove a certificate of approval application except with respect to factors specified above. Furthermore, the Historic Commission will not limit new construction, alteration or repairs to any one architectural style of a given chronological period.
- C. Strictness and leniency in judgement of plans. The Historic Commission shall be strict in its judgment of plans affecting those structures designated as having significant historic or architectural value. The Historic Commission may be lenient in its judgment of plans of structures of little historic value or for plans involving new construction, unless such plans would seriously impair the historic or architectural value of the surrounding area.

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

- A. Applications for issuance of a historic area certificate of approval shall be filed with the Director of Planning. The historic area certificate of approval application, provided by the Department of Planning, shall have all pertinent information completed upon submittal of the application and, if a building permit is deemed required as per this Chapter 128, Zoning, a completed building permit application must be filed with the said historic area certificate of approval permit application.
- B. Upon the filing of a completed application, within ten days the Director of Planning shall forward the application and all attachments to the Historic Commission.
- C. Upon receipt of the application, the Historic Commission shall consider at its next regularly scheduled public meeting.
- D. The Department of Planning shall notify the applicant of the public meeting scheduled with the Historic Commission for review of the application and shall provide a public notice to the applicant for posting by the applicant on the property for purposes of notifying citizens or organizations which may have an interest in the proceedings.
- E. At the public meeting, interested persons will be encouraged to comment and written and/or taped minutes of the proceedings shall be kept. Specific rules of procedure shall be determined by the Historic Commission.

F. Actions of the Historic Commission.

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

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

H. Miscellaneous provisions:

- (1) The applicant for a permit shall have the responsibility of providing information sufficient to support the application and the burden of persuasion on all questions of fact which are to be determined by the Historic Commission. Properties subject to deeds of easement held by other Historic Preservation organizations shall submit proof of approval of exterior architectural review by the organization holding the easement.
- (2) Any permit issued by the Department of Planning and Codes may be subject to such conditions imposed by the Historic Commission as are reasonably necessary

to assure that work in accordance with the permit shall proceed and be performed in a manner not injurious to those characteristics and qualities of the historic resource which are of historical, architectural, archaeological, or cultural value.

- (3) In the event that there is a conflict between the permit and the requirements of the Building Code, Chapter 38, Building Construction, Article I, Building Code, the permit would control provided that all health and safety requirements are met.

**§ 128-57. Adaptive reuse of historic structures.**

The Board of Appeals may grant a special exception, adaptive reuse of a historic structure provided:

- A. The structure proposed for an adaptive reuse is located in the Historic Overlay Zone and approved as a historically significant structure by the Historic Commission;
- B. The application has been submitted to the Historic Commission and Planning Commission for any required approvals and for each of their recommendation on the special exception for an adaptive reuse;
- C. It is shown that exterior changes to the site structure will be minimized; extensions or enlargement of the principal structure and accessory structures may not exceed 25% of the gross floor area of each individual building above that which existed at the time of the adoption of these regulations. Enlargements shall be designed in keeping with the character of the building;
- D. Landscaping is in keeping with character of the building;
- E. The site must have access to a public road;
- F. The use is complimentary to the character of the structure; and
- G. The number of dwellings shall not exceed the density permitted in the district which the structure is located.

**§ 128-58. Applicability.**

Section 128-48 of this article authorizing the establishment of the Historic Commission shall become effective immediately. The remainder of this article shall become effective upon the establishment of the Historic Commission.

**§ 128-58.1. Demolition by neglect.**

- A. In the event of demolition by neglect, the Historic Commission may request the Director of Planning to notify, in writing, the property owner of record, any person having a right, title, or interest therein, and the occupant or other person responsible for the maintenance of the property of the deterioration. The notice shall specify the minimum items of repair or maintenance necessary to correct the deterioration or prevent further deterioration.
- B. Prior to the issuance of a written notice, the Historic Commission may request the Director of Planning to establish a record of demolition by neglect. Such a record may include dated materials such as photographs and written reports of the condition of the property so as to record or measure the deterioration.

- C. The notice shall provide that corrective action shall commence within 30 days of the receipt of said notice and be completed within a reasonable time thereafter. The notice shall state that the owner of record of the property or any person of record with any right, title, or interest therein, may, within 10 days after the receipt of the notice, request a hearing on the necessity of the items and conditions contained in the notice. In the event a public hearing is requested, it shall be held by the Historic Commissioners upon 30 days' written notice being mailed to all persons of record with any right, title, or interest in the property and to all citizens and organizations which the Historic Commission determines may have an interest in the proceedings.
- D. If, after the public hearing, the Historic Commission determined that the corrective actions remain necessary, the Historic Commission may request the Director of Planning take corrective action to insure compliance with the final notice within 30 days of receipt of the final notice.
- E. Upon failure, neglect, or refusal of the property owner or other responsible person, duly notified, to take the corrective action specified in the final notice within the time required, the Historic Commission may request that the Director of Planning institute any of the remedies and penalties provided for in this Chapter 128, Zoning.

**§ 128-58.2. Violations.**

Any willful violation of the provisions of this article by willfully performing or allowing to be performed any work without first obtaining a historic area work permit, failing to comply with a final notice issued pursuant to this article, or disregarding a decision of the Historic Commission will be in violation of this article. A violation of this article shall be deemed a municipal infraction as provided in § 128-201. Each and every day that the violation continues shall be deemed a separate offense.

## **ARTICLE X.**

### **Official Table of Use Regulations**

#### **§ 128-59. Applicability of regulations.**

Unless otherwise provided by law or in this chapter, no building or structure shall be constructed, erected, or extended, and no building, structure, or land shall be used or occupied except for the purposes permitted in this article.

#### **§ 128-60. Official Table of Use Regulations by Zoning Districts.**

The following table, Appendix VII, lists the permitted uses in each general zoning district, the type of review and approvals required, and additional regulations. Additional regulations pertaining to certain uses and activities are listed in Article XI, Supplementary Use Regulations at the end of this Chapter 128, Zoning.

## **ARTICLE XI.**

### **Supplementary Use Regulations**

#### **§ 128-61. General lot requirements.**

- A. Except as provided herein, no more than one principal building shall be erected on a single lot.
- B. Where a lot is used for a commercial or industrial purpose, more than one principal building may be located on the lot, provided that all minimum setback requirements are met for the zoning district in which the lot is located.
- C. Accessory structures including but not limited to piers, docks, garages, and gazebos may not be erected prior to the principal building.
- D. One additional single family residence for the sole purpose of a farm caretaker home may be erected on a single lot used for agricultural uses in the Rural Agriculture (RA) district and meeting the definition of a "farm". No such structure shall be erected prior to the principal residence.

#### **§ 128-62. Accessory uses.**

- A. The Table of Official Use Regulations (§ 128-60) classifies different principal uses according to their different impacts. Whenever an activity (which may or may not be separately listed as a principal use in this table) is conducted in conjunction with another principal use and the former use constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use. For example, a swimming pool/tennis court complex is customarily associated with and integrally related to a residential subdivision or multifamily development and would be regarded as accessory to such principal uses, even though such facilities, if developed apart from a residential development, would require a separate permit.
- B. For purpose of interpreting Subsection A:
  - (1) A use may be regarded as incidental or insubstantial if it is incidental or insubstantial in and of itself or in relation to the principal use.
  - (2) To be "commonly associated" with a principal use it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.
- C. Without limiting the generality of Subsections A and B, the following activities, so long as they satisfy the general criteria set forth above, are specifically regarded as accessory to residential principal uses:
  - (1) Offices or studios within an enclosed building and used by an occupant of a residence located on the same lot as such building to carry on administrative or artistic activities of a commercial nature, so long as such activities do not fall within the definition of a home occupation.

- (2) Hobbies or recreational activities of a noncommercial nature.
  - (3) Yard sales or garage sales, so long as such sales are not conducted on the same lot for more than three days (whether consecutive or not) during any ninety-day period.
- D. Without limiting the generality of Subsections A and B, the following activities shall not be regarded as accessory to a residential principal use and are prohibited in residential districts:
- (1) Storage outside of a substantially enclosed structure of any motor vehicle that is neither licensed nor operational.
  - (2) Parking outside a substantially enclosed structure of more than four motor vehicles between the front building line of the principal building and the street on any lot used for residential purposes.

**§ 128-63. Special exceptions sometimes required.**

Notwithstanding any other provisions of this article, whenever the Table of Use Regulations provides that a use in a nonresidential zone or a nonconforming use in a residential zone is permissible with a zoning permit, a special exception permit shall nevertheless be required if the Director of Planning finds that the proposed use would have an extraordinary impact on neighboring properties or the general public. In making this determination, the Director of Planning shall consider, among other factors, whether the use is proposed for an undeveloped or previously developed lot, whether the proposed use constitutes a change from one principal use classification to another, whether the use is proposed for a site that poses peculiar traffic or other hazards or difficulties, and whether the proposed use is substantially unique or is likely to have impacts that differ substantially from those presented by other uses that are permissible in the zoning district in question.

**§ 128-64. Permissible uses and specific exclusions.**

- A. The presumption established by this section is that all legitimate uses of land are permissible within at least one zoning district in the Town's planning jurisdiction. Therefore, because the list of permissible uses set forth in § 128-60, Table of Use Regulations, cannot be all inclusive, those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed uses.
- B. Notwithstanding Subsection A, all uses that are not listed in § 128-60, Table of Use Regulations, even given the liberal interpretation mandated by Subsection A, are prohibited, nor shall § 128-60, Table of Use Regulations, be interpreted to allow a use in one zoning district when the use in question is more closely related to another specified use that is permissible in other zoning districts.
- C. Without limiting the generality of the foregoing provisions, the following uses are specifically prohibited in all districts unless otherwise specified:
- (1) Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials in violation of the Town's Fire Prevention Code. See Chapter 56, Fire Prevention.
  - (2) Stockyards, slaughterhouses, rendering plants.

- (3) Use of a Recreational Vehicle (RV) as a temporary or permanent residence.
- (4) Use of a motor vehicle, or other portable storage container, including freight containers, in which, out of which, or from which any goods are sold or stored, any services are performed, or other business conducted. Notwithstanding anything to the contrary in this subsection, use of a portable container or other freight container is permitted for storage purposes in the Industrial (I) and Mixed Industrial (MI) Districts only for Industrial uses. Use of these for residential purposes is not permitted.
- (5) Satellite simulcast betting otherwise known as off-track betting, as defined in § 11-815 of the Business and Regulations Article of the Maryland Annotated Code (1992) and any amendments thereto.
- (6) Manufactured homes as defined in § 128-8 of this Chapter 128, Zoning when placed or erected on an individual lot.
- (7) No person shall keep or permit to be kept on any property within the Town, any wild, exotic or vicious animal as a pet in any Zoning District. No farm animals shall be kept as pets, except horses as specifically permitted in § 128-77.

**§ 128-65. More specific use controls.**

- A. Whenever a development could fall within more than one use classification in the Table of Use Regulations (§ 128-60), the classification that most closely and most specifically describes the development controls. For example, a small doctor's office or clinic clearly falls within the office and service operations conducted entirely indoors and designed to attract customers or clients to the premises category. However, classification "office or clinics of physicians or dentists with not more than 10,000 square feet of gross floor area" more specifically covers this use and therefore is controlling.
- B. All applicable federal, state, and county approvals and/or licenses must be obtained on all proposed uses prior to granting of approvals in accordance with the other provisions of this Chapter 128, Zoning.

**§ 128-66. Change in use.**

- A. A substantial change in use of property occurs whenever the essential character or nature of the activity conducted on a lot changes. This occurs whenever:
  - (1) The change involves a change from one principal use category to another.
  - (2) If the original use is a combination use or planned unit development, the relative proportion of space devoted to the individual principal uses that comprise the combination use or planned unit development use changes to such an extent that the parking requirements for the overall use are altered.
  - (3) If the original use is a combination use or planned unit development use, the mixture of types of individual principal uses that comprise the combination use or planned unit development use changes.
  - (4) If there is only one business or enterprise conducted on the lot (regardless of whether that business or enterprise consists of one individual principal use or a combination use), that business or enterprise moves out and a different type of

enterprise moves in (even though the new business or enterprise may be classified under the same principal use or combination use category as the previous type of business). For example, if there is only one building on a lot and a florist shop that is the sole tenant of that building move out and is replaced by a clothing store, that constitutes a change in use even though both tenants fall within the same principal use classification. However, if the florist shop were replaced by another florist shop, that would not constitute a change in use since the type of business or enterprise would not have changed. Moreover, if the florist shop moved out of a rented space in a shopping center and was replaced by a clothing store, that would not constitute a change in use since there is more than one business on the lot and the essential character of the activity conducted on that lot (shopping center combination use) has not changed.

- B. A mere change in the status of property from unoccupied to occupied or vice versa does not constitute a change in use. Whether a change in use occurs shall be determined by comparing the two active uses of the property without regard to any intervening period during which the property may have been unoccupied, unless the property has remained unoccupied for more than 180 consecutive days or has been abandoned.
- C. A mere change in ownership of a business or enterprise or a change in the name shall not be regarded as a change in use.

**§ 128-67. Combination uses.**

When a development proposal comprises two or more principal uses that require different types of zoning review, a special exception permit will be required.

**§ 128-68. Home occupations.**

Home occupations are the accessory use of a residence involving the conduct of an art or profession, the offering of a service, the conduct of a business, or the production of handicrafts on a residential site. The use is incidental land secondary to the use of the dwelling for residential purposes, and shall not change the character of the residential use or adversely affect the uses permitted in the residential district of which it is a part.

- A. All proposed home occupation uses, including the expansion or replacement of an existing use or structure, shall conform to the performance standards below, as well as all other applicable laws and regulations of the county, state, and federal government.
  - (1) The home occupation and its associated structures shall conform to all applicable standards for the zoning district.
  - (2) Home occupations shall be conducted entirely either within the residence or within an accessory structure, but not both. The area used for the home occupation shall not exceed 25% of the gross floor area of the residence. An accessory structure of more than 1,500 square feet shall not be used for a home occupation.
  - (3) The home occupation shall in no way cause the residential appearance or character of the premises to differ from the surrounding residential area. Home occupations shall not be conducted in such a manner as to produce noise, dust, vibration, glare, smoke, odor, electrical interference, fire hazard, traffic, or any

other nuisance not typically experienced in the zoning district in which the property is located.

- (4) No use shall require internal or external construction features or the use of electrical, mechanical, or other equipment that would change the fire rating of the structure or in any way significantly increase the fire danger to neighboring structures or residences.
- (5) Signs shall be limited to one permanent, non-illuminated sign of not more than four square feet. Signs shall conform to the signage provisions of this Chapter 128 Zoning.
- (6) No outside storage or material, goods, supplies, or equipment related to the operation of the home occupation shall be allowed.
- (7) Merchandise shall be limited only, to products manufactured or substantially altered on the premises or to incidental supplies necessary for the conduct of the home occupation. Items shall not be purchases off site for resale.
- (8) To the extent that there is any sale of any item related to a home occupation, delivery of that item to the buyer should occur off the premises.
- (9) The home occupation shall not employ any nonresident employees.
- (10) Any need for parking generated by the home occupation shall be off street and in the side or rear yard of the structure. The Director of Planning shall determine the number of parking spaces required based on parking requirements for like use contained in this Chapter 128, Zoning.
- (11) No commercial vehicle shall be used in connection with the home occupation for delivery of goods to or from the premises, or parked on the property. This provision does not preclude the delivery of mail or packages by the Postal Service or by private or public shipping and courier services. Home occupations shall not generate more than an average of one truck delivery per day.
- (12) No more than one home occupation per residence shall be allowed.
- (13) Home occupations that attract customers, clients, or students to the premises shall not be allowed in multifamily dwelling units.

B. The following uses are not appropriate as home occupations and shall not be permitted:

- (1) Vehicle or boat repair or painting;
- (2) Construction equipment or materials storage;
- (3) Equipment or vehicle rental;
- (4) Fish or bait sales;
- (5) Furniture sales;
- (6) Funeral director, mortuary, or undertaker;
- (7) Glazier's or painter's shop;
- (8) Heating, plumbing, or air conditioning services;

- (9) Laboratory or taxidermy shop;
  - (10) Medical or dental clinic;
  - (11) Private clubs;
  - (12) Restaurants
  - (13) Tourist homes;
  - (14) Animal hospitals;
  - (15) Kennels; or
  - (16) Day-care centers
- C. The following is a nonexhaustive list of uses which may be conducted as home occupations within the limits established in this section; however, uses not listed below require a specific letter of confirmation from the Director of Planning.
- (1) Art, handicraft, music, writing, photography, or similar studios;
  - (2) Direct sale product distribution (Amway, Avon, Tupperware, etc.);
  - (3) Dressmaker, seamstress, tailor;
  - (4) Hair cutting and styling;
  - (5) Home typing or computer services;
  - (6) Mail-order sales;
  - (7) Nonprincipal offices of physician, dentist, veterinarian, insurance agent, real estate, or similar profession which typically serves several clients on a daily basis;
  - (8) Offices of accountant, architect, engineer, surveyor, land planner, lawyer, income tax preparer, minister, priest, rabbi, member of a religious order, psychotherapist, counselor, personal consultant, or similar professional which typically does not serve several clients on a daily basis;
  - (9) Repair of small appliances, small engines, and limited machining of small parts, office machines, cameras, and similar small items;
  - (10) Telephone sales and order-taking; and
  - (11) Tutor or teaching, limited to one or two pupils at a time.

**§ 128-69. Accessory apartments.**

Accessory apartments are permitted in certain districts, provided that:

- A. Only one accessory apartment is created on each lot.
- B. The accessory apartment is clearly subordinate to the principal dwelling or commercial use.
- C. Adequate off-street parking is provided.

**§ 128-70. Industrial uses.**

Production, processing, cleaning, testing, distribution of materials, goods, foodstuffs, and products are permitted in the in the I and MI Districts, provided that:

- A. Activities shall be carried on in completely enclosed buildings.
- B. Adequate measures are taken for the abatement of offensive odors, dust, smoke, noise, vibration, or similar nuisances.
- C. Design, construction, and operation of the facility meets requirements of appropriate state and federal regulatory agencies.
- D. Uses are subject to the outdoor storage regulations specified in § 128-75.
- E. No uses in any district may discharge into the Town sewage treatment facilities any waste that cannot be adequately treated by biological means.

**§ 128-70.1 Industrial Parks**

- A. Industrial Parks shall be located on a site that is at least one (1) acre in size.
- B. The lot on which the Industrial Park is located must have a minimum frontage of one-hundred (100) feet on a public street.
- C. The lot on which the Industrial Park is located must have a depth of at least one-hundred (100) feet.
- D. The project shall have a unified arrangement of buildings, service areas, parking, and landscaped areas.
- E. Materials, massing, and facade design for the project shall be harmonious with the character of the neighborhood.
- F. The internal circulation system shall be designed to minimize through traffic and traffic conflicts within the project.
- G. The vehicular plan shall provide for safe pedestrian movement.
- H. The applicant shall design and site buildings to screen from public view unsightly site elements such as shipping and loading areas, equipment storage areas, dumpsters, etc.
- I. All operations (except for permitted outdoor storage) shall be located in a wholly enclosed building.
- J. The release, disposal, or storage of waste materials shall not be visible from off-site. All trash and refuse shall be stored in self enclosed storage areas.
- K. There shall be no outside storage of the finished product. Bulk storage of the finished product in a wholly enclosed building shall be considered an accessory use.
- L. An impact statement shall be submitted with the site plan which explains:
  - (1) The proposed architectural design (graphic or narrative) of all buildings and structures.
  - (2) The proposed hours of operation.
  - (3) The provisions to be made for control of noxious and offensive odors.
  - (4) The air pollution, water quality, and noise control measures to be taken.

- (5) The type and amount of traffic expected to be generated.

Landscaping shall be provided in accordance with Article XVI of this Ordinance.

**§ 128-71. Temporary emergency, construction, or repair residences.**

- A. Temporary residences used on construction sites of nonresidential premises shall be removed immediately upon the completion of the project.
- B. Permits for temporary residences to be occupied pending the construction, repair, or renovation of the permanent residential building on a site shall expire within six months after the date of issuance, except that the Director of Planning may renew such permit for one additional period not to exceed three months if he determines that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the construction, repair, renovation, or restoration work necessary to make such building habitable.

**§ 128-72. Manufactured home park.**

The following regulations shall apply to manufactured home parks in any district where manufactured home parks are permitted:

- A. Access to the manufactured home park shall be from a major collector street or arterial street; the number and location of access drives shall be controlled for traffic safety and protection of surrounding properties; no manufactured home space shall be designed for direct access to a street outside the boundaries of the manufactured home park; and the interior access drives shall be at least 25 feet in width surfaced and maintained at least 25 feet in width.
- B. The topography of the site is such as to facilitate proper drainage and that adequate stormwater facilities are provided.
- C. The minimum width and/or depth of the manufactured home park shall be 200 feet, and minimum total area of the manufactured home shall be 10 acres.
- D. The minimum area for a manufactured home site for parking one manufactured home shall be 3,500 square feet with no dimension less than 40 feet, and with corners of each site visibly marked and numbered by a permanent marker.
- E. The manufactured home park shall contain at least 1,000 square feet per manufactured home for community facilities, including play space, utility rooms, parking and access roads. Any service or utility building shall be located on a minimum lot of 10,000 square feet.
- F. A minimum of 15% of the total manufactured home tract shall be left as open space recreational areas.
- G. Setbacks, buffer strips and screening
  - (1) All manufactured homes shall be located at least 25 feet from any park property boundary line abutting upon a public street.
  - (2) All manufactured home parks shall be provided with screening such as fences or natural growth along the property line bounding the development.

- (3) No manufactured home shall be parked closer than 25 feet to any other manufactured home or service building, and no part of a manufactured home shall extend closer than five feet to the boundaries of an individual manufactured home site.
- H. Off-street parking spaces for automobiles shall be provided in the ratio of two spaces per manufactured home in locations convenient to individual trailers or groups of trailers.
- I. Proper provision shall be made for public water supply, sanitary sewers, refuse collection, laundry, and other community facilities. Water and sewer systems shall be approved by the Maryland State Health Department.
- J. Service or utility buildings are permitted within the park for use as sanitary, postal, trailer supplies, manufactured home park office, convenience items or laundry; provided, however, that all use of the facilities shall be designed solely for occupants of the park.
- K. All access roads, parking areas and walkways shall be illuminated at night. Illumination shall not cast any glare beyond the perimeter of the development.
- L. Walks
- (1) All manufactured home parks shall be provided with safe convenient all-season pedestrian access of adequate width for the intended use and which shall be durable and convenient to maintain.
  - (2) Common walk system. A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of four feet and shall be parallel to the streets.
  - (3) Individual walks. All manufactured home stands should be connected to common walks, to streets, to driveways or to parking spaces. Such individual walks shall have a minimum width of two feet.
- L. Manufactured home lots:
- (1) Generally. The limits of each manufactured home lot should be marked on the ground by suitable means. The location of lot limits on the ground should be the same as shown on the final accepted site plans.
  - (2) Manufactured home stands. The manufactured home stand shall be improved to provide adequate support for the placement and tiedown of home. The stand shall not heave, shift, or settle unevenly under the weight of the manufactured home due to frost action, inadequate drainage, vibration, or other forces acting on the structure.
  - (3) Driveways. Improved driveways should be provided on lots where necessary for convenient access to mobile home. The minimum width shall be ten feet.
  - (4) Parking spaces. The design criteria for automobile parking shall be based upon two parking spaces for each mobile home lot.
  - (5) Outdoor living area. Each manufactured home lot should be provided with an outdoor living and service area. Such area should be improved as necessary to

ensure reasonable privacy and comfort. The minimum area should not be less than 300 square feet with a dimension of 15 feet.

- (6) Accessory structures remain, as per the definition, dependent upon the manufactured home and shall not be used as complete independent living units with permanent provisions for sleeping, cooking, and sanitation. Such structures shall be erected, constructed, or occupied on a manufactured home lot as specified in the subsection;
  - (a) Accessory structures shall be designed so as to enhance the appearance of the manufactured home park.
  - (b) Accessory structures shall not obstruct required openings for light and ventilation of the manufactured home and shall not prevent the inspection of manufactured home equipment and utility connections.

M. Manufactured home unit standards.

- (1) The unit should appear to have a permanent and continuous foundation of masonry or brick construction. The permanent masonry or brick foundation shall be left exposed or skirted with other masonry or brick.
- (2) The unit is at least 20 feet wide. For single-wide units, the width can be made up with a porch or carport addition at least two-thirds the length of the unit.
- (3) The unit has a gabled roof with a minimum roof pitch of 4/12.
- (4) The roofing material must be shingle or other conventional type of residential roof material.
- (5) The unit is constructed under the latest HUD Manufactured Home Construction and Safety Standard of 1976 and Public Safety Article, §12-305, Annotated Code of Maryland Industrialized Building and Manufactured Homes Act.
- (6) The unit must be manufactured after January 1, 2001, and be in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended
- (7) The exterior walls of the unit look like wood or masonry, regardless of their actual composition.
- (8) The tongue, axles, transporting lights, and removable towing apparatus must be removed prior to occupancy.
- (9) The unit must have a permanent landing and steps with handrails at each exterior doorway.

N. Community maintenance standards.

- (1) The owner or manager of the manufactured home park shall provide adequate supervision to maintain the park in compliance with this article and to keep its facilities and equipment in good repair and in a clean and sanitary condition.

- (2) The owner or management shall notify the park residents of all applicable provisions of this article and inform them of their duties and responsibilities under this article.
- (3) The owner or management shall supervise the placement of each manufactured home on its lot, which shall include securing its stability and installing all utility connections.
- (4) The owner or management shall maintain a register containing the name of all park residents, identified by lot number or street address. Such register shall be available to any authorized person inspecting the park.
- (5) The resident shall comply with all applicable requirements of this article and shall maintain his manufactured home, lot, and its facilities and equipment in good repair and in clean and sanitary condition.
- (6) The resident shall be responsible for the proper placement of each manufactured home on its lot, which shall include securing its stability and installing all utility connections in accordance with the instructions of the owner or management.

**§ 128-73. Manufactured home subdivisions.**

The following regulations shall apply to manufactured home subdivisions in any district where manufactured home subdivisions are permitted:

- A. Access to the manufactured home subdivision shall be from a major collector street or arterial street, and all access drives shall be controlled to facilitate traffic movement, to minimize traffic hazards, and to protect surrounding properties.
- B. Any interior access drives shall have a minimum right-of-way width of 40 feet, with a minimum paved surface of 30 feet in width.
- C. Site plan and design standards for manufactured home subdivisions.
  - (1) Minimum total area: 10 acres.
  - (2) Perimeter Setbacks:
    - (a) Minimum setback of any structure from adjacent roads to subdivision, 25 feet.
    - (b) Minimum setbacks from adjoining property lines to subdivision, 25 feet.
- D. The minimum lot size for a manufactured home shall conform in all respects to the minimum lot size for a single-family dwelling for the zone in which the subdivision is located.
  - (1) Each individual home site shall be defined by landscape plantings and/or low-level decorative fencing.
  - (2) Site Area (yard) Setbacks; Front: 25 feet, Side: 10 feet, Rear: 10 feet.
- E. All interior access drives shall be privately owned and maintained by the owner/operator of the manufactured home subdivision. Minimum structure setback from internal access drives: 25 feet.

- F. Adequate sanitary facilities shall be required for the development. The water supply system shall also be designed to be adequate for fire protection needs.
- G. All utilities, including but not limited to electric, cable television, and telephone lines shall be placed underground.
- H. A manufactured home subdivision shall be enclosed on all sides with a permanently maintained natural or artificial barrier/buffer, such as a sight-obscuring wall or fence, or a continuous opaque buffer of trees or shrubs, at least six feet in height. The Planning Commission may also increase all or part of the perimeter buffer requirement, if it is in the best interest of the surrounding neighborhood. Structures used to meet this standard may be located within the required perimeter structure setback.
- I. Open space.
  - (1) Not less than 10% of the total area of a manufactured home rental community, exclusive of perimeter setback areas, shall be devoted to accessible and usable open space and recreation areas.
  - (2) At least 50% of the open space and recreational land shall be designed for active recreation. Upon a recommendation of the Planning Commission and approval by the Director of Planning, passive recreational activities may be substituted for active recreational activities if justified by the projected composition of the residents of the proposed development.
- J. All access roads, parking areas, and walkways shall be illuminated at night. Illumination shall not cast any glare beyond the perimeter of the development.
- K. Refuse collection areas shall be screened from public view.
- L. Pedestrian walkways shall be required to connect manufactured home sites with parking areas, park facilities and recreation, and open space areas.
- M. Walks
  - (1) All manufactured home subdivisions shall provide safe convenient all-season pedestrian access of adequate width for the intended use and which shall be durable and convenient to maintain.
  - (2) Common walk system. A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of four feet and shall be parallel to the streets.
  - (3) Individual walks. All manufactured home lots should be connected to common walks, to streets, to driveways, or to parking spaces. Such individual walks shall have a minimum width of two feet.
- N. Pervious areas within the manufactured home subdivision shall be kept in grass lawn or covered by natural or planted landscaping treatment. The planting of trees to provide shade and screen objectionable views is encouraged.
- O. Pervious areas within the subdivision should be kept in grass lawn or covered by natural or planted landscaping treatment. The planting of trees to provide shade and screen objectionable views is encouraged.

- P. An approved stormwater management and sediment and erosion control plan is required.
- Q. Manufactured home unit standards.
  - (1) The unit should appear to have a permanent and continuous foundation of masonry or brick construction. The permanent masonry or brick foundation shall be left exposed or skirted with other masonry or brick.
  - (2) The unit is at least 20 feet wide. For single-wide units, the width can be made up with a porch or carport addition at least two-thirds the length of the unit.
  - (3) The unit has a gabled roof with a minimum roof pitch of 4/12.
  - (4) The roofing material must be shingle or other conventional type of residential roof material.
  - (5) The unit is constructed under the latest HUD Manufactured Home Construction and Safety Standard of 1976 and Public Safety Article, §12-305, Annotated Code of Maryland Industrialized Building and Manufactured Homes Act.
  - (6) The unit must be manufactured after January 1, 2001, and be in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended
  - (7) The exterior walls of the unit look like wood or masonry, regardless of their actual composition.
  - (8) The tongue, axles, transporting lights and removable towing apparatus must be removed prior to occupancy.
  - (9) The unit must have a permanent landing and steps with handrails at each exterior doorway.
  - (10) Minimum manufactured home gross floor area: 600 square feet.
- R. Every manufactured home, together with all enclosed extensions or structural additions shall be installed upon an approved anchor tie-down system and shall be securely anchored thereto so as to prevent the home from shifting or overturning. The undercarriage of every manufactured home shall be suitably hidden by some form of opaque skirting.
- S. Manufactured homes may not be used exclusively for storage purposes.
- T. One accessory building is permitted for each manufactured home. Such building shall be located on the individual manufactured home site, and shall not exceed exterior dimensions of 12 feet by 12 feet and shall not exceed 10 feet in height.
- U. Retail manufactured home sales lots are prohibited within a manufactured home subdivision.
- V. Recreational vehicles shall not be occupied as living quarters within the subdivision.

**§ 128-74. Townhouses.**

The following regulations shall apply to townhouses in any district where townhouses are permitted:

- A. The townhouse building shall comply with minimum lot requirements contained in this Chapter 128, Zoning, but each dwelling unit of a townhouse need not be located on a lot complying with minimum lot area per family requirements in the Table of Density and Dimensional Regulations, § 128-117, provided the average for all dwelling units in the building equals or exceeds the minimum requirements and provided no lot is created with lot area less than 2,000 square feet, exclusive of a parking lot area. (Refer to Subsection H of this section.)
- B. Lot frontage, measured at a building line, for individual dwelling units of a townhouse may be reduced to not less than 18 feet. Lot width for end units shall be adequate to provide required front and side yards.
- C. For the purpose of the side yard regulations, a townhouse building shall be considered as one building on one lot with side yards required for end units only, in accordance with the Table of Density and Dimensional Regulations, § 128-117. Any side yard adjacent to the line of a lot occupied by a detached single-family dwelling or a lot in a single-family residential district shall not be less than 25 feet.
- D. No detached garage or carport or other detached accessory building over 120 square feet shall be permitted on a lot occupied by a townhouse, however, common space may be set aside on the site for a common storage facility for the use of individual complex residents not to exceed 120 square feet per unit. Townhome common storage facilities must be for residential storage only and be incorporated into the overall site design.
- E. Unless otherwise restricted by district regulations, not less than three and not more than four dwelling units shall be included in any one townhouse building.
- F. The front and rear facades of dwelling units in a townhouse shall be varied by changed yards of not less than three feet and variation in materials or design so that no more than three abutting units will have the same front yard depth and the same or essentially the same architectural treatment of facades and rooflines.
- G. Provision satisfactory to the Town and provided by the Town Attorney shall be made to assure that nonpublic areas for the common use and enjoyment of occupants of townhouses, but not in individual ownership by such occupants, shall be maintained in a satisfactory manner without expense to the general public.
- H. Required off-street parking shall be provided on the lot or within 100 feet of the lot.
- I. A site plan complying with the requirements of this Chapter 128, Zoning shall accompany an application for approval of a townhouse development.
- J. A minimum of 15% of the net land area to be developed as townhouses must be reserved as natural or landscaped open space or recreational area.
- K. In addition to the design standards set forth in this section, townhouses shall meet the standards set forth in the Denton Pattern Book, prepared by Urban Design Associates, which is attached to the Zoning Ordinance and copies of which are maintained in the Town Office. The Pattern Book is intended to supplement existing applicable design guidelines. Persons proposing townhouses should consult the Denton Pattern Book and incorporate the design concepts and standards into the proposed townhouse design. Failure to adhere to the design principles set forth in the Pattern Book may be a basis for

the denial of the site plan by the Town. The Town may approve townhouses that meet or exceed the goals and objectives of the Denton Pattern Book.

**§ 128-75. Outdoor storage.**

Outdoor storage (where permitted) in districts must meet the following requirements:

- A. Outdoor storage is limited to 10% of the existing lot exclusive of the existing buildings. The Planning Commission may increase the total area for outdoor storage up to 25% of the total site area where they find that the size of the lot and its location (e.g., a large lot located in an industrial park) warrant an increase.
- B. The outdoor storage area(s) must be surrounded by an opaque, uniformly finished fence or wall seven feet in height.
- C. Such wall or fence shall be maintained in good order; advertisements are not permitted thereon.
- D. The items being stored within the wall or fence shall not exceed, or be stacked to exceed, seven feet in height.
- E. In the GC and RHC districts storage of cars and trucks used in connection with the permitted trade or business is permitted within the walls, but not including storage of heavy equipment.
- F. In the I and MI districts storage of cars, trucks and heavy equipment used in the trade or business is permitted within the fences or walls.

**§ 128-76. Places of worship.**

Churches, synagogues, and temples shall have their principal means of access from a major or minor collector street.

**§ 128-77. Horse stables.**

- A. Horse stables for personal pleasure shall be permitted only when the property on which they are located has a minimum of three unconstrained acres (without steep slopes, wetlands or other environmental constraint) and a stable setback minimum of 250 feet from the front property line and all neighboring residences. One horse or pony is permitted per each three unconstrained acres.
- B. Commercial or private stables and riding stables shall be permitted, provided that the lot area is 20 unconstrained acres or more (without steep slopes, wetlands or other environmental constraint) and that any buildings for keeping of animals shall be located at least 200 feet from any side or rear lot lines, and that there shall be housed on the premises no more than one horse or pony for each unconstrained acre of land.

**§ 128-78. Commercial greenhouses and nurseries.**

Commercial greenhouses and nurseries shall be permitted, provided that any structure shall not be closer than 100 feet to all property lines and adequate on-site parking exists. Appropriate stormwater facilities shall be provided.

**§ 128-79. Hospital clinic for large or small animals.**

- A. Hospital or clinics for animals shall be located on a tract of land of 10 acres or more and all buildings or structures, pens, or open kennels shall be located at least 200 feet from any lot lines.
- B. Hospitals or clinics exclusively for small animals shall be located on tracts of land of at least three acres and any treatment rooms, cages, pens, or kennels shall be maintained within a completely enclosed, soundproof building and shall be operated in such a way as to produce no objectionable odors or sounds outside the walls.

**§ 128-80. Country club or private club.**

Country clubs or private clubs are permitted, provided that:

- A. A minimum lot area of 20 unconstrained acres (without steep slopes, wetlands, or other environmental constraint) shall be provided.
- B. Main buildings and accessory buildings shall occupy no more than 10% of the total area of the lot.
- C. No dwelling units shall be provided on the premises except for a resident manager and a watchman or caretaker.
- D. No building, accessory building, or swimming pool shall be located closer than 200 feet from any side or rear lot line or 100 feet from any street line.
- E. No off-street parking area shall be located in any required yard and that all parking areas shall be suitably screened from any boundary of the lot by means of a fence, wall, or hedge, and that no lighting facilities for such parking areas extend above such screening. All lighting shall comply with Article XXII of this Chapter 128, Zoning.
- F. No area lighted for night recreational use shall be located closer than 200 feet from any side or rear lot line or 100 feet from any street line.
- G. No outdoor loudspeaker or call system shall be employed which would produce objectionable noise at the boundaries of the lot.
- H. Any land area not used for buildings, swimming pools, game courts, drives, parking areas, etc., shall be landscaped and well-maintained in trees, grass, shrubs, pedestrian walks, or natural woods.
- I. Accessory or other boat docking facilities shall be approved as a marina under other provisions of this Chapter 128, Zoning.

**§ 128-81. New or used car lots.**

New or used car lots are permitted, provided that:

- A. The lot size is 0.5 acres or larger.
- B. Minimum lot width is 100 feet and minimum lot depth is 125 feet.
- C. No wrecking or dismantling of vehicles is allowed.
- D. Vehicles are for sale and there is no storage of vehicles not for immediate sale.

**§ 128-82. Car wash facility.**

Car wash facilities, self service or automated, are permitted, provided that:

- A. Minimum lot area of usable space is 20,000 square feet.
- B. Minimum front setback is 50 feet, minimum rear setback is 50 feet, and minimum side setbacks are 20 feet.
- C. The stacking area provides space for a minimum of five cars per bay.
- D. Mandatory screening and landscaping is provided to the satisfaction of the Planning Commission.
- E. Site plan review and approval required.

**§ 128-83. Gas sales.**

Facilities for gas sales permitted in certain districts provided that fuel storage tanks are located underground.

**§ 128-84. Planned residential developments (PRD).**

The planned residential development use classification permits multifamily residences in single-family zoning districts only in the context of a well-planned development containing both single-family and multifamily dwellings, with the single-family units acting as a buffer between the development and the preexisting single-family neighborhoods.

- A. Planned residential developments are permissible only on tracts of at least 30 acres located within an SR District; 10 acres in a TR District; and five acres within an MR and MI Districts.
- B. The overall density of a tract developed as a planned residential development shall be determined as provided in Article XIII, § 128-110.
- C. Permissible types of residential uses within a planned residential development include single-family detached dwellings, two-family residences, and multifamily residences. At least 75% of the total number of dwelling units must be single-family detached for a planned residential development in the SR District. At least 50% of the total number of dwelling units must be single-family detached for a planned residential development in the TR District. At least 25% of the total number of dwelling units must be single-family detached for a planned residential development in the MR and MI District. Manufactured home parks and subdivisions are not permitted.
- D. To the extent practical, the two-family and multifamily portions of a planned residential development shall be developed more toward the interior rather than the periphery of the tract so that the single-family detached residences border adjacent properties. To the extent this is not practical and two-family and multifamily development is located on the periphery of the tract, then these units shall be screened from adjacent single-family development in accordance to requirements established by the Planning Commission.
- E. Minimum common open space requirements: see Article XVII.

**§ 128-85. Community appearance standards.**

The purpose of community appearance standards is to promote public health, safety, and welfare. Economic objectives include enhancement and preservation of property values. These standards are not intended to restrict imagination or variety but rather to assist in focusing on design

principals which can result in creative solutions that will develop a satisfactory visual appearance within the Town.

- A. Development subject to community appearance standards. All new development and/or redevelopment within the Town, except single-family detached housing, shall be subject to the performance standards designated in this section.
- B. Process for review. The Planning Commission and/or Board of Appeals shall review site plans as required to ensure the standards specified in this section are met. These standards are in addition to other regulations in this Chapter 128, Zoning.
- C. Relationship of buildings to site.
  - (1) The site shall be planned to accomplish a desirable transition with the streetscape and to provide for adequate planting, safe pedestrian movement, and parking areas.
  - (2) Site planning in which setbacks and yards are in excess of zoning restrictions is encouraged to provide an interesting relationship between buildings.
  - (3) Parking areas shall be treated with decorative elements, building wall extensions, plantings, berms, or other innovative means so as to screen parking areas from public ways.
  - (4) Without restricting the permissible limits of the applicable zoning district, the height and scale of each building shall be compatible with its site and existing (or anticipated) adjoining buildings.
  - (5) Newly installed utility services and service revisions necessitated by exterior alterations shall be underground.
- D. Relationship of buildings and site to adjoining area.
  - (1) Adjacent buildings of different architectural styles shall be made compatible by such means as screens, site breaks, and materials.
  - (2) Attractive landscape transition to adjoining properties shall be provided.
  - (3) Harmony in texture, lines, and masses is required. Monotony of design shall be avoided.
- E. Landscape and site treatment.
  - (1) Where natural or existing topographic patterns contribute to beauty and utility of a development they shall be preserved and developed. Modifications to topography will be permitted where it contributes to good appearance.
  - (2) Grades of walks, parking spaces, terraces, and other paved areas shall provide an inviting and stable appearance for the pedestrian.
  - (3) Landscape treatment shall be provided to enhance architectural features, strengthen vistas and important axes, and provide shade.
  - (4) Unity of landscape design shall be achieved by repetition of certain plant varieties and other materials and by coordination with adjacent development.

- (5) Plant material shall be selected for interests in its structure, texture and color, and for its ultimate growth. Plants that are indigenous to the area and others that will be hearty, harmonious to design, and of good appearance shall be used.
- (6) In locations where plants will be susceptible to injury by pedestrian or motor traffic they shall be protected by appropriate curbs, tree guards, or other devices.
- (7) Parking areas and traffic ways shall be enhanced with landscaped spaces containing trees or tree groupings.
- (8) Where building sites limit planting, the placement of trees in parkways, or paved areas may be required.
- (9) Screening of service yards and other places that tend to be unsightly shall be accomplished by use of walls, fencing, plantings, or combinations of these. Screening shall be effective in winter and summer.
- (10) In areas where general planting will not prosper, other materials such as fences, walls, and pavings of wood, brick, stone gravel, and cobbles shall be used. Carefully selected plants shall be combined with such materials where possible.
- (11) Exterior lighting, when used, shall enhance the adjoining landscape. Lighting standards and building fixtures shall be of a design and size compatible with the building and adjacent areas. Lighting shall be restrained in design and excessive brightness avoided. Refer to Article XXII – Outdoor lighting in this Chapter 128, Zoning.

F. Building design.

- (1) Architectural style is not restricted except townhouses shall meet the standards set forth in the Denton Pattern Book, prepared by Urban Design Associates, which is attached to the Zoning Ordinance and copies of which are maintained in the Town Office. The Pattern Book is intended to supplement existing applicable design guidelines. Persons proposing townhouses should consult the Denton Pattern Book and incorporate the design concepts and standards into the proposed townhouse design. Failure to adhere to the design principles set forth in the Pattern Book may be a basis for the denial of the site plan by the Town. The Town may approve townhouses that meet or exceed the goals and objectives of the Denton Pattern Book. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.
- (2) Buildings shall have good scale and be in harmonious conformance with permanent neighboring development.
- (3) Materials.
  - (a) Materials shall have good architectural character and shall be selected for harmony of the building with adjoining buildings.
  - (b) Materials shall be of durable quality.
  - (c) Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same material, or those that are architecturally harmonious, used for all

building walls and other exterior building components wholly or partly visible from public ways.

- (d) In any design in which the structural frame is exposed to view, the structural material shall be compatible within themselves and harmonious with their surroundings.
- (4) Building components, such as windows, eaves, doors, parapets, etc., shall have good proportions and relationships to one another.
- (5) Colors shall be harmonious and shall use only compatible accents.
- (6) Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be so located as not to be visible from public ways.
- (7) Exterior lighting shall be part of the architectural concept. Fixtures, standards, and all exposed accessories shall be harmonious with building design.
- (8) Refuse and waste removal areas, service yards, storage yards, and exterior work areas shall be screened from view of public ways using materials as stated in Subsection E(9).
- (9) Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple building projects, variable siting of individual projects shall be used to prevent a monotonous appearance.

G. Miscellaneous structures and street hardware.

- (1) Miscellaneous structures and street hardware shall be designed to be part of the architectural concept of design and landscape. Materials shall be compatible with buildings, scale shall be appropriate, colors shall be in harmony with buildings and surroundings, and proportions shall be attractive.

H. Lighting in connection with miscellaneous structures and street hardware shall adhere to standards set forth for site, landscape, buildings, signs, and to Article XXII – Outdoor Lighting in this Chapter 128, Zoning.

I. Maintenance planning and design factors.

- (1) Continued good appearance depends upon the extent and quality of maintenance. The choice of materials and their use, together with the types of finishes and other protective measures, shall be conducive to easy maintenance, upkeep, and longevity.
- (2) Materials and finishes shall be selected for their durability and wear as well as for their beauty. Proper measures and devices shall be incorporated for protection against the elements, neglect, damage, and abuse.

Provisions for washing and cleaning of buildings and structures, and control of dirt and refuse shall be incorporated in the design. Configurations that tend to catch and accumulate debris, leaves, trash, dirt, and rubbish shall be avoided.

**§ 128-86. Adult Assisted Living Development** - Adult Assisted Living Development (townhouses or multifamily units) is a permitted use in the Mixed Residential (MR) District, and a special exception use in the General Commercial (GC) and Central Business Commercial (CBC) Districts. Adult Assisted Living development is subject to the community appearance standards (§ 128-85) and site plan review requirements (Article XXIII) contained in this Chapter 128, Zoning.

- A. Maximum permitted residential density is 12 dwelling units per acre.
- B. Dwelling units may be detached or attached. Attached units are permitted, provided that not more than six dwelling units shall be included in any one townhouse structure and not more than 12 dwelling units are included in any one multifamily structure (apartments). The Planning Commission may vary the maximum number of attached dwelling units in any one structure on the basis of review of the building design.
- C. The front and rear facades of dwelling units in a townhouse structure containing between three and six attached dwelling units shall be varied by changed yards of not less than three feet and variation in materials or design so that no abutting units will have the same front yard depth and the same, or essentially the same, architectural treatment of facades and rooflines.
- D. A minimum of 15% of the net site area shall be set aside as usable open space for the enjoyment and use of residents. Common open space shall be maintained in accordance with Article XVII, Common Open Space and Use Areas and/or Facilities. A community building of suitable size for the development's population shall be provided in addition to the common open space required.
- E. The minimum floor area for individual dwelling units shall be 600 square feet.
- F. Parking requirements shall be one space per dwelling unit. Off-street parking areas shall be located in close proximity to dwelling units. Three spaces shall be provided for the community building.
- G. All adult assisted living developments, regardless of their location, shall be required to provide street and property line bufferyards. The Planning Commission shall determine which types of bufferyards are required based upon an evaluation of existing or planned adjacent land uses.
- H. Provisions shall be incorporated as part of the adult assisted living development to accommodate disabled residents (e.g., rolled curbs at sidewalk and street or driveway intersections). The Planning Commission may require any special design provisions or improvements deemed necessary to accommodate disability needs.
- I. Adequate documentation shall be provided to the Town which ensures that the housing development will be exclusively for the occupation of adult assisted living tenants. The Town may request written verification from the lending agency (e.g., Farmers Home Administration) regarding any required conditions and standards regarding the construction, operation, and management of the development.
- J. The purpose of this section is to provide flexibility, consistent with the public health and safety, for the development of adult assisted living housing in accordance with a unified and coherent plan of development.

**§ 128-87. Child-care centers within a business.**

Child-care centers located in Industrial (I), or Regional Highway Commercial (RHC) Zones must show each of the following:

- A. Shall be operated in conjunction with an active business.
- B. Shall serve only the children of the employers/employees of the business with which it is associated.

**§ 128-88. Child or Adult day care centers.**

Child or adult day care centers may be permitted as a special exception by the Board of Appeals in the SR, TR, MR and MI districts; they are permitted with conditions and site plan approval by the Planning Commission in the GC, CBC, CM, RHC, and PN districts.

- A. Applicant shall meet requirements of state (for Child only, Maryland Daycare Center Requirements, Title 13A, Subtitle 14) and local health departments for family/group care. Adult Daycare Centers are regulated by the Maryland Department of Health and Mental Hygiene, Senior Centers are monitored by Upper Shore Aging, Inc.
- B. A Child Day Care Center shall not have more day care children than the number which appears on the certificate of registration issued by the Office of Child Day Care Licensing and Regulation.
- C. A site plan must be submitted showing existing or proposed building, play/outdoor area, fencing, parking, ingress and egress, and with the following:
  - (1) The Board may prescribe specific conditions determined necessary to minimize effects of use on neighboring properties given identification of concerns specific to a particular site.
  - (2) The applicant shall provide 100 square feet of usable outdoor recreation area for each child/adult that may use this space at any one time. Such usable outdoor recreation area shall be identified on the site plan and shall be sufficiently buffered from adjacent residential area. Usable outdoor recreation areas shall be limited to the side and rear yard of the property. Recreational areas shall not include the required front yard of the property or any off-street parking areas.
  - (3) All such uses shall be located so as to permit the safe pickup and delivery of all people on this site.
  - (4) Such use shall not constitute a nuisance because of traffic, insufficient parking, number of individuals being cared for, noise, or type of physical activity.
- D. The requirements of these sections shall not apply to child or adult day-care facilities or centers that are operated by a nonprofit organization in buildings, structures, or on premises owned or leased by a religious organization and which premises are regularly used as a place of worship or are located on premises owned or leased by a religious organization adjacent to premises regularly used as a place of worship, or are used for private parochial educational purposes that are exempted under the provisions of this section for private educational institutions or are located in publicly owned school buildings.

**§ 128-88.1. Child Day-Care, Family**

- A. Applicant shall meet the requirements of the Office of Child Care Licensing and Regulation in the Department of Human Resources of the State of Maryland (Title 13A, subtitle 14, Child and Family Day Care), or its successor agency for Family Day Care.
- B. A Child Day-Care Family shall not have more day care children than the number which appears on the certificate of registration issued by the Office of Child Day Care Licensing and Regulation to such Family Day Care Home and Family Day Care Provider.
- C. At any one time, a Family Day Care shall have no more than eight (8) children, including no more than two (2) children under the age of two (2) years.
- D. The applicant shall have one hundred (100) square feet of usable outdoor recreation area for each child that may use this space at any time. Such usable outdoor recreation area shall be identified on the site plan and shall be sufficiently buffered from adjacent residential areas. Usable outdoor recreation areas shall be limited to the side and rear yard of the property.
- E. All such uses shall be located so as to permit the safe pickup and delivery of all persons on this site.
- F. Such use shall not constitute a nuisance because of traffic, insufficient parking, number of individuals being cared for, noise, or type of physical activity.

**§ 128-89. Clinics.**

Medical clinics of less than 10,000 square feet of gross floor area may be permitted in the districts subject to the following:

- A. Site requirements:
  - (1) Minimum lot area, 40,000 square feet.
  - (2) Minimum frontage, 200 feet.
  - (3) Minimum setback, 40 feet from all property lines.
  - (4) Maximum building height, as specified in zone.
  - (5) Location of access on business district street, arterial, or major highways.
- B. Disposal of waste shall be through approved, safe means and shall be separate from regular trash disposal.
- C. Accessory services, including laboratories and pharmacies for the use of patients visiting medical practitioners in the clinic, shall be permitted as part of the clinic facility, subject to the following specific conditions:
  - (1) All entrances to parts of the building in which these accessory services are provided shall be from within the building and any direct access from the street is prohibited.
  - (2) The hours during which these services are provided shall be the same as those during which medical practitioners are receiving patients.

**§ 128-90. Group homes and halfway houses.**

A group home or halfway house for nine to 16 individuals may be permitted as a special exception by the Board of Appeals in the districts, and a group home or halfway house for criminal offenders may be permitted as a special exception by the Board of Appeals in the district subject to the following:

- A. Such use will not constitute a nuisance because of noise, vehicle traffic or parking, number of residents, or any other type of physical activity.
- B. Such use will not, when considered in combination with other existing group homes in the neighborhood, result in an excessive concentration of similar uses in the same general neighborhood of the proposed use.
- C. That any property to be used for a group residential facility is of sufficient size to accommodate the proposed number of residents and staff.
- D. That the site to be used as a group residential facility for children provide ample outdoor play space, free from hazard, and appropriately equipped for the age and number of children to be cared for.
- E. In order to expedite decisions regarding proposed group residential facilities, the Board shall give priority consideration in scheduling public hearings and in deciding petitions for such facilities.
- F. Nonconforming use. Where any child-care residence for up to eight children or group home for developmentally disabled people has been lawfully established at the same location prior to the effective date of this Chapter 128, Zoning, such use shall not be required to obtain a special exception.
- G. Applicant shall meet requirements of the State Department of Health.
- H. The Planning Commission and/or Board of Appeals may prescribe specific conditions determined necessary to minimize effects of use on neighboring properties given identification of concerns specific to a particular site.
- I. Parking and loading shall be provided at the rear of the site.
- J. Adequate access to medical services, shopping areas, recreational, and other community services often desired by elderly and disabled people shall be available to residents or provided on the site for residents.
- K. Business uses that are permitted as accessory uses shall be integrated with the dwelling units and oriented towards the interior of the project. No exterior signs or other evidence of business facilities shall be visible from the periphery of the site.
- L. The project shall be designed to provide a transition near the periphery of the site, either with open space areas and landscaping or by designing the buildings near the periphery to be harmonious in density and type with the surrounding neighborhood.
- M. Open space areas, recreational facilities, and other accessory facilities shall be developed in each phase of development to meet the needs of the residents. The developer shall provide a schedule for the installation of facilities at the time the special exception is approved.

**§ 128-91. Hospitals, clinics in excess of 10,000 square feet, and other medical treatment facilities.**

Hospitals, clinics in excess of 10,000 square feet, and other medical treatment facilities may be permitted as a special exception by the Board of Appeals in the districts subject to the following:

- A. A lot or parcel or tract of land to be used for a hospital or sanitarium building may be allowed, upon a finding by the Board that such use will not constitute a nuisance because of noise, traffic, or number of people being cared for; that such use will not affect adversely the present character or future development of the surrounding residential community; and, if the lot, parcel, or tract of land on which the buildings to be used by such institution are located, conforms to the following minimum area, frontage, and setback requirements, off-street parking, green area requirements, and building height limit:
- (1) Total area: five acres minimum.
  - (2) Frontage: 200 feet minimum.
  - (3) All structures shall be located at least 200 feet from any adjacent residential lot and 50 feet from any other use.
  - (4) All parking areas shall be located at least 50 feet from any adjacent residential lot and shall be limited to a minimum of parking in the front yard.
  - (5) Accessory uses may include recreational and educational services, therapy areas, retail stores, personal and professional services, and health services, provided that use of these facilities is limited to on-site patients and their guests.
  - (6) A minimum of 40% of the gross site area shall be open space. The open space shall be generally continuous, accessible to the patients, and protective of natural features.
  - (7) The Board or the applicant shall request a recommendation from the Planning Commission with respect to a site plan, submitted by the applicant, achieving and conforming to the objectives and requirements of this section for off-street parking and green area.
  - (8) Building height limit: as determined by the Board of Appeals but in no case more than 100 feet.
  - (9) A resolution approving the establishment by the Health Department shall be filed with the petition for a special exception.
  - (10) The applicant shall locate amenities such as lighting (lighting shall comply with Article XXII), seating, shelter, and landscaping into attractive groupings that provide for safe and unobstructed pedestrian movement.

**§ 128-92. Farm Caretaker Home**

A farm caretaker home shall comply with all of the following requirements.

- A. The house shall be located on a farm of at least 20 acres in the Rural Agriculture (RA) district.

- B. There may be no more than one farm caretaker house on each farm, single family excluding farm worker dormitory type use.

**§ 128-93. Assisted living, nursing and care homes**

An assisted living, nursing home, or care home (regulated by the Maryland Department of Health and Mental Hygiene's Office of Health Care Quality) for more than eight people may be permitted as special exception by the Board of Appeals in the SR, TR, MR, GC, RHC, and PN Districts and shall be permitted in the CM District, provided:

- A. Such use will not constitute a nuisance because of traffic, noise, or number of patients or people being cared for; that, except for buildings completed prior to the time of adoption of this section and additions thereto, such use will be housed in buildings architecturally compatible with other buildings in the surrounding neighborhood; that such use will not adversely affect the present character or future development of the surrounding residential community; and that such use can and will be developed in conformity with the following minimum area, density, coverage, frontage, setback, access, and screening requirements where specified:
- B. All care institutions hereafter established and all additions to existing homes where nine or more people are cared for:
- (1) Minimum lot area, as stated in the applicable zone, but in no case less than one acre.
  - (2) Maximum density: one bed per 600 square feet of net lot area.
  - (3) Maximum coverage: 60%.
  - (4) Minimum lot frontage: 200 feet.
  - (5) Minimum setbacks:
    - (a) Front yards: 30 feet.
    - (b) Side yards: 20 feet.
    - (c) Rear yards: 30 feet.
  - (6) Minimum screening, as determined by the Board or Planning Commission with special attention given to off-street parking and loading areas in accordance with Article XVI and in no case less than Bufferyard C as shown in Appendix II at the end of this Chapter 128, Zoning.
  - (7) The Board shall increase the number of off-street parking spaces required for nursing or care homes under Article XII where the operation or method of operation, or type of care to be provided, indicates such increase will be needed.

**§ 128-94. Neighborhood centers.**

The Board of Appeals may permit as a special exception a neighborhood center in an established neighborhood where they are compatible with existing uses. Neighborhood centers shall comply with the following design standards:

- A. Commercial uses in neighborhood centers shall be limited to businesses that primarily cater to neighborhood residents, such as small grocery stores, personal and professional

services, dry cleaners, video shops, cafes, tea rooms, small bakeries, and other uses that are deemed appropriate by the Planning Commission or Board of Appeals.

- B. Residential units may be included in commercial structures, e.g., apartments over storefronts.
- C. The amount and scale of commercial development in neighborhood centers does not significantly diminish the economic viability of established commercial areas and does not detract from the character or livability of the neighborhood. The size of individual neighborhood center commercial building shall be limited to no more than 3,000 square feet gross floor area.
- D. Neighborhood centers containing commercial uses shall be separated by at least 1/4 mile, unless the neighborhoods have sufficient population to make both centers economically viable or comprise distinct trade areas.
- E. Neighborhood centers shall be located and oriented to avoid glare, noise, aesthetic, and traffic impacts for nearby residents.
- F. The scale, design, and exterior materials of commercial structures in neighborhood centers shall be compatible with surrounding residential structures.
- G. The primary entrance to commercial uses shall be oriented to the street and the secondary entrance to the parking lot, unless another arrangement would provide better access from the neighborhood.
- H. Commercial and service buildings in neighborhood centers shall be located at or very near the sidewalk edge, with direct access along the street frontage.
- I. Parking spaces for the businesses at neighborhood centers shall be provided both on-street and behind the buildings.
- J. The back side of neighborhood centers shall be designed so to be inviting to pedestrians and provide direct access from the neighborhood.

**§ 128-95. Multifamily housing and apartments.**

- A. The Board of Appeals may permit multifamily housing as a special exception in the Central Business Commercial Zone. Multifamily housing at a minimum shall comply with the following design standards:
  - (1) There must be adequate off-street parking.
  - (2) Build-up and build-to lines apply to structure.
  - (3) It must meet minimum landscape requirements.
  - (4) In addition to the design standards set forth in this section, townhouses shall meet the standards set forth in the Denton Pattern Book, prepared by Urban Design Associates, which is attached to the Zoning Ordinance and copies of which are maintained in the Town Office. The Pattern Book is intended to supplement existing applicable design guidelines. Persons proposing townhouses should consult the Denton Pattern Book and incorporate the design concepts and standards into the proposed townhouse design. Failure to adhere to the design principles set forth in the Pattern Book may be a basis for the denial of the site

plan by the Town. The Town may approve townhouses that meet or exceed the goals and objectives of the Denton Pattern Book.

- B. Apartments. The following regulations shall apply to apartments (including condominiums) in any district where apartments are permitted:
- (1) Unless otherwise restricted by district regulations, no more than six units may be constructed in one building.
  - (2) Required off-street parking shall be provided on the lot or within 100 feet of the lot.
  - (3) A site plan complying with the requirements of this Chapter 128, Zoning shall accompany an application for approval of a townhouse development.
  - (4) A minimum of 15% of the gross land area must be reserved as natural and landscaped open space or recreational area.
  - (5) When more than one apartment building is built, no building shall be closer than 25 feet from any other apartment building.
  - (6) In addition to the design standards set forth in this section, townhouses shall meet the standards set forth in the Denton Pattern Book, prepared by Urban Design Associates, which is attached to the Zoning Ordinance and copies of which are maintained in the Town Office. The Pattern Book is intended to supplement existing applicable design guidelines. Persons proposing townhouses should consult the Denton Pattern Book and incorporate the design concepts and standards into the proposed townhouse design. Failure to adhere to the design principles set forth in the Pattern Book may be a basis for the denial of the site plan by the Town. The Town may approve townhouses that meet or exceed the goals and objectives of the Denton Pattern Book.

**§ 128-95.1. Adult-oriented business.**

- A. Viewing booths and Live Viewing Booths are prohibited in all zoning districts.
- B. In addition to any buffer, buffer yard, setback, or other design criteria generally applicable to permitted uses in the Industrial Zoning Districts, an Adult-Oriented Business must meet the following setback criteria:
- (1) The closest portion of a building or structure in which an Adult Oriented Business is located shall not be within 1,000 feet of the boundary of any parcel of land that is zoned residentially.
  - (2) The closest portion of a building or structure in which an Adult Oriented Business is located shall not be within 1,000 feet from the boundary of any parcel of land containing a school, place of worship, park or recreation facility, day-care center, or day-care home.
  - (3) For the purposes of this Section, measurement shall be made in a straight line, without regard to intervening structures or objects.

- (4) A lawfully operating Adult Oriented Business shall not be rendered a non-conforming use by the location, subsequent to the grant or renewal of an Adult Oriented Business license pursuant to Denton Town Code § 30-4, of a residential zoning district, school, place of worship, park or recreation facility, day care center, or day care home within buffer distances provided for above.
- C. An Adult Oriented Business shall provide or cause to be provided for all exterior areas, including but not limited to, parking lots or areas, loading docks, and sidewalks sufficient lighting to illuminate the exterior areas of the business to an illumination level of not less than two footcandles and shall be equipped with video surveillance cameras that monitor the exterior portions of the premises from a management station located within the business.
- D. An Adult Oriented Business may not erect a fence, wall, or other barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right of way.
- E. An Adult Oriented Business must post appropriate signage prohibiting parking at the premises for persons other than patrons of the business and prohibiting the use of the exterior of the premises for other than ingress, egress, parking, and solid waste deposit/processing for bona fide employees and patrons of the business.
- F. In the case of Adult Oriented Businesses other than an adult book or video store, and to the extent not regulated under Article 2B of the Annotated Code of Maryland (or successor provisions thereof), shall be constructed and maintained in such manner that the conduct, promotion, delivery, provision, or performance of adult entertainment or material is not visible in any way or manner, or to any degree, from outside the building.
- G. No Adult Oriented Business may be conducted on the same parcel as, in the same building as, or in conjunction with any hotel, motel, motor court, motor hotel, lodge, inn, bed and breakfast facility, boarding house, or in any structure or portion thereof not generally open to the public and freely accessible to patrons at all time.
- H. An Adult Oriented Business shall not have displayed on or about the exterior of any building in, or premises on, which an Adult Oriented Business is located, any sign, advertisement, or depiction visible to the general public, wherever located, containing any adult oriented entertainment or material.

#### **§ 128 -95.2. Farmer's Market**

- A. All Farmers' Markets and their vendors shall comply with all federal, state, and local laws relating to the operation, use and enjoyment of the market premises.
- B. All Farmers' Markets and their vendors shall obtain all required operating and health permits and these permits (or copies) shall be in the possession of the Farmers' Market

operator or the vendor, as applicable, on the site of the Farmers' Market during all hours of operation.

- C. All Farmers' Markets shall have a representative of the operator authorized to direct the operations of all vendors participating in the market on the site of the market during all hours of operation.
- D. All Farmers' Markets shall establish and maintain rules of operation governing the eligibility of vendors, products that may be sold, conduct of vendors, set up of the market, etc.

**§ 128 -95.3. Peddlers**

Peddlers' activities are allowed in the districts that permit such use. Peddlers shall be licensed by the Town and comply with all requirements.

## **ARTICLE XII.**

### **Parking, Loading and Unloading Area Requirements**

#### **§ 128-96. Definitions.**

Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined below shall have the meaning indicated when used in this section.

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

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

**GROSS FLOOR AREA** - The total area of a building measured by calculating the floor area of each floor level intended for occupancy or storage by taking the outside dimensions of the building at each floor and summing all floor areas.

**LOADING AND UNLOADING AREA** - That portion of the vehicle accommodation area used to satisfy the requirements of § 128-107.

**PARKING AREA AISLES** - That portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

**PARKING SPACE** - A portion of the vehicle accommodation area set for the parking of one vehicle.

**VEHICLE ACCOMMODATION AREA** - That portion of a lot that is used by vehicles for access, circulation, parking, and loading and unloading. It comprises the total of circulation areas, loading and unloading areas, and parking areas (spaces and aisles).

#### **§ 128-97. Number of parking spaces required.**

- A. All developments in all zoning districts other than the Central Business Commercial (CBC) District shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question. Except for projects that only require a simplified site plan pursuant to § 128-187 where the Director of Planning will determine the applicable parking standards, parking space requirements in the CBC District will be determined by the Planning Commission. When adequate off-street parking cannot practically be provided on site in the CBC District the Planning Commission may require the developer to provide a fee in lieu of parking. Such fees collected shall be used by the Town to construct municipal parking elsewhere in the district.
- B. The presumptions established by this article are that a development must comply with the parking standards set forth in Subsection E to satisfy the requirement stated in Subsection A, and any development that does meet these standards is in compliance. However, the Table of Parking Requirements is only intended to establish a presumption and should be flexibly administered, as provided in § 128-98.
- C. When determination of the number of parking spaces required by the Table of Parking Requirements results in a requirement of a fractional space, any fraction of 1/2 or less

may be disregarded, while a fraction in excess of 1/2 shall be counted as one parking space.

D. The Town recognizes that the Table of Parking Requirements set forth in Subsection E cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the permit-issuing authority is authorized to determine the parking requirements using this table as a guide.

E. Table of Parking Requirements

Use	Parking Requirement
Single-family detached dwellings / Two-family duplex dwelling	2 spaces per dwelling unit with three bedrooms or less
Multifamily dwelling and Townhouses:	1 space per efficiency unit, 1 ½ per each one bedroom unit, 2 spaces per each 2-bedroom unit, 2 ½ spaces per three bedroom unit, plus ½ space per each additional bedroom
Manufactured Housing	2-spaces per dwelling unit
Hotel and Motel Efficiency Unit	1-space per hotel guest room
Hotel and Motel Guest Suite	1-1/2 spaces for the first 50-units, 1 space per each unit above than 50-units
Roominghouse, Boardinghouse, Lodginghouse	1 space per guest room
Churches, Synagogue, or Temple	1 space per 5-seats or bench seating capacity (for seats in the main auditorium only)
College or high school	1 space per 5-seats in the main auditorium or 8-spaces per classroom, whichever is greater
Elementary, Junior High, or Nursery school	1 space per 10-seats in the main auditorium, or 1 space per classroom, whichever is greater
Public libraries, museum, art gallery, community centers, and public buildings	1 space per 300 square feet of floor area, minimum 5-spaces
Child or adult day care centers	1 space per 5-person rated capacity
Radio or television broadcasting station	1 space per 400 square feet gross floor area. An auditorium for a broadcasting station shall require one space per 5-person rated capacity
Exposition centers or fairgrounds	1 space per 5-persons estimated attendance
Automobile Filling Station	1 space per two employees on the maximum working shift
Automobile Service Station	3 Spaces per bay

Use	Parking Requirement
Furniture or appliance store, machinery, equipment and automobile and boat sales and service	1 space per 300 square feet gross floor area, 5 spaces minimum
Private Club, lodges, assembly hall and other recreational facilities	1 space per 5-person rated capacity
Sanitarium, Convalescent Home, Home for the aged or similar institution	1 space per 5-patient beds
Hospital	1 space per two patient beds
Offices for business, banking, or professional use	1 space per 300 square feet of gross floor area, minimum 5 spaces
Restaurant, fast food restaurant, cocktail lounge, tavern, nightclub other establishments for the consumption of food or beverages on or off premises	1 space per 100 square feet of enclosed gross floor area, minimum 5 spaces, and 1 space per 200 square feet of unenclosed outdoor dining area in excess of the enclosed gross floor area

Use	Parking Requirement
Retail store, convenience food store, or personal service establishment, 5,000 square feet or less gross floor area	1 space per 200 square feet of gross floor area, minimum 5 spaces
Shopping centers, shopping plazas, retail stores, personal service establishments, and convenience food stores greater than 5,000 square feet	<ul style="list-style-type: none"> <li>a. 1 space per 225 square feet gross floor area, except movie theaters</li> <li>b. When restaurants, fast food establishments, cocktail lounges, taverns, nightclubs, or other establishments for the consumption of food or beverage on or off premises are located in a shopping center comprise less than 25% of the gross floor area of the shopping center, the parking requirement shall be that for the shopping center.</li> <li>c. When restaurants, fast food establishments, cocktail lounges, taverns, nightclubs, or other establishments for the consumption of food or beverage on or off premises are located in a shopping center comprise greater than 25% of the gross floor area of the shopping center, the parking requirement shall be provided for those uses in accordance with the separate requirements. The parking calculation shall be computed separately for the retail and eating and drinking establishments separately then combined.</li> </ul>
Funeral homes	8 spaces per parlor or 1 space per 50 square feet of floor area, whichever is greater
Manufacturing, wholesale establishment, warehouse, industrial plants, or similar establishment	1 space per 400 square feet gross floor area

Use	Parking Requirement
General service or repair establishment, printing, publishing, plumbing, or heating business	1 space per 400 square feet gross floor area
Auditorium, theater, gymnasium, stadium, arena, convention center, ballroom or similar establishments	1 space per 5 persons rated capacity
Bowling alley	6 spaces per lane
Game room, dance hall, skating rink, swimming pool, auditorium or exhibition center (without fixed seats), indoor racquet courts, indoor athletic and exercise facilities, and similar uses	1 space per 5 persons rated capacity
Movie theaters	1 space per 4 seats
Food storage lockers	1 space per 200 square feet of customer service area
General service or repair establishments	1 space per 3 employees on premises
Animal hospital	1 space per 400 square feet of gross floor area
Physician's or dentist's office	4 spaces per physician or dentist
Sanitarium, Convalescent Home, Home for the aged or similar institution	1 space per 5-patient beds
Hospital	1 space per two patient beds
Hospitals, clinics in excess of 10,000 square feet and other medical treatment facilities	1.5 spaces / bed or 1 space / 400 square feet gross floor area, whichever is less
Clinics less than 10,000 square feet	1 space per 250 square feet of gross floor area
Group home, halfway house	1 space per each employee, plus 1 space per 2 occupants
Housing for the elderly or disabled	1 space / 2 beds, plus 1 space / each employee of the largest shift

**§ 128-98. Flexibility in administration required.**

- A. The Town recognizes that, due to the particularities of any given development, the inflexible application of the parking standards set forth in § 128-97E may result in a development either with inadequate parking space or parking space far in excess of its needs. The former situation may lead to traffic congestion or parking violations in adjacent streets as well as unauthorized parking in nearby private lots. The latter situation wastes money as well as space that could more desirably be used for valuable development or environmentally useful open space. Therefore, as suggested in § 128-97, the approving authority may permit deviations from the presumptive requirements of § 128-97E and may require more parking or allow less parking whenever it finds that such deviations are more likely to satisfy the standard set forth in § 128-97.
- B. Without limiting the generality of the foregoing, the permit-issuing authority may allow deviations from the parking requirements set forth in § 128-97E when it finds that:
  - (1) A residential development is irrevocably oriented toward the senior citizens, 62 years or older;
  - (2) A business is primarily oriented to walk-in trade.
- C. Whenever the permit-issuing authority allows or requires a deviation from the presumptive parking requirements set forth in § 128-97E, it shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation.
- D. If the permit-issuing authority concludes, based upon information it receives in the consideration of a specific development proposal, that the presumption established by § 128-97E for a particular use classification is erroneous, it shall initiate a request for an amendment to the Table of Parking Requirements in accordance with the procedures set forth in Chapter 128, Zoning, Article XX “Amendments”.

**§ 128-99. Parking space dimensions.**

- A. Subject to Subsections B and C, each parking space shall contain a rectangular area at least 20 feet long and 9 feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section.
- B. In parking areas containing 10 or more parking spaces, up to 20% of the parking spaces need contain a rectangular area of only 7 1/2 feet in width by 15 feet in length. If such spaces are provided, they shall be conspicuously designated as reserved for small or compact cars only.
- C. Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than 22 feet long by 9 feet wide.

**§ 128-100. Required widths of parking area aisles and driveways.**

- A. Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking.

	<b>Parking Angle (degrees)</b>				
<b>Aisle Width (feet)</b>	<b>0°</b>	<b>30°</b>	<b>45°</b>	<b>60°</b>	<b>90°</b>
One-way traffic	13	11	13	18	24
Two-way traffic	19	20	21	23	24

- B. Driveways shall be not less than 10 feet in width for one-way traffic and 18 feet in width for two-way traffic, except that ten-foot-wide driveways are permissible for two-way traffic when the driveway is not longer than 50 feet, it provides access to not more than six spaces, and sufficient turning space is provided so that vehicles need not back into a public street.

**§ 128-101. General design requirements.**

- A. Unless no other practicable alternative is available, vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one or two dwelling units, although backing onto arterial and major collector streets is discouraged.
- B. Vehicle accommodation areas of all development shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.
- C. Every vehicle accommodation area shall be designed so that vehicles are separated from walkways, sidewalks, streets, or alleys by a wall, fence, curbing or other protective device and cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to impact damage any wall, vegetation, or other obstruction
- D. Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.
- E. Off-street parking facilities shall be drained to prevent standing water and prevent damage or flooding to abutting property and public streets and alleys, surfaced with erosion-resistant material, and incorporate the best management practices of Stormwater Management Section §106. Off-street parking areas shall be maintained in a clean, orderly, and dust-free condition at the expense of the owner or lessee and not used for the sale, repair, or dismantling or servicing of any vehicles, equipment, or materials.

**§ 128-102. Vehicle accommodation area surfaces.**

- A. Vehicle accommodation areas that include lanes for drive-in windows or contain parking areas that are required to have more than 10 parking spaces and that are used regularly at least five days per week shall be graded and surfaced with asphalt, concrete or other

material that will provide equivalent protection against potholes, erosion, and dust, in accordance with

- B. Vehicle accommodation area surfaces shall match the specifications of the Town. Porous pavers may be allowed if consistent with the Town specifications and approved by the Town.
- C. Vehicle accommodation areas that are not provided with the type of surface specified in Subsection A shall be graded and surfaced with crushed stone, gravel, or other suitable material to provide a surface that is stable and will help to reduce dust and erosion. The perimeter of such parking areas shall be defined by bricks, stones, railroad ties, or other similar measures. In addition, whenever such a vehicle accommodation area abuts a paved street, the driveway leading from such street to such area (or, if there is no driveway, the portion of the vehicle accommodation area that opens onto such streets) shall be paved as provided in Subsection A for a distance of 15 feet back from the edge of the paved street. Single-family or two-family residences or other uses that are required to have only one or two parking spaces and abut a paved street without a sidewalk shall be paved as provided in Subsection A for a distance of 5 feet back from the edge of a paved street.
- D. Parking spaces in areas surfaced in accordance with Subsection A shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with Subsection B shall be demarcated whenever practical.
- E. Vehicle accommodation areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, vehicle accommodation area surfaces shall be kept in good condition (free from potholes, etc.), and parking space lines or markings shall be kept clearly visible and distinct.

**§ 128-103. Joint use of required parking spaces.**

- A. One parking area may contain required spaces for several different uses, but except as otherwise provided in this section, the required space assigned to one use may not be credited to any other use.
- B. To the extent that developments apply to make joint use of the same parking spaces to operate at different times, the same spaces may be credited to both uses. For example, if a parking lot is used in connection with an office building on Monday through Friday but is generally 90% vacant on weekends, another development that operates only on weekends may be credited with 90% of the spaces on that lot. Or, if a church parking lot is generally occupied only to 50% of capacity on days other than Sunday, another development may make use of 50% of the church lot's spaces on those other days.
- C. If the joint use of the same parking spaces by two or more principal uses involves satellite parking spaces, then the provisions of § 128-104 are also applicable.

**§ 128-104. Satellite parking.**

- A. If the number of off-street parking spaces required by this Section cannot reasonably be provided on the same lot where the principal use associated with these parking spaces is located, then spaces may be provided on adjacent or nearby lots under separate ownership

in accordance with the provisions of this Subsection. These off-site spaces are referred to in this section as satellite parking spaces.

- B. All such satellite parking spaces (except spaces intended for employee use) must be located within 400 feet of a public entrance of a principal building housing the use associated with such parking, or within 400 feet of the lot on which the use associated with such parking is located if the use not housed within any principal building. Satellite parking spaces intended for employee use may be located within any reasonable distance on adjacent or nearby lots under separate ownership. Public street parking spaces shall not be permitted as accommodation for retail and office employee use.
- C. The developer wishing to take advantage of the provisions of this section must present satisfactory written evidence that he has the permission of the owner or other authorized person in charge of the satellite parking spaces to use such spaces. The developer must also sign an acknowledgment that the continuing validity of his permit depends upon his continuing ability to provide the requisite number of parking spaces.
- D. The developer who obtains satellite parking spaces in accordance with this section shall not be held accountable for ensuring that the satellite parking areas from which they obtain their spaces satisfy the design requirements of this article except as a requirement to fulfill the number of parking spaces.

**§ 128-105. Special provisions for lots with existing buildings.**

Notwithstanding any other provisions of this Chapter 128, Zoning, whenever there exists a lot with one or more structures on it constructed before the effective date of this Chapter 128, Zoning, and a change in use that does not involve any enlargement of a structure is proposed for such lot, and the parking requirements of § 128-97 that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking, then the developer need only comply with the requirements of § 128-97 to the extent the parking space is practicably available on the lot where the development is located, and satellite parking space is reasonably available as provided in § 128-104. However, if satellite parking subsequently becomes reasonably available, then it shall be a continuing condition of the permit authorizing development on such lot that the developer obtain satellite parking when it does become available.

**§ 128-106. Parking area screening and landscaping.**

- A. Parking areas of more than five vehicles which adjoin or are faced by a residential district shall be effectively screened on each side by an ornamental wall, fence, or compact evergreen hedge. Such screen shall be not less than four feet or more than six feet in height and shall be maintained in good condition without any advertising thereon. No part of any parking space shall be closer than five feet to any street line. Any lighting used to illuminate any parking area shall be so arranged as to direct the light away from adjoining premises in any residential district and from public roads, and comply with lighting standards set forth in Article XXII.
- B. Parking facilities with more than 10 parking spaces shall comply with the requirements below:

- (1) Interior landscaping. For surface parking facilities, at least 10% of the parking facility shall be permanently landscaped.
- (2) Interpretation; computation of interior landscaping requirement. The interior landscaping requirement shall be computed on the basis of the net parking facility. For the purposes of this section, "net parking facility" shall include parking stalls, access drives, aisles, walkways, dead spaces, and required separations from structures, but shall not include required street setbacks or access driveways or walkways within such setbacks.
- (3) Planting beds. All landscaping shall be contained in planting beds. Each planting bed shall have a minimum area of 25 square feet and shall be enclosed by appropriate curbing or similar device at least six inches wide and six inches in height above the paving surface.
- (4) Plant materials. Surface parking facilities shall contain at least one tree for each 1,500 square feet of required parking area. In addition to required trees, each planting bed shall contain appropriate ground cover or shrubbery. Nonplant material such as statuary or fountains may be used in landscaped areas, provided it does not dominate the planting bed.
- (5) Installation / maintenance. Landscaping shall be installed and continuously maintained by the owner.
- (6) Site plan requirements. All required site plans for parking facilities shall contain detailed landscaping and maintenance plans. The landscaping plan shall be drawn to an accurate scale and shall include:
  - (a) The location and size of planting beds;
  - (b) The location and variety of all plant materials to be used and longterm maintenance plans. Failure to meet all of the landscaping requirements shall be cause for rejection of the site plan.

**§ 128-107. Loading and unloading areas.**

- A. Subject to Subsection E, whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this Section to accommodate the delivery or shipment operations in a safe and convenient manner.
- B. The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the development in question. The following table indicates the number and size of spaces that, presumptively, satisfy the standard set forth in this subsection. However, the permit-issuing authority may require more or less loading and unloading area if reasonably necessary to satisfy the foregoing standard.

<b>Gross Floor Area of Building (square feet)</b>	<b>Number of Spaces<sup>1</sup></b>
1,000 to 19,000	1
20,000 to 79,999	2
80,000 to 127,999	3
128,000 to 191,000	4
192,000 to 255,999	5
256,000 to 319,999	6
320,000 to 391,999	7
For each additional 72,000 square feet or fraction thereof	1
1. Minimum dimensions of 12 feet by 35 feet and overhead clearance of 14 feet from street grade are required.	

- C. Loading and unloading areas shall be so located and designed that the vehicles intended to use them can maneuver safely and conveniently to and from a public right-of-way, and complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.
- D. No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.
- E. Whenever there exists a lot with one or more structures on it constructed before the effective date of this Chapter 128, Zoning, and a change in use that does not involve any enlargement of a structure is proposed for such lot, and the loading area requirements of this section cannot be satisfied because there is not sufficient area available on the lot that can practicably be used for loading and unloading, then the developer need only comply with this section to the extent reasonably possible.

**§ 128-108. Bicycle parking facilities.**

New commercial, institutional, office, industrial and recreation uses shall provide bicycle parking facilities.

## **ARTICLE XIII.**

### **Density and Dimensional Regulations**

#### **§ 128-109. Minimum lot size.**

- A. The Planning Commission may reduce the minimum lot area and dimensions required for a lot or lots proposed for detached single-family residential dwellings in the SR and MR Zoning Districts upon a finding that:
  - (1) The proposed reduction shall result in residential development that is compatible and harmonious with existing and planned land uses in the area and no lot will be created that is so narrow or otherwise so irregularly shaped that it would be impractical to construct a residence thereon; or
  - (2) The proposed reduction shall result in residential development that is compatible and harmonious with existing and planned land uses in the area and reasonable development of a proposed development site is limited by existing natural site features such as nontidal wetlands, floodplain, or other sensitive area. Reasonable development, for the purpose of this section, does not guarantee maximum possible development under this Chapter 128, Zoning. Achieving the maximum possible density is not sufficient justification alone to permit a reduction in the minimum lot area and dimensions.
- B. The reduction in lot size and dimensions allowed shall be minimum required in all cases and shall not result in any lot for a detached single-family residential dwelling that has an area of less than 5,000 square feet. In no case shall this provision be construed as permitting a density in excess of the maximum permitted residential density set forth in § 128-117.
- C. All lot size or dimension reductions shall be noted on any recorded subdivision plat.

#### **§ 128-110. Residential density.**

- A. Subject to §§ 128-109 and 128-116, and Subsection B below, every lot developed for residential purposes shall have the number of square feet per dwelling unit indicated in the Table of Density and Dimensional Regulations (§ 128-117). The column entitled "Residential Density: Maximum Dwelling Units per Acre" shall be used to determine the number of dwelling units permissible on a tract of land.
- B. Two-family conversions and primary residences with an accessory apartment shall be allowed only on lots having at least 150% of the minimum square footage required for one dwelling unit on a lot in such district.

#### **§ 128-111. Minimum lot widths.**

- A. No lot shall be created that is so narrow or otherwise so irregularly shaped that it would be impracticable to construct on it a building that:
  - (1) Could be used for purposes that are permissible in that zoning district; and
  - (2) Could satisfy any applicable setback requirements for that district.
- B. Without limiting the generality of the foregoing standard, the Table of Density and Dimensional Regulations (§ 128-117) indicates minimum lot widths that are

recommended and are deemed presumptively to satisfy the standard set forth in Subsection A. The lot width shall be measured along a straight line connecting the points at which a line that demarcates the required setback from the street intersects with lot boundary lines at opposite sides of the lot.

**§ 128-112. Building setback requirements.**

- A. Subject to §§ 128-113 and 128-116 and the other provisions of this section, no portion of any building shall be located on any lot closer to any lot line or to the street right-of-way line than is authorized in the Table of Density and Dimensional Regulations (§ 128-117).
- (1) If the street right-of-way line is readily determinable (by reference to a recorded map, set markers, or other means), the setback shall be measured from such right-of-way line. If the right-of-way line is not so determinable, the setback shall be measured from the street center line, and 15 feet shall be added to the setback depth indicated in the table.
  - (2) As used in this section, the term "lot boundary line" refers to lot boundaries other than those that abut streets.
  - (3) As used in this section, the term "building" includes any substantial structure which by nature of its size, scale, dimensions, bulk, or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Without limiting the generality of the foregoing, the following structures shall be deemed to fall within this description:
    - (a) Gas pumps and overhead canopies or roofs.
    - (b) Fences running along lot boundaries adjacent to public street rights-of-way if such fences exceed six feet in height and are substantially opaque.
  - (4) Notwithstanding any other provision of this Chapter 128, Zoning, a sign may be erected on or affixed to a structure that has a principal function that is something other than the support of the sign (e.g., a fence), but does not constitute a building as defined in this Chapter 128, Zoning, only if such sign is located so as to comply with the setback requirement applicable to freestanding signs in the district where such sign is located.
  - (5) Setbacks for freestanding signs shall be 1/2 the distance required for building setbacks.
- B. Whenever a lot in a nonresidential district has a common boundary line with a lot in a residential district, and the property line setback requirement applicable to the residential lot is greater than that applicable to the nonresidential lot, then the lot in the nonresidential district shall be required to observe the property line setback requirement applicable to the adjoining residential lot.
- C. Setback distances shall be measured from the property line or street right-of-way line to a point on the lot that is directly below the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it (such as a flagpole, etc.).

- D. Whenever a private road that serves more than three lots or more than three dwelling units or that serves any nonresidential use tending to generate traffic equivalent to more than three dwelling units is located along a lot boundary, then:
- (1) If the lot is not also bordered by a public street, buildings and freestanding signs shall be set back from the center line of the private road just as if such road were a public street.
  - (2) If the lot is also bordered by a public street, then the setback distance on lots used for residential purposes shall be measured from the inside boundary of the traveled portion of the private road.

**§ 128-113. Accessory building setback requirements.**

All accessory buildings in residential districts must comply with the street right-of-way and side lot boundary setbacks set forth in § 128-112 but (subject to the remaining provisions of this section) shall be required to observe only a five-foot setback from rear lot boundary lines.

- A. Where the high point of the roof or any appurtenance of any accessory building exceeds 12 feet in height, the accessory building shall be set back from rear lot boundary lines an additional two feet for every foot of height exceeding 12 feet.
- B. Maximum lot coverage of principal and accessory buildings shall not exceed 40% of the lot.

**§ 128-114. Building height limitations.**

- A. For purposes of this section:
  - (1) The height of a building shall be the vertical distance measured from the mean elevation of the finished grade at the front of the building to the highest point of the building.
  - (2) A point of access to a roof shall be the top of any parapet wall or the lowest point of a roof's surface, whichever is greater. Roofs with slopes greater than 75% are regarded as walls.
- B. Subject to the remaining provisions of this section, building height limitations in the various zoning districts shall be as indicated in the Table of Density and Dimensional Regulations (§ 128-117).
- C. Subject to Subsection D, the following features are exempt from the district height limitations set forth in Subsection B:
  - (1) Chimneys, church spires, elevator shafts, and similar structural appendages not intended as places of occupancy or storage.
  - (2) Flagpoles and similar devices.
  - (3) Heating and air-conditioning equipment, solar collectors, and similar equipment, fixtures, and devices.
- D. The features listed in Subsection C are exempt from the height limitations set forth in Subsection B if they conform to the following requirements:
  - (1) Not more than 1/3 of the total roof area may be consumed by such features.

- (2) The features described in Subsection C(3) above must be set back from the edge of the roof a minimum distance of one foot for every foot by which such features extend above the roof surface of the principal building to which they are attached.
  - (3) The Planning Commission authority may authorize or require that parapet walls be constructed (up to a height not exceeding that of the features screened) to shield the features listed in Subsections C(1) and (2) from view.
- E. Notwithstanding Subsection B, in any zoning district the vertical distance from the ground to a point of access to a roof surface of any nonresidential building or any multifamily residential building containing four or more dwelling units may not exceed 50 feet unless the Fire Chief certifies to the permit-issuing authority that such building is designed to provide adequate access for fire-fighting personnel or the Building Inspector certifies that the building is otherwise designed or equipped to provide adequate protection against the dangers of fire.
  - F. Towers and antennas are allowed in all zoning districts to the extent authorized elsewhere in this Chapter 128, Zoning.

**§ 128-115. (Reserved)**

**§ 128-116. Density on lots where portion dedicated to Town.**

- A. Subject to the other provisions of this section, if any portion of a tract lies within an area designated on any officially adopted Town plan as part of a proposed public park, greenway, or bikeway, and before the tract is developed, the owner of the tract, with the concurrence of the Town, dedicates to the Town that portion of the tract so designated, then when the remainder of the tract is developed for residential purposes, the permissible density at which the remainder may be developed shall be calculated in accordance with the provisions of this section.
- B. If the proposed use of the remainder is a single-family detached residential subdivision, then the lots in such subdivision may be reduced in accordance with the provisions of §§ 128-115 and 128-116, except that the developer need not set aside usable open space to the extent that an equivalent amount of land has previously been dedicated to the Town in accordance with Subsection A.
- C. If the proposed use of the remainder is a two-family or multifamily project, then the permissible density at which the remainder may be developed shall be calculated by regarding the dedicated portion of the original lot as if it were still part of the lot proposed for development.
- D. If the portion of the tract that remains after dedication as provided in Subsection A is divided in such a way that the resultant parcels are intended for future subdivision or development, then each of the resultant parcels shall be entitled to its pro rata share of the "density bonus" provided for in Subsections B and C.

**§ 128-117. Table of Density and Dimensional Regulations.**

The Table of Density and Dimensional Regulations, Appendix VIII is included at the end of this Chapter 128, Zoning.

**§ 128-118. Notes to Table.**

The notes to the table may be found with the table, Appendix VIII at the end of the Chapter 128, Zoning.

## **ARTICLE XIV.**

### **Supplementary Height, Area, and Bulk Requirements**

#### **§ 128-119. Purpose.**

The regulations set forth in this article qualify or supplement the district regulations appearing elsewhere in this Chapter 128, Zoning.

#### **§ 128-120. Modifications of height regulations.**

- A. The height regulations as prescribed in this chapter shall not apply to:
- (1) Belfries.
  - (2) Chimneys.
  - (3) Church spires.
  - (4) Cooling towers.
  - (5) Elevator bulkheads.
  - (6) Fire towers.
  - (7) Flag poles.
  - (8) Grain elevators.
  - (9) Public monuments.
  - (10) Public and semi-public ornamental towers and spires.
  - (11) Radio and television broadcasting antennas and towers.
  - (12) Silos.
  - (13) Smoke stacks.
  - (14) Stage towers or scenery lofts.
  - (15) Tanks.
  - (16) Public water towers and standpipes.
  - (17) Public windmills (wind turbines) or public solar arrays
- B. Public, semi-public buildings, hospitals, institutions, or schools, when permitted in a district, may be erected to a height not exceeding 60 feet, and churches and temples may be erected to a height not exceeding 75 feet, when the required side and rear yards are each increased by at least one foot for each one foot of additional building above the height regulations for the district in which the building is located.

#### **§ 128-121. Modification of area regulations.**

- A. Yards, generally.
- (1) Every part of a required yard shall be open to the sky, except as authorized by this Article XIV, and except ordinary projections of sills, belt courses, window air-conditioning units, chimneys, cornices, and ornamental features which may

project to a distance not to exceed 24 inches into a required yard, and at a height not creating an obstruction along any public way, street, or thoroughfare.

- (2) In the event that a lot is to be occupied by a group of two or more related buildings to be used for residential, institutional, hotel, or motel purposes, there may be more than one main building on the lot when such buildings are arranged around a court having a direct street access; provided, however, that said court between buildings that are parallel or within 45° of being parallel, shall have a minimum width of 20 feet for one-story buildings, 40 feet for two-story buildings, and 50 feet for three-story buildings, and, in no case may such buildings be closer to each other than 15 feet; where a court having direct street access is more than 50% surrounded by a building, the minimum width of the court shall be at least 30 feet for one-story buildings, 40 feet for two-story buildings, 50 feet for three-story buildings, and 60 feet for buildings four or more stories in height.
- (3) Ornamental walls, fences, or hedges not more than four feet in height may project into or enclose any required front or side yard to a depth from the street line equal to the required depth of the front yard. Ornamental fences or walls may project into or enclose other required yards, provided such fences and walls do not exceed a height of seven feet. Walls, fences or hedges shall not create an obstruction of vision for oncoming traffic along roads as specified in § 128-122 or create an obstruction or hinder access to stormwater management systems or other similar devices required to be maintained.
- (4) Permanently fixed, accessory, open, and uncovered home barbecue grills may occupy a rear yard; provided that the rear setback shall not be located closer than 5 feet to the rear lot line and 3 feet to a side lot line.
- (5) Accessory buildings which are not a part of the main building, although they may be connected by an open breezeway, may be constructed in a rear yard, provided that such accessory building does not occupy more than 30% of the area of the required rear yard and provided that it is not located closer than 5 feet to the rear lot line and not closer than three feet to a side yard lot line.
- (6) Accessory swimming pools, open and uncovered, may occupy a rear or side yard, provided they are not located closer than 6 feet to a rear lot line or 10 feet to a side lot line.
- (7) A satellite antenna larger than 24 inches in diameter may be erected in a rear yard only as an accessory use subject to the following restrictions:
  - (a) May only be erected after construction of principal structure and after obtaining a building permit. Satellite antennae are encouraged to be located as close as reasonably possible to the principal structure for screening and concealment from view.
  - (b) Normally, only one antenna shall be erected per principal building. Where more than one satellite antenna is necessary, the Planning Commission shall require screening to the maximum extent possible.

- (c) May be erected as a freestanding structure mounted on the ground and thoroughly stabilized and tied down in accordance with best building practices and conformance with the latest code regulating installation.
  - [1] A satellite antenna may be mounted on the roof of a building if used for educational purposes relating to a public or private school or a public service operation. Satellite antenna shall be screened or located to minimize view from any public way, street, or thoroughfare.
  - [2] For purposes of this section a private school shall be a private educational facility which meets state accreditation for education.
  - [3] For purposes of this section a public service operation shall be determined by the Town but may include such agencies as police, fire, governmental, and health services.
  - [4] Must be constructed by a recognized manufacturer in the trade and be professionally installed, meeting all safety standards of the Federal Communications Commission and be U.L. approved.
  - [5] Shall be reasonably screened or located to minimize view from the public thoroughfare and the ground level of adjacent properties. All screening shall be maintained as originally approved and, if not so maintained, any permit granted for the satellite is subject to revocation.
  - [6] Height, area, and bulk requirements shall be:
    - [a] Maximum height: 10 feet from ground to highest point of installed antenna.
    - [b] Maximum diameter: eight feet.
    - [c] Minimum rear setback: Distance equal to the height of the satellite (maximum 10 feet).
    - [d] Minimum side setback: Distance equal to the height of the satellite or the required side setback for the principal structure, whichever is greater.
- (d) Antennas less than 24 inches in diameter may be mounted on the roof of a building of a non-educational or public and semi-public services nature. Satellite antenna shall be screened or located to minimize view from any public way, street, or thoroughfare.
- (e) Properties within the Historic District require review and approval as to placement and screening of antenna.

B. Front yards.

- (1) Where an official line has been established for the future widening or opening of a street or major thoroughfare upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line to the nearest line of the building.
- (2) On through lots, the required front yard shall be provided on each street.
- (3) There shall be a front yard of 25 feet on the side street of a corner lot; provided, however, that the buildable width of a lot of record shall not be so reduced so as to render it unusable. The Director of Planning shall be guided by the pattern of development in the vicinity of the lot in question in determining which is the side street, and the appropriate setback for such lots of record.
- (4) Where 25% or more of the street frontage, or where 25% or more of the street frontage within 400 feet of the property in question, is improved with buildings that have a front yard (with a variation of six feet or less) that is greater or less than the required front yard in the district, no building shall project beyond the average front yard so established; provided, however, that a depth of front yard of more than 50% in excess of the depth of the required front yard in the district in which the lot is located, shall not be required. Where 40% or more of the street frontage is improved with buildings that have no front yard, no front yard shall be required for the remainder of the street frontage.
- (5) The Planning Commission may establish a build-to line in existing residential neighborhoods where the majority of existing residences are located close to the street. Where established, the build-to line shall dictate the placement of a building or structure from the street right-of-way line on which the building fronts. On a corner lot, the build-to line applies to both sides of the lot which have street frontage. The front porch shall be placed on the build-to line. Variations of 25% of the distance from the street right-of-way to the build-to line may be permitted to create variety in streetscape. Whenever a building does not front on a right-of-way, the build-to line shall be measured from the edge of the pavement of an accessway in front of or on the side of the building.

C. Side yards.

- (1) Where dwelling units are erected above business structures in business districts, no side yards are required except such side yards as may be required in the district regulations for a business or industrial building.
- (2) For the purpose of the side yard regulations, a group of business or industrial buildings separated by common or party walls shall be considered as one building occupying one lot.
- (3) The minimum depth of side yards for schools, libraries, churches, community houses, and other public and semipublic buildings in residential districts shall be 25 feet, except where a side yard is adjacent to a business or industrial district, in which case, the depth of that yard shall be as required in the chart of Article XIII for the district in which the building is located.

D. Rear yards. Open or partially or semi-enclosed fire escapes, outside stairways and balconies opening upon fire towers and the ordinary projections of chimneys and flues

may project into the required rear yards for a distance of not more than five feet, but only where the same are so placed as not to obstruct light and ventilation.

E. Authority to vary setbacks. For all infill and redevelopment applications in the TR, MR, MI, RA, and SR Districts, the Planning Commission may vary the front yard, side yard or rear yard setbacks set forth in this Chapter 128, Zoning if it finds that:

- (1) The property owner complies with the Town's Residential Infill and Redevelopment Guidelines See Appendix IV at the end of this Chapter 128, Zoning; and
- (2) The proposed setbacks do not affect the privacy, sunlight or views of the adjacent property, nor restrain the potential of the adjacent property for future development.

**§ 128-122. Corner visibility.**

No sign, fence, wall hedge, planting, or other obstruction to vision, extending to a height in excess of 3 feet above the established street grade, shall be erected, planted, or maintained within the area of a corner lot that is included between the lines of the intersecting streets and a straight line connecting them at points 20 feet distant from the intersection of the street unless otherwise approved by Planning Commission or the Director of Planning.

**§ 128-123. Lot area.**

If the owner of a lot in any district can show that the deed or instrument under which such owner acquired title to such lot was of record prior to the application of any zoning regulations and restrictions to the premises, and if such lot does not conform to the requirements of such regulations and restrictions as to width of lots and lot area per family, the provisions of such lot area per family and lot width regulations and restrictions shall not prevent the owner of such lot from erecting a single-family dwelling or making other improvements on the lot, provided that such improvements conform in all other respects to applicable zoning regulations and restrictions.

**§ 128-124. Building conversion.**

A. Conversion of any non-residential building existing at the time of passage of this Chapter 128, Zoning, so as to permit the housing of any number of families is permitted, provided there is substantial compliance with the yard requirements for the district and compliance with:

- (1) The use regulations of the zoning district in which the building is located;
- (2) The lot area per unit requirement; and
- (3) The off-street parking requirement.

B. Where the above conditions are not met but there is compliance with the use regulations of the district, the conversion may be permitted only if a variance is granted by the Board of Appeals in accordance with the standards of this Chapter 128, Zoning.

**§ 128-125. Fencing/screening.**

A. Fences, walls, and hedges.

- (1) Corner visibility: Any sign, fence, wall, hedge, planting or other obstruction to vision located at a corner of two streets shall be limited in height to three feet from road grade.
- (2) Front yard: Any fence or wall located in the front yard shall be limited in height to four feet from road grade except in I/MI Districts where a fence seven feet high from road grade may be erected 20 feet from the front property line.
- (3) Side yard: Any fence or wall located in the side yard shall be limited in height as follows:
  - (a) For the first 30 feet from the front property line, height shall not exceed four feet from grade. Except that in the RHC, I and MI Districts height shall not exceed four feet from grade for the first 20 feet from the front property line.
  - (b) For the balance of the side yard, height shall not exceed seven feet from grade.
- (4) Swimming pools shall be regulated by the Town of Denton Building Code. Chapter 38, Building Construction, Art. I, Building Code.
- (5) Chain link fencing is only allowed in the Industrial District.

## ARTICLE XV.

### Signs

#### § 128-126. Purpose.

The purpose of this article is to prescribe standards for the location, design, color, illumination, height and size of all signs within the Town of Denton in order to protect the unique natural beauty and small town character of the Town. This article also intends to promote the following:

- A. To encourage the effective use of signs as a means of communication for the convenience of the public by preventing their over-concentration, improper placement and excessive size;
- B. To maintain and enhance the aesthetic environment while promoting creativity and the Town's ability to attract sources of economic development and growth;
- C. To minimize the possible adverse effect of signs on nearby public and private property;
- D. To protect and enhance the small town character of Denton by requiring new and replacement signage which is:
  - (1) Creative and distinctive;
  - (2) Compatible with its surroundings;
  - (3) An integral component of the style and character of the building to which it relates;
  - (4) Appropriate to the type of activity to which it pertains;
  - (5) Expressive of the identity of individual proprietors or of the community as a whole; and
  - (6) Appropriately sized for its context.
- E. To enable the fair and consistent enforcement of these sign restrictions; and
- F. To preserve and protect the public health, safety and general welfare.

#### § 128-127. Applicability; effect of provisions.

- A. A sign may only be erected, placed, established, painted, created, or maintained in the Town in conformance with the standards, procedures, exemptions, and other requirements of this article.
- B. The effect of this article, as more specifically set forth herein, is:
  - (1) To establish a permit system to allow a variety of types of signs in commercial and industrial zones and a limited variety of signs in other zones, subject to the standards and the permit procedures of this article;
  - (2) To allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located subject to the substantive requirements of this article, but without a requirements for permits;
  - (3) To prohibit all signs not expressly permitted by this article;
  - (4) To provide for the enforcement of the provisions of this article; and

- (5) To require all signs to ultimately comply with the provisions of these regulations.

**§ 128-128. Administration.**

A. Permits.

- (1) Except as otherwise provided herein, no sign may be constructed, erected, displayed, moved, enlarged, illuminated, or substantially altered until an application has been filed and until a permit for such action has been issued, except in accordance with the provisions of this section. Except in the Historic Overlay Zone, where Historic and Architectural Review Commission review and approval is required, repainting and changing the message of a sign shall not, in and of itself, be considered a substantial alteration. At a minimum, all applications shall include a scale drawing specifying dimensions, materials, illumination, letter sizes, colors, support systems, and location on land or buildings, with all relevant measurements.
- (2) Permits shall be issued only if the Director of Planning, or their designee, determines the sign complies or will comply with all applicable provisions of this Chapter 128, Zoning and the Town Code. Such application may be filed by the owner of the land or building, or any person who has the authority to erect a sign on the premises, except that in the case of a lot occupied or intended to be occupied by multiple business enterprises (e.g., a shopping center), sign permits shall be issued in the name of the lot owner or his agent rather than in the name of the individual business enterprise requesting a particular sign. The Town may assist the owner by suggesting a formula whereby the maximum square footage of sign area allowed on the lot may be allocated equitably among all tenants, but the Town shall be responsible for enforcing only the provisions of this Chapter 128, Zoning and not the provisions of any allocation formula, lease, or other private restriction.
- (3) The Director of Planning, or their designee, shall act within 30 days of receipt of a completed application with all required information, together with the required fee. The Director of Planning, or their designee's action or failure to act may be appealed to the Board of Appeals under the provision of § 128-163 of this Chapter 128, Zoning.
- (4) If plans submitted for a zoning permit or special exception permit include sign plans in sufficient detail that the permit-issuing authority can determine whether the proposed sign or signs comply with the provisions referenced in this article, the permit-issuing authority can approve the sign plans and direct the Director of Planning, or their designee to issue the respective permit.
- (5) Sign permit applications and sign permits shall be governed by the same provisions of this Chapter 128, Zoning applicable to zoning permits.
- (6) Inspections for all footers and upon completion of the final installation of the sign shall be performed by the building official. A minimum notification of twenty-four (24) hours shall be provided to the department of Planning and Codes prior to the required inspection. The authorized agency responsible for electrical inspections shall inspect all signs requiring electricity.

- B. Enforcement. The Director of Planning, or their designee, is hereby authorized to enforce this article and is authorized to order the repair or removal of any sign and its supporting structure which is judged dangerous, in disrepair, abandoned, or obsolete, or which is erected or maintained contrary to this article.
- C. Maintenance/removal of signs.
- (1) All signs and all components thereof, including without limitation, supports, braces, and anchors, shall be kept in a state of good repair (visual and functional), and properly painted. Freestanding signs and components (supporting structures, backs, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the natural environment.
  - (2) If a sign other than a billboard advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating, the sign shall, within 30 days after abandonment, be removed by the sign owner, owner of the property where the sign is located, or other party having control over such sign.
  - (3) If the message portion of a sign is removed, leaving only the supporting shell of a sign or the supporting braces, anchors, or similar components, the owner of the sign or the owner of the property where the sign is located or other person having control over such sign shall, within 30 days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign. This subsection shall not be construed to alter the effect of § 128-133C, which prohibits the replacement of a nonconforming sign. Nor shall this subsection be construed to prevent the changing of the message of a sign.
  - (4) The area within 10 feet in all directions of any part of a freestanding sign shall be kept clear of all debris and all undergrowth more than five inches in height.
  - (5) Upon written notice from the Director of Planning, or his designee, that a sign is unsafe, damaged, deteriorated, abandoned, or obsolete, not in a good state of repair, or not properly painted as deemed by the building official or their designee, the owner of the site and/or the owner of the sign shall repair or remove the sign. Immediate action is required for the repair or the removal of unsafe signs. If repair or removal is not achieved within the time period specified in the written notice from the Director of Planning, or their designee, the sign shall be repaired or removed by the Town. Any sign or sign structure removed by the Town shall be held not less than 30 days by the Town during which period it may be recovered by the owner upon payment to the Town for cost of removal and storage and any fine imposed. If not recovered within the thirty-day period, the sign or sign structure is hereby declared abandoned or obsolete, and title thereto shall be vested in the Town for disposal in any manner permitted by law. All costs associated with the removal, storage, and disposal of abandoned or obsolete signs shall be the responsibility of the sign or property owner.

- D. Variances for signs. The Board of Appeals may hear and decide applications for a variance from these sign regulations in accordance with the provisions of § 128-163 of this Chapter 128, Zoning. However, as ample provision for premises identification have been made herein and whereas design issues are a central theme of the Denton Comprehensive Plan, the Board of Appeals shall examine all options when hearing applications for variances, in order to provide adequate identification, yet be sensitive to design considerations. (For example, this may mean granting an extra building sign, rather than granting a height variance for a freestanding sign). For variances from the sign regulations, there is no presumption of an entitlement to any particular type of signage.

**§ 128-129. Regulations applicable to all signs.**

Any sign erected, placed, attached, altered, reconstructed or modified after the adoption or amendment of this Chapter 128, Zoning shall conform to the following regulations. (See Appendix III at the end of this Chapter, 128, Zoning for sign illustrations.)

- A. No flashing, shimmering, or rotating signs, or tethered inflatable signs, such as soda cans, merchandise logos, etc., shall be permitted in any district except as allowed in Subsection I.
- B. No sign shall be fastened to and supported by or on the roof of a building, and no projecting sign shall extend over or above the roof or a parapet wall of a building.
- C. Temporary sale signs are permitted in commercial and industrial zones without obtaining a permit if the business does not exceed the overall maximum sign area allowed for the property under this Chapter 128, Zoning. If the property owner seeks to exceed the maximum allowable signage, then the Denton Planning Commission and/or the Director of Planning, depending on who has the authority, may grant a temporary permit for such use. The sign must be removed 15 days after the event, circumstance or situation. If the sign is not removed after 15 days, the Town shall send a notice of violation of the provisions of this subsection to the property owner. If, after 24 hour after the service of notice, the sign has not been removed, the Town may remove the sign as provided in § 128-128C (5) and the property owner shall be liable for penalty under this Chapter 128, Zoning.
- D. Clearance from electrical conductors. Signs shall not be located with less than five feet six inches horizontal or 10 feet vertical clearance from overhead electric conductors which are energized under 750 volts. Signs shall not be located with less than eight feet six inches horizontal or 11 feet vertical clearance from overhead electrical conductors which are energized in excess of 750 volts.
- E. Signs indicating the current time and/or temperature are permitted, provided they meet all other provisions of this Chapter 128, Zoning.
- F. No sign, except for traffic, regulatory, or informational signs, shall use the words "stop," "caution," or "danger," or shall incorporate red, amber or green lights resembling traffic signals, or shall resemble "stop" or "yield" signs in shape and color.
- G. No person may erect, maintain, or allow to remain a sign which:
- (1) Is structurally unsafe;

- (2) Constitutes a hazard to public safety and health by reason of inadequate maintenance, dilapidation, or abandonment;
  - (3) Obstructs free entrance to or exit from a required door, window, or fire escape;
  - (4) Obstructs light or air or interferes with a proper functioning of the building; or
  - (5) Is capable of causing electrical shock.
- H. No off-premises signs may be located in any district except as provided for in §§ 128-135 and 128-138.
- I. Signs that illuminate, revolve or are animated or that utilize movement or apparent movement to attract the attention of the public are prohibited, except that in the overlapping area of the Central Business Commercial (CBC) District and the Historic District (HD) Overlay Zone, such signs may be permitted if they are an historic replica and they are approved by the Historic and Architectural Review Commission. Without limiting the foregoing, banners, streamers, animated display boards, pennants, and propellers are prohibited, but signs that only move occasionally because of wind are not prohibited if their movement is not a primary design feature of the sign, and is not intended to attract attention to the sign. The restriction of this subsection shall not apply to signs specified in § 128-132 or to signs indicating the time, date, or weather conditions.
- J. No sign may be erected so that by its location, color, size, shape, nature, or message it would tend to obstruct the view of or be confused with official traffic signs or other signs erected by governmental agencies.
- K. Freestanding signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is virtually no danger that either the sign or the supportive structure may be removed by the wind or other forces of nature and cause injury to persons or property.
- L. No sign may be posted on or attached to utility poles or government-owned posts, pillars, light poles, etc.
- M. Except as provided in § 128-129(E), message board and combination signs, including changeable electronic message board, electronic message board, electronic display screen, and electronic graphic display signs, are prohibited.

**§ 128-130. Location, size and height requirements.**

- A. Measurement of sign area.
- (1) Sign measurements shall be based upon the entire area of the sign, with a single continuous perimeter enclosing the extreme limits of the actual sign surface.
  - (2) For a sign consisting of individual letter or symbols attached to a surface, building, wall, or window, the area shall be considered to be that of the smallest rectangle, square, triangle, trapezoid, circle or any combination of these shapes which encompasses all of the letters and symbols.
  - (3) The area of supporting framework (for example brackets, posts, etc.) shall not be included in the area if such framework is incidental to the display.

- (4) When a sign has two or more faces, the area of all faces shall be included in determining the area, except where two faces are placed back to back and are at no point more than two feet from each other. In this case, the sign area shall be taken as either face, and if the faces are unequal, the larger shall determine the area.
- B. Measurement of sign height. The height of any sign shall be measured from the surface of the road up to the highest point of the sign.
  - C. Maximum height. A freestanding sign shall not exceed a height as provided in § 128-137 for the GC and CM Zones, § 128-138 for the CBC Zone, § 128-139 for the HC Zone, § 128-140 for the Industrial and MI Zones, and § 128-141 for the PN Zone.
  - D. Setback. Except in the Industrial District, freestanding signs shall be set back from streets by at least 1/2 the distance required for building setbacks set forth in Article XIII. In the Industrial District, freestanding signs shall be set back 10 feet from the property line or street.
  - E. Location.
    - (1) No sign may extend above any parapet or be placed upon any roof surface, except that for purposes of this section, roof surfaces constructed at an angle of 75° or more from horizontal shall be regarded as wall space. This subsection shall not apply to displays, including lighting, erected on the roofs of residential structures in connection with the observation of holidays.
    - (2) No sign or supporting structure may be located in or over the traveled portion of any public right-of-way unless the sign is attached to a structural element of a building and an encroachment permit has been obtained from the Town.
    - (3) No sign may be located so that it substantially interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads.

### **§ 128-131. Development standards.**

The following restrictions apply to permitted signs:

- A. Architectural compatibility. A sign (including its supporting structure and components, if any) shall be designed as an integral design element of a building's architecture, and shall be architecturally compatible, including color, with any building which the sign is to identify and with surrounding structures as determined by the Director of Planning and/or the Planning Commission.
- B. Scale and proportion. Every sign shall have good scale and proportion in its design and its visual relationship to buildings and surroundings.
- C. Colors, materials and lighting. The colors, materials, and lighting of every sign shall be restrained and harmonious with the building and site to which it principally relates.
- D. Graphic elements. The number of graphic elements on a sign shall be held to the minimum needed to convey the sign's major message and shall be composed in proportion to the sign face.

- E. Compatibility. Each sign shall be compatible with the signs on adjoining premises and shall not compete for attention.
- F. Identification signs. Identification signs of a prototype design and corporation logos shall conform to the criteria for all other signs.
- G. Sign materials. Sign materials shall be similar to or compatible with the structure they identify.
- H. Component painting. All light fixtures, conduit and shielding shall be painted to match either the building or the supporting structure that serves as the background of the sign.
- I. Sign illumination and signs containing light.
  - (1) Unless otherwise prohibited by this Chapter 128, Zoning, signs may be illuminated if such illumination is in accordance with this section.
  - (2) The lighting of or illumination of a sign shall be erected or maintained to effectively shield and prevent lighting or light from being directed at any portion of the traveled way or any roadway, or be of such intensity or brilliance as to cause glare, impair vision, or interferes with the effectiveness of the visibility of the operator of any motor vehicle.
  - (3) No sign within 150 feet of a residential zone may be illuminated between the hours of 10:00 p.m. and 6:00 a.m., unless the impact of such lighting beyond the boundaries of the lot where it is located is entirely inconsequential.
  - (4) Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right of way or residential premises.
  - (5) Except as herein provided, internally illuminated signs are not permissible in the SR, TR, and MR, Zoning Districts, and where permissible, internally illuminated freestanding signs may not be illuminated during hours that the business or enterprise advertised by such sign is not open for business or operation. For the CBC Zoning District, signs shall comply with § 128-129(I). This subsection shall not apply to the following types of signs:
    - (a) Signs that constitute an integral part of a vending machine, telephone booth, device that indicates the time, date or weather conditions, or similar device whose principal function is not to convey an advertising message.
    - (b) Signs that do not exceed two square feet in area and that convey the message that a business enterprise is open or closed or that a place of lodging does or does not have a vacancy.
  - (6) Subject to Subsection I (8), illuminated tubings or strings of lights that outline property lines, rooflines, exterior components or areas of doors, windows, or similar areas are prohibited.
  - (7) Subject to Subsection I(8), no sign may contain or be illuminated by flashing or intermittent light or lights of changing degrees of intensity, except signs indicating the time, date or weather conditions.

- (8) Subsections I (6) and (7) do not apply to temporary signs erected in connection with the observance of holidays.

**§ 128-132. Signs permitted without permits.**

The following signs are permitted without a zoning approval, special use exception, conditional use, or sign permit. However, such signs shall conform to the requirements set forth below as well as all other applicable requirements of this Chapter 128, Zoning.

- A. Signs not exceeding four square feet in area that are customarily associated with residential use and that are not of a commercial nature, such as signs giving property identification names or numbers or names of occupants, signs on mailboxes or newspaper tubes, and signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.
- B. Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs or bulletin boards, and traffic, directional, or regulatory signs.
- C. Official signs of a noncommercial nature erected by public utilities.
- D. Flags, pennants, or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device.
- E. Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks or moving parts and which are not lighted.
- F. Signs directing and guiding traffic on private property that do not exceed four square feet each and that bear no advertising matter.
- G. Church bulletin boards, church identification signs, and church directional signs that do not exceed one per abutting street and 16 square feet in area and that are not illuminated.
- H. Signs painted on, magnetically, or otherwise permanently attached to currently licensed motor vehicles used in the normal day-to-day operations of the business advertised and that are not primarily used as freestanding or vehicle signs. Such signs shall be limited to the surface area of the vehicle and shall not project past the surface area of the vehicle, except that a sign on the roof of a vehicle may project upwards up to eight inches.
- I. Signs proclaiming religious, political, or other noncommercial messages that do not exceed one per abutting street and 16 square feet in area and that are not internally illuminated.
- J. Signs containing the message that the real estate on which the sign is located (including buildings) is for sale, lease, or rent, together with information identifying the owner or agent. Such signs may not exceed size specification for each district and shall be removed within 30 days after sale, lease or rental. One such sign per street frontage shall be permitted. For lots of five acres or more in area and having a street frontage in excess of 400 feet, a second sign may be erected.
- K. Construction site identification signs. Such signs may identify the project, the owner or developer, architect, engineer, contractor and subcontractors, funding sources, and may contain related information, including but not limited to sale or leasing information. Not

more than one such sign may be erected per site, and it may not exceed 32 square feet in area. Such signs shall not be erected prior to the issuance of a building or grading permit and shall be removed within 10 days after the issuance of the final occupancy permit. The maximum size is 20 square feet for signs in residential districts.

- L. Signs attached temporarily to the interior of a building window or glass door. Such signs, individually or collectively, may not cover more than 20% of the surface area of the transparent portion of the window or door to which they are attached. Such signs shall be removed within 90 days after placement.
- M. Exterior displays, including lighting, erected in connection with the observance of the holidays. Such displays shall be removed within 10 days following the holidays.
- N. Public service or civic organization, provided:
  - (1) The signs are unlighted or indirectly lighted.
  - (2) The sign area is less than 16 square feet.
  - (3) The signs meet all applicable state and federal regulations.
- O. Political signs, provided:
  - (1) The sign(s) are displayed on private property with the consent of the owner.
  - (2) Sign area shall not exceed thirty-two (32) square feet.
- P. One temporary sign advertising a real estate development, commercial development or subdivision. Said sign shall not exceed 32 square feet in area and shall be located on the property to be developed or subdivided. Such sign shall be removed when 90% of the initially available property has been sold. A permanent development or subdivision sign is not permitted.

**§ 128-133. Nonconforming signs.**

- A. No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign. Without limiting the generality of the foregoing, no nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition nor may illumination be added to any nonconforming sign.
- B. A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this Chapter 128, Zoning.
- C. If a nonconforming sign is destroyed or substantially altered, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this Chapter 128, Zoning, and the remnants of the former sign structure shall be cleared from the land. For purposes of this section, a nonconforming sign is destroyed if damaged to an extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds the value of the sign so damaged.
- D. The message of a nonconforming sign may be changed so long as this does not create any new nonconformities (for example, by creating an off-premises sign under circumstances where such a sign would not be allowed).

- E. Subject to the other provisions of this section, nonconforming signs may be repaired and renovated to the original sign specifications.
- F. Nothing in this article shall be deemed to prevent keeping in good repair a nonconforming sign, including sign maintenance, repainting, and replacement of broken or deteriorated parts of the sign itself as deemed necessary by the building official or designee.
- G. If a nonconforming sign other than a billboard advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall be removed within 30 days after such abandonment by the sign owner, owner of the property where the sign is located, or other person having control over such sign. All components of the sign including electric and hardware are required to be removed with the sign.
- H. If a nonconforming billboard remains blank for a continuous period of 180 days, that billboard shall be deemed abandoned and shall, within 30 days after such abandonment, be altered to comply with this article or be removed by the sign owner, owner of the property where the sign is located, or other person having control over such sign. For purposes of this section, a sign is blank if:
  - (1) It advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted; or
  - (2) The advertising message it displays becomes illegible in whole or substantial part; or
  - (3) The advertising copy paid for by a party other than the sign owner or promoting an interest other than the rental of the sign has been removed or the lease period for the sign has expired.

**§ 128-134. Unlawful cutting of trees or shrubs.**

No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy or remove any trees, shrubs or other vegetation located:

- A. Within the right-of-way of any public street or road, unless the work is done pursuant to the express written authorization of the Town, county, or state agency owning the right-of-way;
- B. On property that is not under the ownership or control of the person doing or responsible for such work, unless the work is done pursuant to the express authorization of the person owning the property where such trees or shrubs are located; or
- C. In any area where such trees or shrubs are required to remain under a permit issued under this Chapter 128, Zoning, including any trees, shrubs or other vegetation that are required as part of the Critical Area regulations.

**§ 128-135. Banners, pennants, special event, changeable electronic message board, electronic message board, electronic display screen, and electronic graphic display signs**

- A. Special event signs.

- (1) A carnival, fair, circus, festival or similar event as determined by the Town may locate banners, flags and pennants, provided:
  - (a) A permit is obtained containing the purpose, location and dates of the event.
  - (b) These signs may be displayed no more than four weeks prior to the event and must be removed no more than three days after the event.
  - (c) These signs must be located on-site.
  - (d) The event occurs no more than once a year.
- (2) A carnival, fair, circus, festival or similar event, as determined by the Town may display off-premises signs, provided:
  - (a) Written permission is obtained from the property owner where the sign is to be located and is provided to the Town.
  - (b) A permit is obtained stating location, purpose and dates of the event. Sign information must be limited to the event name, dates, location and sponsor.
  - (c) No more than four signs per event may be erected.
  - (d) Signs may not exceed 32 square feet in area per sign.
  - (e) They may be erected no more than four weeks prior to the event and must be removed no more than five days after the event.
- (3) Off-site advertising signs for subdivisions, open houses or other real estate events are permitted, provided that the sign does not exceed four square feet in area per sign, and provided that the sign(s) are only displayed between Fridays after 12:00 noon, and removed by 8:00 a.m. on Monday morning after the event. In the event that the Monday is a legal holiday, the sign must be removed by 8:00 a.m. on Tuesday morning. In the event that Friday is a legal holiday, the sign may be placed on Thursday after 12:00 noon.

B. Grand opening signs.

- (1) A grand opening or grand reopening is permitted to use banners, pennants, or flags, provided:
  - (a) They are not displayed more than two weeks prior to the event and are removed within three days after the event.
  - (b) A permit must be obtained which would include number, and type of all banners as well as the dates of the event.
- (2) A grand opening or grand reopening is permitted to display two off-premises signs, provided:
  - (a) Written permission is obtained from the owner of the property where the sign is to be located and is provided to the Town.

- (b) A permit must be obtained stating locations, dates of event and wording on the sign.
- (c) Signs may only indicate grand opening or reopening, name of business, merchandise available, date of event, location of business and owner's name. These signs shall not include prices.
- (d) Signs are not displayed more than fourteen (14) days prior to the event and are removed no more than seven (7) days after the event.
- (e) Signs shall not exceed 32 square feet in area.

C. Special sales signs.

- (1) Banners may be used to advertise a sale, provided:
  - (a) Not more than two banners may be displayed on any lot at any one time.
  - (b) It does not exceed 24 square feet in size.
  - (c) They are displayed no more than two weeks at a time and six times in any one-year period.
  - (d) A permit shall be required stating size of banners, dates to be displayed, business name and number of banners displayed.
- (2) Commercial centers in RHC areas may use banners to advertise a sale, provided:
  - (a) Not more than four banners may be displayed on any lot at any one time.
  - (b) It does not exceed 24 square feet in size.
  - (c) They are displayed no more than two weeks at a time and six times in any one-year period.
  - (d) A permit shall be required stating size of banners, dates to be displayed, business name and number of banners displayed.

D. Help wanted signs.

- (1) A sign may be used to advertise help wanted, provided:
  - (a) The size of the sign shall not exceed 24 square feet in area in HC Zones and 24 square feet in area in other commercial zones.
  - (b) The sign complies with Subsection E below.
  - (c) The sign states only "Help wanted", with contact information.
  - (d) The sign must be located on site.

E. Additional regulations for all banners, pennants and flags.

- (1) Banners and pennants may be indirectly lit during hours of operation only. All lighting must be directed downward.

- (2) No sign may be located so that it substantially interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads.
  - (3) No sign may be erected so that by its location, color, size, shape, nature, or message it would tend to obstruct the view of or be confused with official traffic signs or other signs erected by government agencies.
  - (4) All signs should be securely attached to the support structure to prevent sagging or dropping of the pennants, banners or flags.
  - (5) Such signs shall not be used in the calculation of permitted sign area for each use.
  - (6) All banners must be securely fastened to a solid flat surface except if displayed as special event signs.
- F. Regulations for electronic messaging signs, including changeable electronic message board, electronic message board, electronic display screen, and electronic graphic display signs
- (1) The size and location of the sign shall conform to the provisions of this Chapter 128, Zoning.
  - (2) The addition of any electronic messaging sign to any non conforming sign is prohibited.
  - (3) The sign must be located on the site of the use identified or advertised by the sign.
  - (4) The electronic display background color tones, lettering, logos, pictures, illustrations, symbols, and any other electronic graphic or video display shall not blink, flash, rotate, scroll, change in illumination intensity, or otherwise change in outward appearance, except when the electronic message or display is changed to another message or display.
  - (5) The electronic display background color tones, lettering, logos, pictures, illustrations, symbols, and any other electronic graphic or video display shall not change at intervals less than three (3) minutes.
  - (6) The maximum duration of the transition of the electronic image or message change shall be no more than two seconds.
  - (7) All electronic messaging signs must be equipped with a default mechanism that will terminate the messaging or freeze the image in one position when a malfunction in electronic programming occurs.
  - (8) Illumination shall not exceed the limits as determined by the Director of Planning or designee.
  - (9) Electronic messaging signs must have an automatic dimmer control to produce a distinct illumination change from a higher illumination level to a lower level for the time period between one half-hour before sunset and one half-hour after sunrise.
  - (10) Audio speakers are prohibited with any electronic messaging sign.

- (11) Any form of pyrotechnics is prohibited in association with an electronic messaging sign.

**§ 128-136. Permitted signs and standards for SR, TR, MI (residential use), and MR Zones.**

Signs permitted in the Residential Zones SR, TR, MI, and MR shall be limited to the following:

- A. Unlighted real estate sign not exceeding four square feet in area.
- B. One on-site, indirectly illuminated sign not to exceed 15 square feet in area identifying an apartment structure having a minimum of 100 feet of street frontage. The maximum height of the sign shall be six feet.
- C. One on-site, indirectly illuminated sign not to exceed 30 square feet in area shall be permitted in conjunction with a building of a public or semipublic nature. The maximum height of the sign shall be six feet.
- D. One sign, not exceeding 15 square feet in area is permitted in conjunction with an approved special exception use, except where signage is provided for in other sections of this Chapter 128, Zoning.
- E. Banners and pennants are prohibited except as provided for in § 128-135A, Special event signs.

**§ 128-137. Permitted signs and standards for GC and CM Zones.**

Signs permitted in the General Commercial Zone (GC) and Commercial Medical District Zone (CM) shall be limited to the following:

- A. Unlighted real estate signs not to exceed 15 square feet in area.
- B. One on-site freestanding sign not to exceed one square foot of area for each one linear foot of street frontage; however, such sign shall not exceed 100 square feet in area nor be smaller than 20 square feet. The maximum height of such sign shall be 15 feet measured from ground level. A combination sign can be used as the one freestanding sign permitted.
- C. A flat sign, not projecting more than nine inches from the side of the building and not exceeding a maximum of 60 square feet of signage is permitted per wall parallel to street frontage.
- D. Projecting signs extending not more than 72 inches from the front of the building. Signs may not be larger than 12 square feet on one side, and must be at least seven feet from the ground. The sign shall advertise only the business conducted in the building to which it is attached.

**§ 128-138. Permitted signs and standards for CBC Zone.**

In addition to the standard review process, all signs in the Central Business Commercial (CBC) Zoning District that are also in the Historic Overlay Zone shall be subject to review and approval by the Historic and Architectural Review Commission. Signs permitted in the Central Commercial Zone (CBC) shall be limited to the following:

- A. Unlighted real estate signs not to exceed 10 square feet in area.

- B. Freestanding signs are permitted on improved lots with front yards. One indirectly lit freestanding sign not exceeding 10 square feet per face per building lot may be permitted. Two freestanding signs may be permitted on corner lots. Freestanding signs must be set back 10 feet from the property line and may not exceed five feet in height. The sign shall advertise only the business conducted in the building to which it is attached.
- C. One indirectly lit flat sign, not projecting more than nine inches from the side of a building. The sign area is not to exceed one foot of area per linear foot of street frontage or 40 square feet, whichever is less.
- D. Multiple signs.
  - (1) Combinations of signs are allowed under the following conditions:
    - (a) A storefront may have one projecting sign and/or one permanent window sign.
    - (b) A storefront may not have both a projecting sign and a flat sign.
    - (c) A storefront may not have both a flat sign and a permanent window sign.
    - (d) A storefront may not have both a flat sign or a permanent window sign and an awning sign.
    - (e) A storefront may not have both a projecting sign and an awning sign.
    - (f) Temporary window signs are allowed in combination with flat, projecting, awning and storefront signs.
  - (2) Limits on multiple signs.
    - (a) Permanent commercial storefront window signage shall not exceed 50% of the total storefront glass area on which it is attached or displayed.
    - (b) All temporary storefront signs affixed to storefront windows shall not exceed 20% of the glass area on which it is affixed.
    - (c) Total permanent and temporary signs on storefront windows and entry doors must be located and designed so to not obscure visibility into the ground floor and shall not exceed a combined total of 50% of the glass area.
    - (d) Storefront window signage (permanent and temporary) shall be reduced in area to reflect the area used for projecting signs. For example, if the storefront window is 100 square feet and the projecting sign is 15 square feet, the storefront window area for calculating coverage is reduced to 85 square feet (100 less 15). The total storefront window signage cannot exceed 50% of 85 square feet.
    - (e) Temporary signs shall be removed within 90 days after placement.
    - (f) Any signs located in display areas that are not affixed to the storefront window shall not reduce the allowable storefront window signage.

- E. All signage may include the branding logo for Denton in addition to the store logo.
- F. No plastic signs, except simulated wood/laser engraved signs, are allowed unless they are being used under the provisions of § 128-135 as a banner or pennant. The Planning Commission may consider alternative materials if recommended by the Historic and Architectural Review Commission.
- G. In addition to the signage permitted in Subsections B and C above, one A-frame or pedestal sign may be permitted, provided:
  - (1) Only one A-frame or pedestal sign shall be allowed for any single building; provided, however, that where more than one business occupies a building, each business may have one A-frame or pedestal sign;
  - (2) Notwithstanding Subsection G(1), a minimum separation of 20 feet shall be maintained between A-frame or pedestal signs;
  - (3) A-frame or pedestal signs on public or private property shall not exceed 24 inches in width and 36 inches in height; provided, however, that a minimum unobstructed sidewalk width of 42 inches shall be maintained;
  - (4) No sign shall be placed in a manner which obstructs the vision clearance at a street intersection; and
  - (5) An encroachment permit has been secured from the Department of Planning for A-frame or pedestal signs located within a public right-of-way which abuts the building containing the business or use.
  - (6) Decorative flags, A-frame, and pedestal signs shall be removed during nonbusiness hours.
- H. An awning sign may be permitted by the Director of Planning or designee under the following conditions:
  - (1) No sign shall project from an awning.
  - (2) Awning graphics may be painted or affixed flat to the surface of the front or sides and shall indicate only the name and/or address of the enterprise or premises.
  - (3) Awning graphics shall be a single line of lettering not exceeding six inches in height, but, if over three inches in height, shall be debited against the permitted wall sign surface area.
  - (4) No awning sign shall be internally illuminated.
- I. Projecting signs.
  - (1) A wall-mounted sign perpendicular to the building surface.
  - (2) If flat, each face shall not exceed 10 square feet.
  - (3) Multiple occupancy buildings are permitted to have one projecting sign, for each retail storefront, not to exceed 10 square feet per face or one projecting sign listing multiple tenants not to exceed 12 square feet.

- (4) The total area of a three-dimensional sign shall be determined by enclosing the largest cross section of the sign in an easily recognizable geometric shape and computing its area which shall not exceed nine square feet.
- (5) A projecting sign shall be hung at right angles to the building and shall not project closer than two feet to the curbline.
- (6) The supporting framework shall be in proportion to the size of such sign.
- (7) Signs which overhang a public way (including sidewalks) shall be covered by a public liability insurance policy which names the Town as an insured party.
- (8) The top of the sign may be suspended in line with one of the following, whichever is the most successful application of scale, linear continuity, and visibility as determined by the Zoning Administrator:
  - (a) Suspended between the bottom sills of the second story windows and the top of the doors and windows of the second floor; or
  - (b) The lowest point of the roof of a one-story building.
- (9) Projecting signs shall have a minimum clearance of eight feet above grade when located adjacent to or projecting over a pedestrian way. If projecting over an alley or driveway, the clearance must be at least 13 feet.

J. Exterior directory signs:

- (1) Exterior directory signs may be provided to identify individual businesses or occupants of the same building or building complex, in accordance with the following:
  - (a) The display board shall be of an integrated and uniform design.
  - (b) No more than one sign panel not to exceed two square feet in area is permitted per directory for each tenant business.
  - (c) Directory signs shall be placed in one or more groups nearest the pedestrian entrances adjacent to the building complex only, and shall be wall-mounted.
  - (d) The total area of any directory sign shall not exceed 10 square feet.
  - (e) Directory signs shall not contain advertising copy.
  - (f) Interior directory signage is not subject to the regulations herein.

K. Directional signage.

- (1) Permanent directional signage may be placed off-premises and shall not exceed four square feet. Directional signage may only bear business name and be placed in a manner that will not obstruct pedestrian or traffic visibility. No advertising matter or logo (other than Denton Brand logo) may be displayed on directional signage.
- (2) One off-premises freestanding sign may be allowed on each gateway access point for the purpose of multiple directional signage. Gateway access points are located

at the entrances of Gay Street, Franklin Street, Fifth Street (Avenue) going north, Sixth Street going south, and Market Street. (Each direction on Market Street shall be considered a gateway access point). A landscaped area equivalent to the area of each side of a freestanding sign shall be maintained by the permit holder, and this area shall be kept in a neat and clean condition, free of weeds and rubbish. No more than one freestanding off-premises sign may be allowed per gateway access point.

**§ 128-139. Permitted signs and standards for RHC Zone.**

Signs permitted in the Regional Highway Commercial Zone (RHC):

- A. Unlighted real estate signs, with total sign area not to exceed 40 square feet.
- B. The following standards shall apply to freestanding/detached signs: one detached on-site sign not to exceed 15 square feet in area for each 20 linear feet of street frontage; however, such sign shall not exceed 80 square feet in area and 25 feet in height.
- C. Flat signs not to exceed 15 square feet in area for each 20 linear feet of street frontage; however, such sign shall not exceed a maximum of 30 square feet or 20% of the wall on which it is located.

**§ 128-140. Permitted signs and standards for Industrial and MI (industrial uses) Zones.**

Signs permitted in the Industrial Zone (I) shall be limited to the following:

- A. Unlighted real estate signs not to exceed 40 square feet in area.
- B. Signage limited to one flat sign or freestanding sign per parcel.
- C. A flat sign not to exceed 15 square feet in area for each 20 linear feet of street frontage; however, such signs shall not exceed a maximum of 100 square feet or 20% of the wall on which it is located.
- D. One on-site, freestanding sign not to exceed 15 square feet in area for each 20 linear feet of street frontage; however, such signs shall not exceed 100 square feet in area and 15 feet in height.

**§ 128-141. Permitted signs and standards for PN, RA, and RP Zones.**

Signs permitted in the Planned Neighborhood (PN), Rural Agriculture, and Recreation and Park Zones shall be limited to the following:

- A. Residential properties located in the PN, RA, and RP zones.. For all properties with a residential use on them, the standards set forth in § 128-136 for the SR, TR, MI (residential uses), and MR Zones shall be applicable.
- B. Commercial properties located in the PN and RA zones. For all properties with a commercial use on them, the standards set forth in § 128-137 for the GC and CM Zones shall be applicable.
- C. Commercial Properties located in the RP zones. For all properties with a commercial use on them, the standards set forth in § 128-136 for the SR, TR, MI (residential uses), and MR Zones shall be applicable.
- D.

**§ 128-142. Commercial center and industrial park signs.**

Signs permitted in planned commercial and industrial centers in any appropriate zone when, in the judgment of the Planning Commission, the scale and type of commercial or industrial development warrants application of these special standards:

- A. One general identification sign structure, bearing one sign limited to 300 square feet in area if mounted approximately parallel to the right-of-way or two signs limited to 150 square feet in area if mounted back-to-back or angled to be read from opposite directions, and 25 feet in height shall be permitted for each frontage of the tract on an arterial street. Such signs shall not be erected within any required landscaped or forested area.
- B. Signs on buildings within the commercial center may be erected as follows: For each 10 linear feet of building fronting on public parking areas and for each 20 linear feet of building not fronting on such areas but adjacent to and visible from them, a minimum of one sign and 10 square feet of sign area shall be permitted per storefront, however, no center shall be restricted to less than 40 square feet of sign. The total maximum building signage, per storefront, shall not exceed 200 square feet.

## ARTICLE XVI.

### Environmental Standards, Landscaping, Shading, and Buffers

#### § 128-143. General requirements for landscaping and site treatment.

The provisions of this section shall apply to all development in the Town exclusive of single-family dwellings.

- A. Where natural or existing topographic patterns contribute to beauty and utility of development, they shall be preserved and developed. Modification to topography will be permitted where it contributes to good appearance.
- B. Grades of walks, parking spaces, terraces, and other paved areas shall provide an inviting and stable appearance for walking and, if seating is provided, for sitting.
- C. Landscape treatment shall be provided to enhance architectural features, strengthen vistas, and important nodes, and provide shade. Spectator effects shall be reserved for special locations only.
- D. Utility of design shall be achieved by repetition of certain plant varieties and other materials by correlation with adjacent developments.
- E. Plant material shall be selected for interests in its structure, texture, and color, and ultimate growth. Plants that are indigenous to the area and others that will be hardy, harmonious to design, and of good appearance shall be used.
- F. In locations where plants will be susceptible to injury by pedestrian or motor traffic, they shall be protected by appropriate tree guards, curbs, or other devices.
- G. Parking areas and traffic ways shall be enhanced with landscaped spaces containing trees and bushes, or tree and bush groupings.
- H. Where building sites limit planting, the placement of plant material in parkways or around paved areas is encouraged.
- I. Screening of service yards or other places that tend to be unsightly shall be accomplished by use of walls, fencing and planting, or combination of these. Screening shall be equally effective in winter and summer.
- J. In areas where general plant material will not prosper, other materials such as fences, walls, and paving of wood, brick, stone, gravel, and cobbles shall be used. Carefully selected plants shall be combined with such materials where possible.
- K. Exterior lighting, when used, shall enhance the building design and the adjoining landscape. Lighting standards and building fixtures shall be of a design and size compatible with the building and adjacent areas. Lighting shall be restrained in design and excessive brightness avoided. Article XXII of this Chapter 128, Zoning further defines the lighting requirements.

**§ 128-144. Shading.**

A. The Town finds that:

- (1) Trees are proven producers of oxygen, a necessary element for human survival;
- (2) Trees appreciably reduce the ever increasing environmentally dangerous carbon dioxide content of the air and play a vital role in purifying the air we breathe;
- (3) Trees transpire considerable amounts of water each day and thereby purify the air much like the air-washer devices used on commercial air conditioning systems;
- (4) Trees have an important role in neutralizing wastewater passing through the ground from the surface to groundwater tables and lower aquifers;
- (5) Trees, through their root systems, stabilize the groundwater tables and play an important and effective part in soil conservation, erosion control, and flood control;
- (6) Trees are an invaluable physical, aesthetic, and psychological counterpoint to the urban setting, making urban life more comfortable by providing shade and cooling the air and land, reducing noise levels and glare, and breaking the monotony of human developments on the land, particularly parking areas; and
- (7) For the reasons indicated in Subsection A(6), trees have an important impact on the desirability of land and therefore on property values.

B. Based upon the findings set forth in Subsection A, the Town Council declares that it is not only desirable but essential to the health, safety, and welfare of all persons living or working within the Town's planning jurisdiction to protect certain existing trees and, under the circumstances set forth in this article, to require the planting of new trees in certain types of developments.

**§ 128-145. Required trees along dedicated streets.**

Along both sides of all newly created streets that are constructed in accordance with Chapter 73, Land Subdivision, the developer shall either plant or retain sufficient trees so that between the paved portion of the street and a line running parallel to and 50 feet from the center line of the street, there is for every 30 feet of street frontage at least an average of one deciduous tree that has or will have when fully mature a trunk at least 12 inches in diameter. Trees when planted shall have a caliper of at least 2.5 inches measured at 4.5 feet from ground level, and shall have no branches below six feet. All trees shall be properly staked at time of planting.

**§ 128-146. Retention and protection of large trees.**

A. Every development shall retain all existing trees 18 inches in diameter or more unless the retention of such trees would unreasonably burden the development.

B. No excavation or other subsurface disturbance may be undertaken within the dripline of any tree 18 inches in diameter or more, and no lot coverage surface (including, but not limited to, paving or buildings) may be located within 12 1/2 feet (measured from the center of the trunk) of any tree 18 inches in diameter or more unless compliance with this subsection would unreasonably burden the development. For purposes of this subsection,

a "dripline" is defined as a perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground.

- C. The retention or protection of trees 18 inches in diameter or more as provided in Subsections A and B unreasonably burdens a development if, to accomplish such retention or protection, the desired location of improvements on a lot or the proposed activities on a lot would have to be substantially altered and such alteration would work an unreasonable hardship upon the developer.
- D. If space that would otherwise be devoted to parking cannot be so used because of the requirements of Subsections A or B, and, as a result, the parking requirements set forth in this Chapter 128, Zoning cannot be satisfied, the number of required spaces may be reduced by the number of spaces lost because of the provisions of Subsections A and B, up to a maximum of 15% of the required spaces.

**§ 128-147. Shade trees in parking areas.**

- A. Vehicle accommodation areas that are required to be paved by Article XII must be shaded by deciduous trees (either retained or planted by the developer) that have or will have when fully mature a trunk at least 12 inches in diameter. When trees are planted by the developer to satisfy the requirements of this subsection.
- B. Each tree of the type described in Subsection A shall be presumed to shade a circular area having a radius of 15 feet with the trunk of the tree as the center, and there must be sufficient trees so that, using this standard, 20% of the vehicle accommodation area will be shaded.
- C. No paving may be placed within 12 ½ feet (measured from the center of the trunk) of any tree retained to comply with Subsection A, and new trees planted to comply with Subsection A shall be located so that they are surrounded by at least 200 square feet of unpaved area.
- D. Vehicle accommodation areas shall be laid out and detailed to prevent vehicles from striking trees. Vehicles will be presumed to have a body overhang of 3 ½ feet.

**§ 128-148. Bufferyards.**

- A. Purpose.
  - (1) One of zoning's most important functions is the division of land uses into districts which have similar character and contain compatible uses. All uses permitted in any district have generally similar nuisance characteristics. Bufferyards will operate to minimize the negative impact of any future use on neighboring uses.
  - (2) The bufferyard is a combination of setback depth and landscaped screening. The width of the bufferyard in combination with the type and amount of plantings required are designed to effectively "separate" incompatible land uses at adjoining zoning district boundaries. Street bufferyards are required to preserve open space and landscaping along public streets and roads.
- B. Location of bufferyards. Bufferyards shall be located on the outer perimeter of a lot or parcel which also forms a zoning district boundary, and along public roads and streets.

However, bufferyards shall not be located on any portion of an existing or dedicated public or private street or right-of-way.

C. Determination of required bufferyard. To determine the type of bufferyard required on a lot or parcel, the following procedure shall be used:

- (1) Identify whether any portion or property line of the site constitutes a zoning district boundary. If it does, determine the zoning on both sides of the property.
- (2) Determine whether the land on the adjoining property is vacant or developed or whether a subdivision plat or site plan has been approved.
- (3) Classify any street adjacent to the proposed use as a local access, collector, or arterial street.
- (4) Determine the bufferyard required on each boundary (or segment thereof) of the subject parcel by referring to the Tables of Required Bufferyards (Subsection E) and Responsibilities for bufferyards (Subsection D).

D. Responsibility for bufferyards.

- (1) Preexisting development is exempt from bufferyard requirements.
- (2) When a new development is constructed along a public street or right-of-way, the developer shall install the required bufferyard as specified in the tables of Subsection E.
- (3) When a new development, redevelopment or expansion of a development is constructed on a lot adjoining a zoning district boundary, the developer shall install  $\frac{1}{2}$  of the total required bufferyard if the land in the adjoining district is vacant. When the vacant parcel is subsequently developed, the developer of that parcel shall install the second half of the total required bufferyard.
- (4) When a new development is constructed on a lot adjoining a zoning district boundary, the developer shall install the total required bufferyard if the land in the adjoining district has been previously developed without a bufferyard.
- (5) Existing plant materials and/or land located on the preexisting development lot perimeter may be counted as contributing to the total bufferyard required between that lot and the adjoining developing lot.

E. Tables of required bufferyards.

Bufferyards Between Adjacent Districts

	SR	TR	MR	GC	CBC	CM	RHC	I	MI	RA	RP	PN
SR		na	C <sup>1</sup>	na	na	C	E	E	na	E	A	C
TR			B <sup>1</sup>	D	C	C	E	E	na	E	A	na
MR				C	B	B	D	E	E	E	A	C
GC					na	C	na	C	na	na	B	na
CBC						na	na	na	na	na	A	na
CM							na	na	na	na	C	na
RHC								na	na	na	D	D
I									na	na	C	na
MI										na	C	na
RA											na	E
RP												C
PN												

1 - Bufferyards only required between single-family attached and multifamily / single-family detached homes.  
na - Bufferyards either not required or not applicable (districts not contiguous or streets between).

Street Buffers

Zoning District	Street Functional Class				
	Major Arterial	Minor Arterial	Major Collector	Minor Collector	Local Access
SR	A	B	A	B	na
TR	A	B	A	B	na
MR	C		B		A
GC	na	na	na	na	na
CBC	na	na	na	na	na
CM	na	A	B	A	na
RHC	E	D	C	C	B
I	E	D	C	C	B
MI	na	na	na	na	B
RA	C	C	C	C	C
RP	E	E	D	D	A
PN	E	E	D	D	A

F. Bufferyard requirements. Illustrations in Appendix II at the end of this Chapter 128, Zoning graphically indicate the specification of each bufferyard.

G. Flexibility in administration required.

- (1) The Planning Commission may allow substitution or reduction of the bufferyard if it finds that the required bufferyard will obstruct the view of a driver; the bufferyard is incompatible with the existing streetscape; or the bufferyard is unnecessary because the adjoining land uses are compatible without, or with a smaller, bufferyard.

- (2) The Planning Commission may require a greater bufferyard than stipulated in this Chapter 128, Zoning if it determines a larger bufferyard is required due to the extensiveness of the incompatibility between land uses. The Planning Commission may also require a bufferyard between incompatible land uses within the same zoning district if it is determined one is needed.
  - (3) Bufferyard requirements will be determined as part of the site plan and/or subdivision review process.
- H. Ownership of bufferyards. Bufferyards may remain in the ownership of the original developer (and assigns) of a land use, or they may be subjected to deed restrictions and subsequently be freely conveyed, or they may be transferred to any consenting grantees, such as adjoining landowners, the Town of Denton, or a homeowners' association, provided that any such conveyance adequately guarantees the protection of the bufferyards for the purposes of this Chapter 128, Zoning.
- I. Excess bufferyard. Where the bufferyard required between a land use and vacant land turns out to be greater than that bufferyard which is required between the first use and the subsequently developed use, the following options apply:
- (1) The subsequent use may provide  $\frac{1}{2}$  of the buffer required by this section. The existing use may expand its use into the original buffer area, provided that the resulting total bufferyard between the two uses meets the bufferyard requirements of the section.
  - (2) The existing use may enter into agreements with abutting landowners to use the existing buffer to provide some or all of the required bufferyard of both land uses. The total buffer shall equal the requirements of this section. Provided that such an agreement can be negotiated, the initial use may provide the second use some or all of its required bufferyard and/or extra land on which it might develop. The existing use may reduce its excess buffer by transferring part or the entire excess buffer to the adjoining landowner to serve as its buffer. Any remaining excess buffer area may be used by the existing use for expansion of that use or for transfer by it to the adjoining landowner to expand that adjoining use.
- J. Contractual reduction of bufferyards. When a land use is proposed adjacent to vacant land, and the owner of that vacant land enters into a contractual relationship with the owner of the land that is to be developed first, a reduced buffer may be provided by that first use, provided that the contract contains a statement by the owner of the vacant land of an intent to develop at no greater than a specified land use intensity class; and an agreement by that vacant landowner to assume all responsibility for additional buffer, it needed by the subsequent development of a less intense use than had been agreed upon, is transferred to the owner of the vacant (second in time to be developed) land.

**§ 128-149. Environmental standards for all subdivisions and development requiring site plan approval.**

- A. Perennial stream no-disturbance buffer.

- (1) A one-hundred-foot natural buffer from all perennial streams shall be required for all development. Permanent or temporary stormwater and/or sediment control devices shall not be permitted in this buffer.
  - (2) This buffer requirement may be reduced to no less than 50 feet by the Planning Commission for the following:
    - (a) If evidence is provided that the design, construction and use of the site shall provide the same or better protection of water quality as the one-hundred-foot buffer, and if evidence is provided that said development will meet all other applicable requirements, as required.
    - (b) Road crossings, if disturbance is minimized.
    - (c) Other public or community facilities provided disturbance is minimized in so far as possible.
- B. Intermittent stream no-disturbance buffer.
- (1) A fifty-foot buffer from all intermittent streams shall be required for all development. Permanent or temporary stormwater management and sediment control devices shall not be permitted in this buffer.
  - (2) This buffer requirement may be waived by the Planning Commission for the following:
    - (a) Road crossings, if disturbance is minimized.
    - (b) Other public or community facilities provided disturbance is minimized in so far as possible.
- C. Sensitive soil no-disturbance buffer. The one-hundred-foot perennial stream buffer shall be expanded to include contiguous one-hundred-year floodplain and nontidal wetlands. In addition, the one-hundred-foot perennial stream buffer shall be expanded to include hydric soils, highly erodible soils and soils on slopes greater than 15% that are contiguous with the perennial stream, any one-hundred-year floodplain adjacent to the stream, or any nontidal wetlands adjacent to the stream to a maximum distance of 300 feet.
- D. Nontidal wetland buffer. A fifty foot setback from all nontidal wetlands shall be required for all development around the extent of the delineated nontidal wetland except as permitted by the U.S. Army Corp of Engineers and the State of Maryland, Department of Natural Resources, Nontidal Wetlands Division.
- E. Steep slopes.
- (1) No structure or impervious surface shall occur on any slope with a grade of 15% or more.
  - (2) On slopes between 15% and 25%, good engineering practices shall be used to insure sediment and erosion control and slope stabilization before, during and after disturbance activities and to minimize cut and fill.

- (3) A minimum fifty-foot buffer shall be established between development and the crest of slopes in excess of 15%. Five additional feet of buffer shall be required for each percentage point of slope in excess of 15%.
- F. Habitats of rare, threatened and endangered species. Development shall avoid these areas as described by the Maryland DNR, Natural Heritage Program. Proposed development projects shall be reviewed by the Maryland DNR. When a project is within a Wildlife Habitat (Project Review Area), the developer is required to contact the Maryland Department of Natural Resource's Heritage and Biodiversity Conservation Program (HBCP).
- G. Critical Area
  - (1) Critical Area Conservation standards shall be implemented according to Article VIII, Critical Area District of this Chapter 128, Zoning and Chapter A129, Critical Area Program.
- H. Forested Areas
  - (1) Forests shall be protected according to the requirements in Chapter 60, Forest Conservation and in the Critical Area District (Article VIII of this Chapter 128, Zoning) § 128-41, Woodland reforestation and afforestation standards.

**ARTICLE XVII.**  
**Common Open Space**

**§ 128-150. Purpose.**

- A. It is the intent of this section to establish minimum common open space requirements for all residential developments and standards and requirements which shall constitute prerequisites for approval of common open space and use areas and/or facilities. These provisions shall apply to all such proposed areas and facilities, including but not limited to conventional subdivisions, planned unit developments, planned residential developments, and multifamily developments.
- B. These provisions are designed to ensure that all common open space and use areas and/or facilities are planned, constructed, managed, and maintained in a suitable manner. They are necessary to ensure that such areas become integral parts of various developments as proposed at the time of approval. Where a proposed greenway shown in Comprehensive Plan of the Town or Caroline County crosses a proposed subdivision, a greenway public use easement of at least 25 feet shall be provided.

**§ 128-151. Requirements for approval.**

The following requirements governing the approval of common open space and use areas and/or facilities shall apply to all residential developments:

- A. Minimum common open space requirements for residential developments are as follows:
  - (1) Convention subdivision: a minimum of 15% of the net site area.
  - (2) Cluster subdivision: a minimum of 15% of the net site area.
  - (3) Planned residential development: a minimum of 20% of the net site area.
  - (4) Planned unit development: a minimum of 25% of the net site area.
- B. Not less than 50% of the minimum required common open space shall be in a form usable to and accessible by the residents, such as community greens or commons, tot lots, neighborhood parks, recreational playing fields, woodland walking trails, other kinds of footpaths, a community park, or any combination of the above.
- C. Common open spaces may contain such complimentary structures and improvements as are necessary and appropriate for the use, benefit, and enjoyment of residents of the development. Common open space provided for the purpose of protection of existing site features may include areas in agricultural use if permanently conserved by easement.
- D. The Planning Commission may permit a fee in lieu of dedication of common open space when the applicant cannot adequately meet the common open space requirements outlined herein or if the proposed development is for less than 20 lots or units. The fee in lieu shall be on a per-dwelling-unit basis as established by the Town of Denton. The fee shall be listed with the annual schedule of fees for the Town and may change from time to time. Fees will be collected upon application for a building permit. The fee shall be deposited only in a designated account with funds expended only for planned park and recreation facilities.
- E. Open space requirement, ownership.

- (1) Private ownership. If common open space and recreation facilities are not dedicated to public use, they shall be protected by legal arrangements, satisfactory to the Planning Commission, sufficient to assure their maintenance and preservation for whatever purpose they are intended. Covenants or other legal arrangements shall specify ownership of the open space, method of maintenance, maintenance taxes and insurance, compulsory membership and compulsory assessment provisions and guarantees that any association formed to own and maintain open space will not be dissolved without the consent of the Planning Commission
  - (2) Common open space. Unless the Planning Commission finds that the size, location, type of development, cost of development, maintenance of such common open space or the availability of public open space would make public use desirable and necessary, common open space shall not be made available for the use of all residents of the Town. The Planning Commission generally will require dedication of all areas indicated for acquisition in the adopted Caroline County Open Space and Recreation Plan or Town Comprehensive Plan.
- F. Management of common open space property. The developer shall insure that the common open space and improvements not dedicated and accepted for public ownership are maintained and cared for, and the developer shall provide for and establish an organization for the ownership, maintenance, and preservation of common open space which shall conform to the following standards and procedures:
- (1) The organization shall be established by the developer before sale or rental of dwelling units in the development and prior to final approval of the development plan by the Planning Commission.
  - (2) The financial and organizational structures, rules of membership, and methods of cost assessment of the organization shall be devised to insure the successful fulfillment of the maintenance, preservation, and improvement responsibilities of the organization.
  - (3) The organization will be responsible for maintenance, preservation, and improvement of common open space lands and all property owners within the development shall participate in such organization.
  - (4) Areas set aside to meet the common open space requirements hereof shall be adequately described. Instruments in the form of deed restrictions and/or covenant shall be provided to insure the purpose for which the common open space is provided will be achieved. Said instruments shall be approved by the Town Council prior to recordation among the land records.
- G. Bond for improvements. Prior to the issuance of a building permit, there shall be delivered by the owner or developer some form of surety acceptable to the Town in an amount as specified by the Town, which shall be submitted with the final subdivision plat, which surety shall secure an agreement to construct required physical improvements required as a condition of final approvals.
- H. Homeowners' associations. Homeowners associations or similar legal entities that, pursuant to the requirements of Subsection F, are responsible for the maintenance and

control of common areas, including stormwater management facilities, recreational facilities and open space, shall be established in such a manner that:

- (1) Provision for the establishment of the association or similar entity is made before any lot in the development is sold or any building occupied;
- (2) The association or similar legal entity has clear legal authority to maintain and exercise control over such common areas and facilities;
- (3) The association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas and facilities; and
- (4) Each purchaser of a lot or unit is given adequate and specific notice of the homeowner association requirements and the association's authority to compel compliance.

I. Flexibility in administration authorized.

- (1) The requirements set forth in this Article XVII concerning the amount, size, location, and nature of recreational facilities and common open space to be provided in connection with residential developments are established by the Town as standards that presumptively will result in the provision of that amount of recreational facilities and common open space that is consistent with the Town Comprehensive Plan. The Town recognizes, however, that due to the particular nature of a tract of land, or the nature of the facilities proposed for installation, or other factors, the underlying objectives of this article may be achieved even though the standards are not adhered to with mathematical precision. Therefore, the Planning Commission is authorized to permit minor deviations from these standards whenever it determines that:
  - (a) The objectives underlying these standards can be met without strict adherence to them; and
  - (b) Because of peculiarities in the developer's tract of land or the facilities proposed, it would be unreasonable to require strict adherence to these standards.
- (2) Whenever the Planning Commission authorizes some deviation from the standards set forth in this article, pursuant to Subsection I(1), the official record of action taken on the development shall contain a statement of reasons for allowing the deviation.

**§ 128-152. (Reserved)**

Former § 128-152, Neighborhood parks required, was repealed 4-5-2004 by Ord. No. 441, effective 4-12-2004.

**§ 128-153. (Reserved)**

Former § 128-153, Purpose and standards of neighborhood parks, was repealed 4-5-2004 by Ord. No. 441, effective 4-12-2004.

## ARTICLE XVIII.

### Nonconforming Uses and Buildings

#### § 128-154. Purpose.

- A. Within the zones established by this Chapter 128, Zoning or amendments that may later be adopted, there exist lots, structures, and uses of land and structures which were lawful before this Chapter 128, Zoning was adopted or amended, but which would be prohibited, regulated, or restricted under the terms of this Chapter 128, Zoning, or future amendments.
- B. It is the intent of this Chapter 128, Zoning to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this Chapter 128, Zoning to be incompatible with permitted uses in the zones involved. It is further the intent of this Chapter 128, Zoning, that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zone.
- C. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited in the zone involved.
- D. To avoid undue hardship, nothing in this Chapter 128, Zoning, shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction, was lawfully begun prior to the effective date of adoption or amendment of this Chapter 128, Zoning, and upon which actual building construction has been diligently carried on. Actual construction is hereby defined as the placing of materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

#### § 128-155. Nonconforming lots of record.

Notwithstanding limitations imposed by other provisions of this Chapter 128, Zoning, a single-family dwelling and customary accessory buildings may be erected on any single lot of record of this Chapter 128, Zoning or amendment thereto except in the RHC, I, and RP Districts. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that area generally applicable in the zone, provided that yard dimensions shall conform to the following requirements:

- A. A minimum of nine feet be maintained for each side yard.
- B. The rear yard need not exceed 20% of the depth of the lot, but in no case shall be less than 10 feet.
- C. The front yard (setback) need not exceed that established by buildings on lots in the block in which the nonconforming lot is located.

**§ 128-156. Nonconforming uses of unimproved land.**

Where, at the effective date of adoption or amendment of this Chapter 128, Zoning, lawful use of land exists that is made no longer permissible under the terms of this Chapter 128, Zoning as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Chapter 128, Zoning.
- B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Chapter 128, Zoning.
- C. If any such nonconforming use of land ceases for any reason for a period of more than 90 days, any subsequent use of such land shall conform to the regulations specified by this Chapter 128, Zoning for the zone in which such land is located.

**§ 128-157. Nonconforming structures.**

Where a lawful structure exists at the effective date of adoption or amendment of this Chapter 128, Zoning that could not be built under the terms of this Chapter 128, Zoning by reason of restrictions on area lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such structure may be enlarged or altered in a way which increases its nonconformity
- B. Should such structure be destroyed by any means to an extent of more than 50% of its replacement cost at time of destruction as determined by the Director of Planning, it shall not be reconstructed except in conformity with the provisions of this Chapter 128, Zoning.
- C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zone in which it is located after it is moved.

**§ 128-158. Nonconforming uses of land and structures.**

- A. If a lawful use of a structure or of structures and premises in combination exists at the effective date of adoption or amendment of this Chapter 128, Zoning, that would not be allowed in the zone under the terms of this Chapter 128, Zoning, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:
- B. No existing structure devoted to a use not permitted by this Chapter 128, Zoning in the zone in which it is located, except single-family dwellings, shall be expanded, enlarged, extended, constructed, reconstructed, moved, or structurally altered unless approved by the Board of Appeals and shall be subject to the following restrictions and criteria:
  - (1) Applications shall be subject to the procedures, requirements, and findings for a special exception from the Board of Appeals as set forth in § 128-163, except that with respect to the required finding that the proposed use be in accord with the

Town's Comprehensive Plan, the Board of Appeals need not consider a conflict with any maps indicating zoning or use of the property.

- (2) Expansion or construction of a new structure used or to be used for a nonconforming use or uses shall be limited to no more than 20% of the gross floor area of the nonconforming use existing on the date the use became nonconforming, or 1,000 square feet of additional gross floor area, whichever is less.
  - (3) Expansion of areas of a nonconforming use not involving structures, such as outdoor parking and storage, shall be limited to no more than 10% of the site area existing on the date the use became nonconforming.
- C. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for use at the time of adoption or amendment of this Chapter 128, Zoning, but any additional expansion of the nonconforming use shall comply with Section A above.
- D. Any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use, provided that the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the zone than the existing nonconforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the provisions of this Chapter 128, Zoning.
- E. Any structure, or structure and land in combination in which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the zone in which such structure is located, and the nonconforming use may not thereafter be resumed.
- F. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for twelve consecutive months or for 18 months during any three-year period, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the zone in which it is located. However, the Board of Appeals may grant a special exception to allow for the continuance of a nonconforming use that has been discontinued or abandoned so long as the application for such special exception is filed prior to the nonconforming use's lapsing under the terms of this Subsection. The Board shall not allow the nonconforming use to be discontinued or abandoned for longer than three years.
- G. Where nonconforming use/status applies to a structure and premises in combination, removal or destruction of the structure, not related to fire or natural cause shall eliminate the nonconforming status of the land. A nonconforming use that is destroyed by fire or natural cause may be restored or reconstructed at the same location, provided that:
- (1) Restoration must be started within one year of the destruction and completed in accordance with the building permit.

- (2) The Director of Planning may grant a single extension of this time limit, for a period not to exceed one year, only to the same property owner or his or her heirs.
- (3) The restored use shall not increase the extent of the nonconformity.
- (4) A restored or rebuilt structure that is to be occupied by the nonconforming use must be an in-kind replacement of the destroyed structure.
- (5) If the use is not replaced or restored within the required time period, any future use on the site shall comply with the current zoning requirements.

**§ 128-159. Nonconforming development in the Critical Area District (grandfathering provisions).**

- A. Continuation of existing uses. Continuation, but not necessarily the intensification or expansion, of any use in existence by March 1989 will be permitted, unless the use has been abandoned for more than one year or is otherwise restricted by existing ordinances or regulations. If any existing use does not conform with the provisions of the Critical Area Program, its intensification or expansion may be permitted only in accordance with the variance procedures outline in § 128-163.
- B. Residential density. Except as otherwise provided, the types of land use described in the following subsections will be permitted in accordance with the density requirements in effect prior to the adoption of the Denton Critical Area Program (March 1989) notwithstanding the density provisions of the Program. A single-family lot or parcel of land that was legally recorded as of March 1989 can be improved with a single-family dwelling if a dwelling is not already placed there (notwithstanding that such development may be inconsistent with the density provisions of this Chapter 128, Zoning), provided that:
  - (1) It is on land where the development activity has progressed to the point of pouring of foundation footings or the installation of structural members;
  - (2) It is legal parcel of land, not being part of a recorded or approved subdivision, that was recorded as of December 1, 1985, and land that was subdivided into recorded, legally buildable lots, where the subdivision received final subdivision plat approval prior to June 1, 1984, if:
    - (a) At the time of development, the land is brought into conformance with the Critical Area Program and meets the requirements of § 128-159.1, including the consolidation or reconfiguration of lots not individually owned; or
    - (b) The land received a building permit subsequent to December 1, 1985, but prior to March 1989.
  - (3) It is on land that was subdivided into legally recorded buildable lots where the subdivision received final subdivision plat approval between June 1, 1984, and December 1, 1985; and
  - (4) It is on land that was subdivided into recorded, legally buildable lots, where the subdivision received final subdivision plat approval after December 1, 1985, and

provided that either the development of any such land conforms to the IDA, LDA or RCA requirements in this Chapter 128, Zoning or the area of the land is counted against the growth allocation permitted under this Chapter 128, Zoning, or was approved by the Critical Area Commission at the time of approval of the Denton Critical Area Program.

- C. Nothing in this section may be interpreted as altering any requirement for development activities set out in the water-dependent facilities section or the habitat protection section of the Denton Critical Area Program and any related implementation requirements contained in this Chapter 128, Zoning. See §§ A129-11 and A129-4 of Chapter A129, Critical Area Program.

**§ 128-159.1. Consolidation or reconfiguration of existing lots of record in Critical Area.**

- A. An application for development activity that involves the consolidation or reconfiguration or adjustment of parcel boundaries of existing lots of record in the critical area shall design and implement the project to bring the lands into conformance with the Denton Critical Area Program to the maximum extent possible and to minimize adverse impacts to water quality and fish, wildlife, and plant habitat.
- B. The following performance standards for these projects shall be used to assess the project relative to the goals of the Critical Area Program. At a minimum, all applications must fully address all of the following standards, which shall be reduced to written findings by the Director of Planning:
  - (1) Except for an approved minor boundary line adjustment, as defined by § 128-8 of this Chapter 128, Zoning, the proposed consolidation or reconfiguration of existing lots, parcels, or dwelling units in the critical area will result in no greater number of lots, parcels, or dwelling units in the Critical Area and that all of the existing lots were considered legally buildable at the time of recordation.
  - (2) In the Limited Development Area or Resource Conservation Area, the proposed consolidation or reconfiguration of existing lots:
    - (a) Will result in no greater lot coverage than development activities within the configuration in existence at the time of application would allow; and
    - (b) Will result in no greater impact to a steep slope than development activities within the lot configuration in existence at the time of application would allow, if that steep slope is located outside the Buffer or expanded Buffer.
  - (3) The proposed consolidation or reconfiguration does not:
    - (a) Create an additional riparian parcel or lot, waterfront lot, or any other parcel or deed with water access; or
    - (b) Intensify or increase impacts associated with riparian access.
  - (4) The proposed consolidation or reconfiguration does not create:
    - (a) A parcel, lot or portion of a parcel or lot that will serve development activities outside the Critical Area; or

- (b) A Resource Conservation Area parcel or lot that serves development activities in the Intensely Developed Area or Limited Development Area.
  - (5) The proposed consolidation or reconfiguration of existing lots identifies proposed impacts to Habitat Protection Areas (HPAs). Where impacts to HPAs are proposed in conjunction with the reconfigured or consolidated lots, the impact must not result in any greater impact than would result from development activities within the configuration in existence at the time of application. The applicant must identify protective and restoration measures to mitigate for the impacts to ensure that the development activities within the configuration will provide for the least possible adverse impact.
  - (6) The proposed consolidation or reconfiguration of existing lots will meet or exceed the Town's stormwater management requirements.
  - (7) The proposed consolidation or reconfiguration fully complies with the afforestation and reforestation requirements in COMAR 27.01.05 and 21.07.09, unless clearing is necessary to avoid a Habitat Protection Area.
- C. Any application for lot consolidation or reconfiguration shall contain the following:
- (1) A plan drawn to scale in accordance with the procedures for subdivision under Chapter 73 of the Denton Town Code;
  - (2) The date of recordation of each legal parcel of land or recorded, legally buildable lot to be consolidated or reconfigured;
  - (3) A statement from the Denton Director of Planning certifying that the proposed lots or parcels for review are grandfathered;
  - (4) A plan showing all existing and proposed lot or parcel boundaries;
  - (5) A table indicating the number of existing lots or parcels and the number of proposed lots or parcels; and
  - (6) A narrative addressing each of the required findings set forth in this § 128-159.1.
- D. The Director of Planning shall issue a written decision granting or denying the application for consolidation or reconfiguration which addresses the standards set forth in § 128-159.1B. After the Director of Planning issues a written decision, he shall send a copy of the decision and, if applicable, the approved development plan, within 10 business days by United States mail to the Critical Area Commission.
- E. The Critical Area Commission, the Town or any department or commission thereof, or any person aggrieved by the decision of the Director of Planning may file an appeal of the decision of the Director of Planning to the Board of Appeals by filing a notice of appeal with the Director of Planning specifying the grounds thereof within 30 days. For an appeal by the Critical Area Commission, the thirty-day period shall commence on the date of the Commission's receipt of the final decision or order. For all other appellants, the thirty-day period shall commence on the date of the final written decision or order.

- F. No permit or approval of any type may be issued for the activity for a property that is affected by the final written decision or order until after the expiration of the time within which an appeal may be filed.
- G. In the event any provision of this section conflicts with any provision of state law, the stricter provision shall apply.

**§ 128-160. Repair and maintenance.**

- A. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months ordinary repairs, or in repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding 10% of the current replacement value of the building, provided that the cubic content of the building, as it existed at the time of the passage or amendment of this Chapter 128, Zoning shall not be increased.
- B. Nothing in this Chapter 128, Zoning shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

**§ 128-161. Special exception uses considered conforming.**

Any use for which a special exception is permitted as provided in this Chapter 128, Zoning shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such zone.

## **ARTICLE XIX.**

### **Citizen Boards**

#### **§ 128-162. Planning Commission.**

- A. Composition and appointment. There is hereby created a Planning Commission (Commission) consisting of five regular members, appointed by the Town Council. All members shall be residents of Denton. One of the regular members may be a councilperson serving in an ex officio capacity concurrent with the regular member's official term. The Town Council may also designate one alternate member of the Commission who may sit on the Commission in the absence of any regular member of the Commission. The term of office of each member is five years or until the member's successor takes office. Vacancies shall be filled by the Town Council for the unexpired term of any member whose seat becomes vacant. After a public hearing before the Town Council, members may be removed for inefficiency, neglect of duty, or malfeasance in office. The Town Council shall file a written statement or reasons for the removal.
- B. Officers. The Commission shall elect at its first meeting in each calendar year a Chairperson and a Vice Chairperson from among the appointed regular members, each to serve for one year or until their successors are elected. In the event of a vacancy in either of said offices, a successor shall be elected to serve for the unexpired term of the vacated office. In the absence of the Chairperson, the Vice Chairperson shall serve as Acting Chairperson. The Director of Planning shall serve as Executive Secretary to the Commission.
- C. General powers and duties. The Commission shall have the following powers and duties:
- (1) To review, evaluate, and approve or disapprove plans for subdivisions, and mobile home subdivisions in accordance with this Chapter 128, Zoning and Chapter 73, Land Subdivision.
  - (2) To review and make recommendations to the Town Council regarding:
    - (a) Proposed changes or amendments to the Denton Comprehensive Plan.
    - (b) Proposed changes or amendments to the Chapter 128, Zoning.
    - (c) Proposed rezoning.
    - (d) Proposed changes or amendments to Chapter 73, Land Subdivision.
    - (e) Proposed acquisition and development of lands for Town open space or recreation purposes.
    - (f) Proposed changes in land use or development arising from local, state, or federal programs or policies.
    - (g) Development site plans required by Article XXIII of this Chapter 128, Zoning.
    - (h) Proposed annexations and zoning thereupon.
  - (3) To review and make recommendations to the Board of Appeals regarding:

(a) Special Exception applications.

D. Meetings.

- (1) Meetings of the Commission shall be held once each month or at the call of the Chairperson and at such other times as the Commission may determine.
- (2) The presence of a majority of the members of the Commission shall constitute a quorum for the conduct of business. In the event of an absence or vacancy of one or more regular members, determination of a quorum shall include the alternate member, if in attendance.
- (3) An affirmative vote of the majority present shall be required to effect a decision or recommendation of the Commission.

E. Rules of procedure.

- (1) The meetings of the Commission shall be open to the public, but the Planning may limit active public participation by resolution. When appropriate, the Commission may adjourn to executive session, but only in accordance with the Open Meetings Act, State Government Article, Annotated Code of Maryland, § 10-501 et seq. of the State Government Article of the Annotated Code of Maryland.
- (2) For proceedings before the Commission which require a public hearing, see Article XXIV of this Chapter 128, Zoning.
- (3) At the meetings of the Commission, any interested person shall have the right to submit, in accordance with the established rules, oral or written testimony and comment.
- (4) The Commission may adopt by resolution additional rules of procedure provided such rules are consistent with this Chapter 128 and applicable State enabling legislation. Such rules shall be available to the public.
- (5) The Department of Planning shall be represented at all meetings of the Commission and shall answer questions and render advice and assistance, but the Department of Planning shall not participate in any decision of the Commission beyond the submission of a staff recommendation for each proposed action. The Commission shall have the authority to consult legal counsel when necessary before rendering any decision or making any recommendations.

F. Records.

- (1) The Commission shall keep minutes of all its proceedings which shall contain the names of the members present, a summary of all testimony, comment, or evidence presented, the exhibits presented, and the decision or recommendation of the Commission. The minutes shall also show the vote of each member upon each question, or, if absent or failing to vote, indicating that fact.
- (2) A permanent file of each proceeding, including applications and the minutes, shall be maintained in the office of the Department of Planning and shall be a public record.

**§ 128-163. Board of Appeals.**

- A. Organization. The Board of Appeals (Board) shall consist of three regular members, all of whom shall be residents of the Town of Denton. Regular members are to be appointed by the Mayor and confirmed by the Council, and shall serve without compensation. After a public hearing before the Town Council, members may be removed for inefficiency, neglect of duty, or malfeasance in office. The Town Council shall file a written statement or reasons for the removal. Of the members first appointed, one shall serve for one year, one for two years, and one for three years. Thereafter, members shall be appointed for terms of three years each. Vacancies shall be filled in a like manner and for the remainder of the unexpired term of the predecessor.
- B. Alternate members. The Town Council shall designate one alternate member for the Board who may sit in the absence of any regular member of the Board. When the alternate is absent, the Town Council may designate a temporary alternate.
- C. Officers. The Board shall elect a Chairperson and a Vice Chairperson from among its members, each to serve for one year or until their successor is elected. In the event of a vacancy in either of said offices, a successor shall be elected to serve for the unexpired term of the vacated office. In the absence of the Chairperson, the Vice Chairperson shall serve as Acting Chairperson. The Director of Planning shall serve as executive secretary to the Board of Appeals.
- D. General powers. The Board shall have the following general powers:
  - (1) To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the Planning Commission, Director of Planning, or other administrative officer in the enforcement of this chapter. Appeals to the Board of Appeals shall be by way of allegation of error. The party noting the appeal shall allege the error by the officer or agency from which the appeal is taken. The party noting the appeal shall have the burden of proof which shall include the burden of going forward with the evidence and the burden of persuasion, by a preponderance of the evidence, on all issues of fact. The party noting an appeal from a decision of the Planning Commission shall be responsible for the cost of producing the sound recording, video recording, or transcript of the proceeding before the Planning Commission.
  - (2) To hear and decide special exceptions to the terms of this Chapter 128, Zoning upon which such Board is specifically authorized to pass under Chapter 128, Zoning.
  - (3) To authorize upon appeal in specific cases such variance from the specific terms of this Chapter 128, Zoning as will not be contrary to the public interest, where, owing to special conditions, the enforcement of the provisions of Chapter 128, Zoning will result in unwarranted hardship, and injustice, but which will most nearly accomplish the purpose and intent of this Chapter 128, Zoning.
  - (4) To determine, in cases of uncertainty, the classifications as to district of any use not specifically named in this chapter; provided, however, such use shall be in keeping with uses specifically named in the district regulations.

E. Meetings.

- (1) Meetings of the Board shall be held at the call of the Chairperson, and at such other times as the Board may determine.
- (2) Two members of the Board shall constitute a quorum. In the event of an absence or vacancy of one regular member, determination of a quorum shall include the alternate member, if in attendance.

F. Rules of procedure.

- (1) The meetings of the Board shall be open to the public, but public participation may be limited to periods during which testimony is permitted.
- (2) The Chairperson or in his or her absence the Acting Chairperson may administer oaths and may compel the attendance of witnesses.
- (3) The Board may adopt by resolution additional rules of procedure, provided such rules are consistent with this Chapter 128, Zoning and with applicable state enabling legislation. Such rules shall be available to the public.

G. Decisions of the Board.

- (1) An affirmative vote of two members shall be required to effect any decision of the Board.
- (2) A member of the Board who did not attend the public hearing on an application shall not participate in the decision on said application.
- (3) The Board shall deliberate and render its decision in open session within 30 days following the close of the public hearing.
- (4) All decisions by the Board shall be recorded in the minutes and shall include findings of fact based directly on the particular evidence presented to the Board, the conclusions of the Board and the reasons therefore.
- (5) Each decision shall also include the names of the members of the Board who voted or who were present when a vote was taken, and shall indicate the manner in which each member voted.
- (6) A copy of each decision shall be furnished to the applicant(s), the Department of Planning, and any other party to the proceedings without charge.

H. Records.

- (1) The Board shall keep minutes of its proceedings. The minutes shall contain the exhibits presented at the hearing, a summary of all testimony or evidence presented, and the decision of the Board.
- (2) All applications for hearings and the minutes shall be a public record.

I. Applications.

- (1) Appeals to the Board may be taken by any person aggrieved, or by an officer, department, board, or bureau of the Town affected by any decisions of the Planning Commission, Director of Planning, or other administrative officer. Such an appeal shall be taken within two weeks following the action so appealed by

filing with the Director of Planning and with the Board a notice of appeal, specifying the grounds thereof.

- (2) An appeal stays all proceedings in furtherance of the action appealed from, unless the Director of Planning certifies to the Board, after notice of appeal filed with him/her, that by reason of that fact in the case, a stay would in his opinion, cause imminent peril to life and property.
- (3) All applications for hearings shall be made on forms approved by the Board and shall be available from the Director of Planning.
- (4) Each application shall be signed by the applicant(s), such as an owner, tenant, contract purchaser, or optionee of property involved, the protestant(s), or the agent or attorney of any of them.
- (5) Applications, together with all required information and fees shall be filed with the Director of Planning according to the predetermined meeting schedule and the application shall be forwarded to the Board to be considered at the next scheduled meeting.

J. Special exception. In order to provide for adjustment in the relative location of uses and buildings of the same or of different classifications, to promote the usefulness of this Chapter 128, Zoning as an adjustment, and to supply the necessary elasticity to its efficient operation, special exceptions are permitted by the terms of this Chapter 128, Zoning. Under general requirements:

- (1) The Board shall have the power to approve special exceptions for any of the uses for which this Chapter 128, Zoning requires obtaining of such exceptions and for no other use or purpose. The Board shall not grant a special exception except in conformance with the conditions and standards of this Chapter 128, Zoning.
- (2) In granting a special exception, the Board shall make findings of fact consistent with the provisions of this Chapter 128, Zoning. The Board shall grant a special exception only if it finds adequate evidence that any proposed use submitted for a special exception will meet all of the standards listed for the proposed uses. The Board shall, among other things, require that any proposed use and location be:
  - (a) In accord with the Town's Comprehensive Plan and consistent with the spirit, purposes, and intent of this Chapter 128, Zoning.
  - (b) Suitable for the property in question and designed to be in harmony with and appropriate in appearance with the existing or intended character of the general vicinity.
  - (c) Suitable in terms of effects on street traffic and safety with adequate access arrangements to protect streets from undue congestion and hazard.
  - (d) Not detrimental to the property values of adjacent development, does not adversely affect the health, safety, and general welfare of residents of the area, and will not adversely affect the area and surrounding property with adverse environmental effects such as undue smoke, odor, noise, improper drainage, or inadequate access.

- (3) The Board may impose whatever conditions regarding layout, circulation, and performance it deems necessary to insure that any proposed development will secure substantially the objectives of this Chapter 128, Zoning. Violation of such conditions and safeguards when made a part of the terms under which the special exception is granted, shall be deemed a violation of this Ordinance. The Board shall consider recommendations of the Planning Commission prior to rendering a decision. The Planning Commission shall review and comment on all applications for special exceptions prior to review and decision by the Board. The applicant for a special exception shall have the burden of proof on all points material to the application which shall include the burden of presenting credible evidence as to each material issue and the burden of persuasion on each material issue. The Board of Appeals may disregard evidence, even if uncontroverted by an opposing party, if the Board finds such evidence not to be credible.
- K. Variances. Subject to the provisions of § 128-163D, the Board shall have the power to grant variances of the following types and in accordance with the following standards:
- (1) Types of variances.
    - (a) Yard, area or bulk requirements.
    - (b) Bulk, area or height of structures.
    - (c) Height or size of signs.
    - (d) Placement of earth satellite antennae.
  - (2) Standards for granting a variance.
    - (a) Strict enforcement of this Chapter 128, Zoning would produce unnecessary and undue hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit or caprice.
    - (b) Such hardship is the result of special conditions and/or circumstances not generally shared by other properties in the same zoning district or vicinity, and which are peculiar to the land, structure or building involved. Such conditions and/or circumstances may include but are not limited to the following: exceptional narrowness or shallowness or both, or irregular shape or topography of the property; unusual and limiting features of the building; or the effective frustration or prevention of reception of satellite programming due to the presence of a physical object or objects which obscure the "line of sight" when such object or objects cannot be easily removed.
    - (c) Such special conditions or circumstances must not be the result of any action or actions of the applicant.
    - (d) Granting of the variance must be in harmony with the general purpose and intent of this Chapter 128, Zoning and must not be injurious to adjacent property, the character of the neighborhood or the public welfare.

- (e) Granting the variance shall not allow a use expressly or by implication prohibited in the zoning district involved.
  - (f) The condition, situation or intended use of the property concerned is not of so general or recurring a nature as to make practicable a general amendment to the ordinance.
  - (g) The variance granted must be the minimum necessary to afford relief.
  - (h) In granting a variance, the Board of Appeals may prescribe appropriate conditions in conformity with this Ordinance. Violation of such conditions, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.
  - (i) The applicant for a variance shall have the burden of proof on all points material to the application which shall include the burden of presenting credible evidence as to each material issue and the burden of persuasion on each material issue. The Board of Appeals may disregard evidence, even if uncontroverted by an opposing party, if the Board finds such evidence not to be credible.
- (3) Standards for granting a variance within the Critical Area District.
- (a) In addition to the findings in Subsection K(2) above, a variance may be granted by the Board in the Critical Area District, provided that:
    - [1] Special conditions or circumstances exist that are peculiar to the land or structure within the Denton's Critical Area Program, which would result in an unwarranted hardship. For purposes of this section, "unwarranted hardship" means that without a variance, the applicant will be denied reasonable and significant use of the entire parcel or lot for which the variance is requested;
    - [2] A literal interpretation of this subtitle (to Article 66B of the Annotated Code of Maryland or the Denton Critical Area Program and this Chapter, 128, Zoning) will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area;
    - [3] The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the Denton Critical Area Program to other lands or structures within the Critical Area;
    - [4] The variance request is not based upon conditions or circumstances which are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed, nor does the request arise from any condition conforming, on any neighboring property;

- [5] The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area Law, and the Denton Critical Area Program;
  - [6] The application for variance has been provided to the Critical Area Commission at least two weeks prior to the variance hearing.
  - [7] Decision has been provided to the Critical Area Commission in writing immediately after the variance approval or denial.
- (b) In considering an application for a variance, the Town shall presume that the specific development activity in the Critical Area that is subject to the application and for which a variance is required does not conform with the general purpose and intent of Natural Resources Article, Title 8, Subtitle 18, COMAR Title 27, and the requirements of the Town's Critical Area Program. The applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance set forth herein.
  - (c) The Board shall make written findings reflecting analysis of each standard, including whether the applicant has overcome the presumption set forth in Subsection K(3)(b). The Board's decision and written findings may be based upon any competent evidence or testimony introduced or presented by the applicant, the Town or other governmental agency, or other person or entity as deemed appropriate by the Board.
  - (d) No permit may be issued for the activity that was the subject of the variance within the Critical Area District until the applicable thirty-day appeal period has elapsed.
- (4) The Board shall consider recommendations of the Planning Commission prior to rendering a decision. The Planning Commission shall review and comment on all applications for variances prior to review and decision by the Board.
- L. Reasonable accommodations for the needs of disabled citizens. Notwithstanding any other provision of this section, the Board may make reasonable accommodations to avoid discrimination on the basis of a physical disability. Reasonable accommodations for the needs of disabled citizens may be permitted in accordance with the evidentiary requirements set forth in the following subsections.
    - (1) An applicant shall have the burden of demonstrating the following:
      - (a) The existence of a physical disability;
      - (b) Literal enforcement of the provisions of this chapter would result in discrimination by virtue of such disability;
      - (c) A reasonable accommodation would reduce or eliminate the discriminatory effect of the provisions of this chapter;

- (d) The accommodation requested will not substantially impair the purpose, intent, or effect of the provisions of this chapter as applied to the property;
    - (e) Environmental impacts associated with the accommodation are the minimum necessary to address the needs resulting from the particular disability of the applicant.
  - (2) The Board shall determine the nature and scope of any accommodation under this section and may award different or other relief than requested after giving due regard to the purpose, intent, or effect of the applicable provisions of this chapter. The Board may also consider the size, location, and type of accommodation proposed and whether alternatives exist which accommodate the need with less adverse effect.
  - (3) The Board may require, as a condition of approval, that upon termination of the need for accommodation, that the property be restored to comply with all applicable provisions of this chapter. Appropriate bonds may be collected or liens placed in order to ensure the Town's ability to restore the property should the applicant fail to do so.
- M. General restrictions on the Board. Where in this Chapter 128, Zoning, special exceptions are permitted, or where the Board is authorized to decide appeals or apply certain uses, and where the Board is authorized to approve variances, such approval, decision, or authorization is limited by such conditions as the case may require, including, if necessary, any of the following specifications.
- (1) No outside signs or advertising structures except professional or directional signs.
  - (2) Limitations of signs as to size, type, color, location, or illumination.
  - (3) Amount, direction, and location of outdoor lighting.
  - (4) Amount and location of off-street parking and loading space.
  - (5) Cleaning and painting and other aesthetic aspects.
  - (6) Gable roof or other conforming structural components.
  - (7) Construction and materials.
  - (8) Exits, entrances, doors, or windows.
  - (9) Paving, shrubbery, landscaping, or ornamental or screening fence, wall, or hedge.
  - (10) Time of day or night for operating.
  - (11) Store front facade or design/renovation.
  - (12) Major structural changes to building exterior.
  - (13) Prohibition of smoke, dust, gas, noise, or vibration.
- N. Lapse of special exception or variance. After the Board has approved a special exception or granted a variance, the special exception or variance so approved or granted shall lapse

after the expiration of one year if no substantial construction or change of use has taken place in accordance with the plans for which such special exception or variance was granted, and the provisions of this chapter shall then govern.

- O. If any application or request is disapproved on the merits by the Board, or after the public hearing is withdrawn by the applicant, thereafter the Board of Appeals shall not accept application for substantially the same proposal, on the same premises, until after one (1) year from the date of such disapproval or withdrawal.
- P. Appeals from certain zoning decisions. Any person described in Maryland Annotated Code, Article 66B, § 4.08(a) may appeal any decision of the Board and any zoning decision of the Town Council to the Circuit Court for Caroline County in the manner and by the method set forth in the Maryland Rules. Nothing herein contained shall change the existing standards for review of any such appeal.
- Q. All costs incurred by the Town in transcribing records of meetings and hearings shall be borne by the appellants. All fees shall be paid to the Town, before any record of the case is submitted to the appropriate court.

**§ 128-164. Administrative variance.**

- A. Intent. The purpose of the subsection is to authorize delegation of Board approval authority to the Planning Commission to apply the standards for variance as specified § 128-163K herein for certain proposed construction activities.
- B. Applicability. This section applies only to new development or redevelopment within 100 feet of tidal waters, tidal wetlands and tributary streams on single-family lots of record as of March 1989.
- C. Criteria.
  - (1) New development or redevelopment shall minimize the disturbance in the Buffer to the least intrusion necessary.
  - (2) Development may not impact any Habitat Protection Area (HPA) as defined in Article II, except the Buffer.
  - (3) Any development in the Buffer approved under the provisions of this subsection shall be mitigated as follows:
    - (a) The extent or the lot or parcel shoreward of the new development or redevelopment shall be required to remain, or shall be established and maintained, in natural vegetation; and
    - (b) Natural vegetation of an area twice the extent of the impervious surface must be created on the property, preferably in the Buffer. If on-site planting proves unfeasible, another similar location may be approved by the Planning Commission.
  - (4) An applicant who cannot comply with the planting/offset requirements herein may elect to request a variance from the Board as per Subsection A above.

- (5) Any required reforestation or mitigation or offset areas shall be designated under a development agreement or other instrument and recorded among the land records of Caroline County.
- (6) The Critical Area Commission shall be notified of an administrative variance application by the Planning Commission two weeks prior to administrative action.

## **ARTICLE XX.**

### **Amendments**

#### **§ 128-165. Provisions for amendment.**

The regulations, restrictions, classifications, and boundaries set forth in this Chapter 128, Zoning may from time to time be amended, supplanted, modified, or repealed by the Town Council. The reclassification of any property and the relocation of zone boundaries shall be deemed an amendment to this Chapter 128, Zoning and subject to the provisions of this article.

#### **§ 128-166. Who may initiate amendments.**

Proposals for amending the Chapter 128, Zoning text may be made by any interested person or governmental agency. Proposals for amendment of the Official Town Zoning Maps may be filed by any governmental agency or by a person with a committed financial, contractual, or proprietary interest in the property to be affected by the proposed amendment.

#### **§ 128-167. Procedure for amendment.**

- A. Any officially filed amendment or other change shall first be referred by the Town Council to the Planning Commission for an investigation and recommendation. The Planning Commission or Planning Staff shall cause such investigation to be made as they deem necessary, and for the purpose may require submission of pertinent information by any person concerned, and may hold such informal public hearings as are appropriate in its judgment.
- B. The Planning Commission submits its recommendation and pertinent supporting information to the Town Council within 60 days, unless an extension of time is granted by the Town Council.
- C. After receiving the recommendations of the Planning Commission concerning a proposal for amendment to Chapter 128, Zoning text, the Town Council shall determine whether or not said proposal is suitable to warrant the introduction of legislation and to that end may conduct any informal hearings as in its sole discretion it deems appropriate.
- D. Upon introduction of legislation, the Town Council shall hold a public hearing in reference thereto and shall give public notice of such hearings in accordance with the provisions of Article XXI, of this Chapter 128, Zoning.
- E. After receiving the recommendations of the Planning Commission concerning any proposal for amendment of the Official Zoning Maps and before adoption or denial of same, the Town Council shall introduce legislation for the proposed change and hold a public hearing in reference thereto in order that parties of interest and citizens shall have an opportunity to be heard. The Town Council shall give public notice of such hearing in accordance with the provisions of Article XXI, hereof.
- F. Regardless of amendment type, a complete record of the hearing, and the votes of all members of the Town Council in deciding all questions relating to the proposed amendment shall be kept.
- G. Upon passage of a text amendment to Chapter 128, Zoning, the affected page(s) may be removed from the ordinance and page(s) containing the amended language inserted and

footnoted. A list of amendments shall be maintained with appropriate dates at the end of this Chapter 128, Zoning.

**§ 128-168. Site visit.**

The Town Council shall not approve or disapprove any application for the reclassification of land unless and until a visit to the site in question has been made by at least a majority of the Town Council members in order to inspect the physical features of the property and to determine the character of the surrounding area. However, notwithstanding the provisions of this section, application for a map amendment shall be decided upon the basis of the evidence of record. Such site visit shall not be required for sectional or comprehensive reclassification.

**§ 128-169. Findings for reclassification.**

- A. Where the purpose and effect of the proposed amendment is to change the zoning classification of property, the Town Council shall make findings of fact in each specific case, including but not limited to the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development, the recommendation of the Planning Commission and consistency with the Town's Comprehensive Plan. The Town Council may grant the reclassification based upon a finding that there was a substantial change in the character of the neighborhood where the property is located, or that there is a mistake in the existing zoning classification and that a change in zoning would be more desirable in terms of the objectives of the Town of Denton Comprehensive Plan.
- B. The fact that an application for reclassification complies with all of the specific requirements and purposes set forth in this Chapter 128, Zoning shall not be deemed to create a presumption that the proposed reclassification and resulting development would in fact be compatible with surrounding land uses and is not, in itself, sufficient to require the granting of the application.

**§ 128-170. Application for reclassification.**

Every application for a reclassification shall be accompanied by a plat drawn to scale showing the existing and proposed boundaries and other information as the Planning Commission may need in order to locate and plot the amendment on the Official Zoning Map. Such plat shall not be required for sectional or comprehensive reclassification.

**§ 128-171. Filing fee for reclassification.**

A filing fee in an amount which shall be determined by the Town Council shall be charged for processing an application for reclassification.

**§ 128-172. Repeated application for reclassification.**

- A. No application for reclassification shall be accepted for filing by the Town Council if the application is for the reclassification of the whole or any part of land for which the Town Council has denied reclassification within 12 months from the date of the decision of the Town Council.
- B. However, the Town Council may allow an applicant to withdraw an application for a map amendment at any time, provided that, if the request for withdrawal is made after publication of the notice of hearing, no applications for reclassification of all or any part

of the land which is subject of the application shall be allowed within 12 months following the date of the resolution of the Town Council approving such withdrawal, unless, by the resolution allowing withdrawal or subsequent resolution, the Council specifies that the time limitation shall not apply.

**§ 128-173. Changing of Official Zoning Maps.**

It shall be the duty of the Director of Planning to change the Official Zoning Maps forthwith upon the adoption of any amendments, in order that said maps shall always be an up-to-date public record of the zones in the Town. Official Zoning Maps require the signature of Town Council Members and the Town Administrator.

**§ 128-174. Amendments in Critical Area District.**

- A. Amending the Critical Area boundary, land use management classifications and program.
  - (1) The Town Council may from time to time amend the land use management area classification of properties in the Critical Area District.
  - (2) In addition, the Town Council shall complete a comprehensive review and propose any necessary amendments, as required, to the Critical Area Program at least every four years. The Town Council Comprehensive Review Report to the Critical Area Commission shall be in accordance with Subtitle 18, § 8-1809(g) and (h) of the Critical Area Law.
  - (3) All such amendments shall also be approved by the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays (Critical Area Commission) subsequent to the Town Council approval as established in § 8-1803 of the Critical Area Law, Subtitle 18. Standards for Critical Area Commission approval of proposed amendments are as set forth in the Critical Area Law, Subtitle 18, § 8-1809(j), as revised July 1, 1990. The Critical Area Commission process for approval of proposed amendments are as set forth in the Critical Area Law, Subtitle 18, § 8-1809(d), as revised July 1, 1990.
- B. Application for land use management classification or Critical Area Program amendment shall be processed as any other proposed amendment to this Chapter 128, Zoning and are subject to the Critical Area Commission approval. Notification shall be made to the Critical Area Commission prior to Town Council public hearing.
- C. Requirements for amendments:
  - (1) Land use management classification. When considering a proposed change of land use management classification, i.e., Intensely Developed Area (IDA), Limited Development Area (LDA), or Resource Conservation Area (RCA), the Town Council shall not approve amendments unless it is found that there was a mistake in the original classification, or the site will be granted the Growth Allocation (GA) Floating Zone District classification.
  - (2) Adding land to the Critical Area District.
    - (a) The Town Council may amend the Critical Area boundary to add land to the Critical Area District, including land areas for which property owners have requested such an amendment, provided that:

- [1] It is documented that the benefits from the additional resource protection afforded the area exceeds the negative impact of any additional development allowed and that provisions are proposed to ensure the continuance of these benefits;
  - [2] The proposal is supported by competent and material evidence on its benefits for resource protection;
  - [3] The proposal clearly improves resource protection on primarily undeveloped land;
  - [4] The extended area is added as a Resource Conservation Area (RCA), and any proposed development meets all RCA requirements; and
- (b) Any land or portion added to the Critical Area District under these provisions that has been combined with adjacent Critical Area lands for the purpose of increasing the number of dwelling units that may be placed on the adjacent Critical Area parcel may not be subsequently deleted from the Critical Area District.

**§ 128-175. GA Growth Allocation Floating Zone.**

A. Designation of Floating Zone.

- (1) The Growth Allocation (GA) District shall be floating zones.
- (2) The Growth Allocation (GA) District provides for changing the land management classification of Resource Conservation Areas (RCAs) and Limited Development Areas (LDAs) in the Critical Area District. The GA District shall only be permitted on sites or portions of sites that have been awarded reclassification through the growth allocation process. These are approved land management classification changes, adopted by the Town Council as an amendment to the Denton Critical Area Program and Official Maps.

B. The GA Growth Allocation Floating Zone shall be processed in accordance with the provision of § 128-173.

C. The following policies shall apply to the location and the extent of future Intensely Developed and Limited Development Areas in the Critical Area:

- (1) New IDA should be located in existing LDA or adjacent to existing IDA;
- (2) New LDA should be located adjacent to existing LDA or IDA;
- (3) No more than half of the allocated expansion may be located in RCA;
- (4) New IDA and LDA will be located in order to minimize impacts to habitat protection areas and in a manner that optimizes benefits to water quality;
- (5) New IDA should be located where it minimizes impacts to the defined land use of any RCAs.
- (6) New IDA or LDA located in the RCA will conform to all criteria of Denton's Critical Area Program for LDA or IDA;

- (7) New Intensely Developed and Limited Development Areas in the Resource Conservation Area should be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters; and
- (8) When an RCA is converted to LDA or IDA or an LDA is converted to an IDA, the developer shall be required to cluster the development, as per the applicable performance standards of this Chapter 128, Zoning, and provide for resource enhancement in the design of such development.

D. The following are the procedures for accounting for growth allocation acres:

- (1) Subdivision of any parcel of land that was recorded as of December 1, 1985, and classified as RCA or LDA, where all or part of the parcel is classified by Denton as a Growth Allocation Floating Zone, shall result in the acreage of the entire parcel, not in tidal wetlands, counting against the Denton growth allocation, unless the following conditions are met:
  - (a) On qualifying parcels as described below, on which a change in classifications is approved, a development envelope shall be specified, the acreage of which will be counted against the Town's growth allocation.
  - (b) The envelope shall include individually owned lots, any required Buffers, impervious surfaces, utilities, stormwater management measures, on-site sewage disposal measures, any areas subject to human use such as active recreation areas, and any additional acreage needed to meet the development requirements of the criteria.
- (2) The remainder of the parcel will not count against the Town's growth allocation if it is contiguous and at least 20 acres in size, retained its natural features or its use by resource utilization activities (agriculture, forestry, fisheries activities, or aquaculture) and is restricted from future subdivision and/or development through restrictive covenants, conservation easements, or other protective measures approved by the Critical Area Commission. A forest management plan is required for any forested areas in the undeveloped portion of the parcel. Reforestation shall be accomplished on lands abandoned from agriculture. Parcels of land that qualify for application of the above guidelines are the following:
  - (a) Those parcels designated as new IDA's which are located within an LDA or adjacent to an existing IDA, and where the development on the parcel is located at least 300 feet from the edge of tidal waters, tidal wetlands or tributary streams, provided that such designation:
    - [1] Minimizes adverse impacts to agriculture, forest lands, fisheries or aquaculture;
    - [2] Minimizes adverse impacts to habitat protection areas; and
    - [3] Optimizes benefits to water quality.
  - (b) Those parcels designated as new LDAs which are located adjacent to existing LDAs or IDAs and where the development on the parcel is

located at least 300 feet from the edge of tidal waters, tidal wetlands, or tributary streams, provided that such designation conforms to the requirements of Subsection D(2)(a)[1] through [3] above.

**§ 128-176. Amendments for Floating Zones.**

- A. Zoning amendment petitions for one of the floating zone classifications shall be subject to a different set of criteria than those outlined above. Floating zone requests shall be reviewed under the provisions relating to planned developments §§ 128-84 and 128-30. The provisions of this article regarding the procedures and requirements of public hearings shall apply except that it shall not be necessary to prove change in the character of the neighborhood or mistake in the original zoning of the property in order to gain approval. In floating zones the test for approval or denial shall be compatibility with the neighborhood and consistency with the Comprehensive Plan.
- B. Procedures to maintain a floating rezoning once granted.
  - (1) Within one year of the granting of the original floating rezoning or any amendment thereto, application for building permits must be filed with requisite fees paid; otherwise, such zoning shall revert automatically to its prior district classification without notice and public hearing.
  - (2) Within one year of the issuance of a building permit, construction shall be commenced on the land so zoned; otherwise, such zoning shall revert automatically to its prior district classification without notice and public hearing.
  - (3) Within three years of the granting of a floating rezoning, 75% of the public improvements devoted to such use or uses as may be permitted in the zoning district shall be completed; otherwise, the zoning shall revert automatically to its prior district classification. The Town Council, at the request of the owner, may grant an extension of this requirement.

**ARTICLE XXI.**

**Requirements for Public Hearing and Public Notice**

**§ 128-177. Posting.**

- A. Unless otherwise expressly provided by law, all notices to the general public required by § 128-179 shall be made by posting the property to be affected by the pending proceeding. Such posting shall be made at least 14 days prior to the hearing date by erection of a sign to be furnished by the Department of Planning. Such sign shall be continuously posted until the date of the hearing and shall not be removed until the time specified in Subsection E herein. Such sign shall be erected by the initiator of the proceeding within 10 feet of the boundary line of the property which abuts the most traveled public road and if no public road abuts thereon, then such sign shall face in such direction as designated by the Director of Planning, and shall bear the words:

<b>PUBLIC HEARING NOTICE</b>
Case Number: pending (nature of case)
for information, call (telephone number)
The blanks shall be filled in with the assigned case number, if any, a short description of the nature of the proceeding, and the telephone number of the appropriate government office to provide information regarding the proceeding.

- B. Sign shall be furnished by the Department of Planning to the initiator of the proceeding with payment by the initiator of a non-refundable deposit of \$10.00. Sign shall be returned by the initiator as a condition of approval by the appropriate administrative board.
- C. At the hearing, it shall be the duty of the initiator of the proceeding to prove by affidavit or in person that he has fully complied with this section.
- D. Any sign to be posted pursuant to this section shall be maintained in a visible location and free from obstruction by brush, weeds, or other growth until after the public hearing is held. Such sign shall be removed within five days after the final decision is rendered by the appropriate administrative board.
- E. Posting of the property as stated herein shall not be required for sectional or comprehensive amendment procedures.

**§ 128-178. Public hearing.**

All proceedings under the terms of this Chapter 128, Zoning, requiring a public hearing, shall be advertised by the Town, once a week for two successive weeks in a newspaper of general

circulation in the Town with the first such advertisement at least fourteen (14) days prior to the public hearing, the cost for which publication shall be borne by the petitioner, prior to the date proceeding is scheduled for hearing, which advertisement shall state the following:

- A. The date, time and place of such hearing.
- B. A summary of the purpose of the proceeding in sufficient detail to inform the public of the nature of the proceeding and the relief sought by the initiator of the proceeding.
- C. The location of the property involved, its area, name of owner, and file or case number of the proceeding, and the name of the governmental body before which such proceeding is to be conducted.
- D. Any other information deemed necessary by the Director of Planning to adequately inform the public of the proceeding.

**§ 128-179. Public notice.**

- A. Except in cases of a proposed amendment to the text of this Chapter 128, Zoning or as provided in paragraph C below, whenever the application of this Chapter 128, Zoning requires the holding of a public hearing, the petitioner requesting the public hearing shall give at least 14 days notice of the time and place of such hearing by certified U.S. mail, first class postage prepaid by petitioner, to the owners of property within 200 feet of the property with which the hearing is concerned. Proof of certified mailing shall be submitted to the Department of Planning prior to the date on which the proceeding is scheduled. Failure to provide proof of certified mailing to all property owners within 200 feet of the property on which the proceeding is scheduled shall delay the proceeding. Said mailed notice shall be directed to the address to which the real estate tax bill on the property is sent. Said notice shall contain the same information as the published notice required by § 128-178 of this article.
- B. The Department of Planning shall provide a complete, accurate and up-to-date list of all such property owners that require notice. Failure of a person to receive the notice or accept service prescribed in this section shall not impair the validity of the hearing. For any Planning Commission or Board of Appeals review that requires notification to contiguous property owners, the petitioner shall also post the subject property at least 14 days prior to the meeting.
- C. Simplified site plans, administrative approvals and concept plans shall not be required to provide any type of U.S. mail notice.

**ARTICLE XXII.**  
**Outdoor Lighting**

**§ 128.180. Purpose and intent.**

It is the purpose of this Article XXII, Outdoor Lighting, to develop minimum standards for use in the design and installation of outdoor lighting that enhance visibility and public safety by preventing uncontrolled intrusion into adjacent properties and the natural environment and to promote energy conservation and preserve the Town's night sky, which is valuable natural resource important to the Town's character. It is the intent to conserve energy without decreasing safety, utility, security, and productivity, while enhancing nighttime enjoyment of property within the Town and surrounding area. It is assumed that appropriate lighting is safer and more efficient than inappropriate lighting; therefore use of lamp technologies with high efficacy is encouraged.

**§ 128.181. Applicability and Requirements.**

Article XXII, Outdoor Lighting, shall apply to all outdoor lighting within the Town of Denton unless otherwise exempted herein.

A. Applicability:

- (1) All commercial site plans shall demonstrate that the proposed development shall comply with the requirements set forth in Subsection B below with respect to exterior lighting.
- (2) This Section does not apply to emergency lighting.
- (3) This Section does not apply to temporary lighting.
- (4) This Section does not apply to vehicular lighting.
- (5) This Section does not apply to lighting on wheeled farm machines.

B. Requirements:

- (1) Motion sensors shall be utilized to control flood and spot lights.
- (2) High pressure sodium (HPS) lights shall be used to minimize energy consumption, maintenance costs, and sky glow where color recognition is not needed.
- (3) Non-security parking lot lights shall be turned off after business hours to save energy and protect the night sky.
- (4) Minimum amount of light needed shall be used to achieve safe uniform lighting with lights that consume the lowest amount of power possible.
- (5) Fully shielded or horizontally flush mounts shall be used for all lights.
- (6) Signs and flags shall be lighted from above.
- (7) All sports lighting shall be shielded.

- (8) All lights greater than 1800 lumens shall be shielded to direct all light toward the ground so that the lighting elements are not exposed to normal view by or do not create or constitute a hazard or nuisance (e.g., glare) to motorists, pedestrians or neighboring residents.
- (9) Lighting shall be designed so as not to throw glare onto surrounding properties.

**§ 128.182. Definitions.**

For purposes of this chapter, the following definitions apply:

**ADJACENT PROPERTY** - Property abutting the lot being developed as well as properties that are separated from by a street, road or right-of-way.

**CANDELA** - The unit that describes the intensity of a light source in a specified direction, and is equal to one lumen per steradian (lm/sr).

**CUTOFF** - A luminaire light distribution where the candela per 1,000 lamp lumens does not numerically exceed 25 (2.5 percent) at an angle of 90 degrees above nadir, and 100 (10 percent) at a vertical angle of 80 degrees above nadir.

**DARK SKY FIXTURE** - Any light fixture that emits its light below 90 degrees when measured from 0 to 180 degrees vertical. Dark sky fixtures keep most of their light from reaching the night sky (i.e., emit no more than two percent of light above the horizontal plane).

**DARK SKY CUTOFF FIXTURE** - Any light fixture that emits its light below 45 degrees when measured from 0 to 180 degrees vertical. Dark sky cutoff fixtures keep most of their light from reaching the night sky (i.e., emit no more than two percent of light above the horizontal plane) and also minimize ground reflection and reduce light scatter beyond the property line.

**DARK SKY SHADE** - Anything that is used to shade a light fixture so that it behaves as a dark sky fixture. These include, but are not limited to, fixtures outfitted with caps or housings or installed under canopies, building overhangs, and roof eaves or shaded by other structures, objects or devices.

**DARK SKY SHIELD** - Anything that is used to shield a light fixture so that it behaves as a dark sky cutoff fixture. These include, but are not limited to, fixtures outfitted with caps or housings or installed under canopies, building overhangs, and roof eaves or shielded by other structures, objects or devices

**DIRECT LIGHT** - Light emitted directly for the lamp, off the reflector or diffuser of a luminaire.

**DISABILITY GLARE** – Glare which reduces visual performance due to light scattered in the eye reducing the contrast of the image.

**EFFICACY** - a measurement of the ratio of light produced by a light source to the electrical power used to produce that light, expressed in lumens per watt.

**EMERGENCY LIGHTING** - Illumination as required by civil officers, agents and officials to perform their duties to maintain the public health, safety and welfare.

**FIXTURE** - The assembly that holds the lamp (bulb) in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

**FLOOD OR SPOT LIGHT** - A light designed to “flood” a well defined area with light, with a reflector or optical assembly that concentrates the light output in a particular direction or spot.

**FLUORESCENT LAMP** - A lamp used for indoor retail and office uses and occasionally in outdoor area lighting. Fluorescent lamps are also available in the so-called "compact" styles. Advantages include low initial costs for lamps and fixtures compared with the lamp types below, low life cycle costs and high efficiency compared to incandescent, no warm-up period, good color rendition, and long lifetimes. Disadvantages include higher initial costs compared to incandescent lamps, large lamp size, low efficiency (compared to lamp HID lamps) and poor output maintenance, attraction of insects, and potentially hazardous mercury waste.

**FOOT-CANDLE** - The basic unit of luminance (the amount of light falling on a surface). Foot-candle measurement is taken with a light meter. One foot-candle is equivalent to the luminance produced on one square foot of surface area by a source of one standard candle at a distance of one foot. Horizontal Foot-candles measure the illumination striking a horizontal plane. Vertical Foot-candles measure the illumination striking a vertical plane.

**FULL CUTOFF** - A shielded fixture that directs all light towards the ground by preventing all transmission of light above a horizontal line as specified by the Illumination Engineering Society: (i.e., distribution where zero candela intensity occurs at an angle of 90 degrees above nadir and at all greater angles from nadir, and prevents the direct image of a bright source. Additionally, the candela per 1,000 lamp lumens does not numerically exceed 100 (10 percent) at a vertical angle of 80 degrees above nadir).

**GLARE** - A bright source which causes the eye to be drawn continually toward the bright image or when the brightness of the source prevents the viewer from adequately viewing the intended target.

**HID LIGHTING** - High intensity discharge lighting, a family of bulb type including mercury vapor, metal halide, high pressure or low pressure sodium, which glow when an electric current is passed through a gas mixture inside the bulb.

**HIGH PRESSURE SODIUM (HPS) LAMP** - Most widely used HID lamps for roadway and parking lot lighting. Advantages include a long lifetime, a wide variety of moderate to high luminous output lamps, high efficiency and good maintenance, moderate color rendition, and wide availability and moderate cost of lamps and luminaires. Disadvantages include poorer color rendition than metal halide, fluorescent and incandescent, poorer output efficiency than low-pressure sodium, and potentially hazardous mercury waste.

**HOLIDAY LIGHTING** - Festoon type lights, limited to small individual low wattage bulbs on a string.

**INCANDESCENT LAMP** - Lamp commonly used for the majority of residential lighting, both indoor and outdoor. Incandescent lamps are widely available in a huge variety of lamp styles of low to moderate luminous output. They are commonly used in applications where such low outputs are needed and where the lighting is often switched off and on. Advantages include low capital cost for lamps and luminaires, wide availability, wide variety of both lamp and fixture

types, lack of a warm-up period, and lack of hazardous wastes. Disadvantages include short lifetimes, low efficiency with resultant high per-lumen energy use and life cycle cost, attraction of insects, and high heat production.

**INDIRECT LIGHT** - Direct light that has been reflected or scattered.

**INSTALLATION** - The attachment or assembly of any outdoor lighting fixture, and its fixing in place, whether or not connected to a power source.

**LIGHT POLLUTION** - The upward emitting of stray light which may illuminate clouds, dust, and other airborne matter, and may obscure the night sky.

**LIGHT SOURCE** - The lamp or enclosing bulb or reflective enclosure.

**LIGHT TRESPASS** - Any artificial light greater than 0.10 foot-candles falling outside the boundaries of the property upon which the outdoor luminaire is installed. Light trespass occurs when neighbors of an illuminated space are affected by the lighting system's inability to contain its light within the area intended.

**LOW PRESSURE SODIUM (LPS) LAMP** - A HID lamp popular in some American cities, the light produced by LPS lamps is nearly monochromatic at a wavelength near 589 nanometers. Though the eye is very sensitive to this wavelength (leading to the high efficiency of LPS), the eye cannot distinguish colors when LPS light is the only source available. Low-pressure sodium lighting is favored where energy consumption and costs are a major concern and where color discrimination is either not needed or is supplied by other lighting. Advantages include the highest luminous efficiency and lowest energy use, low glare associated with the large lamps, good visibility and low scattering, minimal effects on insects and other wildlife, and lack of hazardous mercury wastes. Disadvantages include the lack of color rendition, shorter lamp lifetime and higher lamp replacement costs compared to HPS, and large lamp size in the higher output lamps.

**LUMEN** - The unit of measurement of the quantity of light produced by a lamp or emitted from a luminaire. The lumen quantifies the amount of light energy produced by a lamp at the lamp, not by the energy input, which is indicated by the "wattage". For example, a 100 watt incandescent light produces 1800 lumens. While a 70-watt high-pressure sodium lamp produces 6000 lumens. Lumen output is listed by the manufacturer on the packaging.

**LUMINAIRE** - A complete lighting unit often referred to as a light fixture. A luminaire consists of the lamp or light source, optical reflector and housing, and electrical components for safely starting and operating the lamp or light source.

**MERCURY VAPOR LAMPS** - the first widely used HID lamps. Though highly efficient and long-lived compared to the incandescent lighting technology they displaced, they have many disadvantages compared to other lighting sources available today, including low luminous efficiency, poor color rendition, and high ultra-violet output. Mercury vapor lamps have now been almost completely replaced in new applications by the more efficient metal halide and high-pressure sodium lamps.

**METAL HALIDE LAMP** - A HID lamp, similar to mercury vapor lamps, but with the addition of small amounts of various metallic halides, such as scandium, sodium, dysprosium, holmium and thulium iodide. The many different varieties of metal halide lamps give a wide variety of

slightly different color characteristics, though generally they are white or blue/white sources. Besides a relatively steep fall-off in intensity with time (compared to high-pressure sodium; see below), many metal halide lamps also change their color as they age. Metal halide lamps are very commonly used in commercial outdoor lighting where white light with good color rendition is required or simply desired, such as car dealer display lots, sports lighting, and service station canopies. Advantages include a wide variety of moderate to high luminous output lamps, high efficiency compared to incandescent and mercury vapor and good color rendition. Disadvantages include lower efficiency and output maintenance compared to high- and low-pressure sodium, shorter lamp lifetime compared to high-pressure sodium, color changes, ultra-violet output if not adequately filtered, and potentially hazardous mercury waste.

**MOTION SENSOR** - Any device that turns a light fixture on when it detects motion and off when motion stops.

**NADIR** - The point directly below the luminaire.

**NONCUTOFF** - A luminaire light distribution where there is no candela limitation in the zone above maximum candela.

**OUTDOOR LIGHTING** -The night time illumination of an outside area or object by a device that produces light by any means.

**OUTDOOR LIGHTING FIXTURE (OR LUMINAIRE)** - Any outdoor electrically powered luminaire, permanently installed or portable, used for illumination, decoration, or advertisement. Such devices shall include general ambient lighting, street and area luminaires, decorative lighting, accent or feature lighting, as well as searchlights, spotlights, and floodlights, any of which being for use at or on:

- Buildings and structures, including church steeples.
- Recreational areas.
- Parking lot and area lighting.
- Landscape lighting.
- Outdoor signage, both internally and externally lit (advertising or other).
- Street lighting.
- Product display area lighting.
- Building overhangs, eaves, and open and closed canopies.
- Farms, dairies, or feedlots.
- Gas canopy lighting.
- Outdoor walkways.
- Flag poles.
- Monuments or sculptures.

SEMICUTOFF - Luminaire light distribution where the candela per 1,000 lamp lumens does not numerically exceed 50 (five percent) at an angle of 90 degrees above nadir, and 200 (20 percent) at a vertical angle of 80 degrees above nadir.

SKY GLOW - The result of scattered light in the atmosphere, means the haze or glow of light that reduces the ability to view the nighttime sky.

STERADIAN - the basic International System unit of measurement of a solid angle in a sphere. One steradian is the solid angle made at the center of a sphere by an area on the surface of the sphere equal to the square of the sphere's radius.

SWITCH - Any device that can be manually controlled by a person to turn a light fixture on and off. For the purpose of this chapter, switches include motion sensors but switches do not include light sensors or timers.

TEMPORARY LIGHTING - Illumination as required by citizens to carry out legally approved activities for durations as specified in the permits for those activities. These include, but are not limited to, activities such as nighttime agricultural operations, construction work lighting, and seasonal decorations, but in no case shall such temporary lighting continue for more than a period of 3 months without an exemption granted by the Town of Denton.

**§ 128.182.1. Light fixtures prohibited.**

- A. Non-dark sky fixtures are prohibited in the Town of Denton unless otherwise permitted by this Chapter 128, Zoning.
- B. In addition to subsection A, the following light fixtures are prohibited:
  - (1) Lights which shine directly into neighboring residential districts or buildings and adjacent properties.
    - (a) The maximum illumination of an adjacent parcel from light emitted from an artificial light source is 0.1 horizontal foot-candles and 0.1 vertical foot-candles when measured:
      - [1] At five feet inside an adjacent residential parcel.
      - [2] At 10 feet inside an adjacent commercial or industrial parcel.
      - [3] No line of sight to a light source is permitted 5 feet or more beyond the edge of the public right-of-way or property line in a residential district by an observer viewing from a position that is level with or higher than the ground below the fixture.
      - [4] Compliance is achieved with fixture shielding, directional control designed into the fixture, fixture location, fixture height, fixture aim, or a combination of these factors.
  - (2) Excessive Lighting: Lighting which directs attention away from existing business and community lighting. New lighting shall not cause existing

lighting to appear noticeably dimmer or reduce the sense of security it provides.

- (a) Areas under structural canopies shall be illuminated so that the uniformity ratio (ratio of average to minimum luminance) shall be no greater than 5:1 with an average illumination level of not more than 30 foot-candles.
- (b) Light fixtures located on structural canopies shall be mounted so that the lens cover is recessed or flush with the ceiling of the canopy.
- (3) Glare: High Intensity Discharge (HID) light sources which disability glare directly visible to drivers. Full Cutoff fixtures shall be used so as to ensure lighting elements are not exposed to normal view by or do not create or constitute a hazard or nuisance to motorists, pedestrians or neighboring residents.
- (4) Flashing lights.

**§ 128.182.2. Light fixtures permitted.**

A. The following light fixtures and lighting are permitted:

- (1) All light fixtures that were installed prior to the effective date of this Article XXII, Outdoor Lighting.
- (2) All light fixtures that are dark sky fixtures and dark sky cutoff fixtures.
- (3) All light fixtures that have a dark sky shade or a dark sky shield.
- (4) All light fixtures that are dark sky fixtures and dark sky cutoff fixtures providing uniform and appropriate lighting in parking lots.
- (5) All light fixtures that use quality prismatic or translucent lens materials to spread the bright image over a larger area and reduce the brightness of the source.
- (6) Lighting designed for historic or residential streets with special product aesthetics or vertical luminance criteria to limit the lamp lumens or wattage and thereby control glare and light trespass.
- (7) Appropriate lighting used solely to enhance the beauty of an object.
- (8) Necessary floodlights mounted at the appropriate height, so as to reduce glare in an unintended field of view and with a total effect that conforms to reasonable ambient lighting levels, based on the environment of the proposed installation. The light sources in flood and spot lights shall not be directly visible from adjacent properties.
- (9) All temporary light fixtures for special public events.
- (10) All temporary holiday lighting.
- (11) All emergency lighting.
- (12) All lighting less than 1800 lumens.

- (13) Lighting of churches and flags, as well as sports fields in non-residential areas.
- (14) Waterfront Lighting: All lighting in and around the ponds lakes and other waters of the Town shall not be installed or maintained so as to create a hazard to or nuisance to other prosperity owners, navigation or boaters and shall comply with the following:
  - (a) Lights on docks or piers shall be no more than three (3) feet above the docks or piers, shall be downward directed, and shall be no more than 550 lumens or less.
  - (b) Lights illuminating paths, decks etc shall not be directed toward the waters and shall be no more than 1800 lumens or less.
  - (c) All exterior lighting shall be located, mounted and shielded so that direct illumination is not directed on the water surface more than 20 feet from the shore.
- (15) Appropriate sign lighting as referenced in Article XV, Signs of this Chapter 128, Zoning.
  - (a) Illumination. The illumination of all signs shall comply in all respects with the provisions of this Article XXII, Outdoor Lighting.
  - (b) All illuminated signs shall be lighted by top-mounted lights pointed downward. No sign may be illuminated with fixtures not shielded from upward transmission of light.
  - (c) Non-flashing Illumination. Signs may be illuminated only by conflating lights. Lights that flash, pulse, rotate, move, or simulate motion are not permitted.
  - (d) All lights shall be shielded to ensure that light sources are not directly visible to drivers or from neighboring properties.

**§ 128.182.3. Replacement of Non-Dark Sky fixtures.**

When a non-dark sky fixture is replaced, it shall be replaced with one of the following:

- A. Dark sky fixture, or
- B. Dark sky cutoff fixture, or
- C. Non-dark sky fixture that has a dark sky shade or a dark sky shield that causes it to operate as if it were a dark sky fixture or a dark sky cutoff fixture.

**§ 128.182.4. Installation of new Dark Sky fixtures and Dark Sky Cutoff fixtures.**

- A. When a new light fixture is installed, it shall be installed with a switch to allow lighting to be manually turned on and off, with a motion sensor to automatically turn it on when motion is detected and turn it off when motion ends, or with timers or photocells when lighting is not needed.

- B. Noncritical lighting after business hours and at other times shall be turned off when it is not required.

**§ 128.182.5. Light fixtures encouraged but not required.**

- A. Light fixtures with motion sensors are encouraged to minimize the duration of nighttime lighting
- B. Light fixtures with soft yellow or orange lights (e.g., high pressure sodium) instead of harsh white lights (e.g., metal halide) are encouraged to protect the view of the night sky.
- C. Dark sky shades and dark sky shields are encouraged for old existing fixtures to protect the view of the night sky, minimize ground reflection and reduce light scatter beyond the property line.
- D. Dark sky cutoff fixtures are encouraged where light fixtures are mounted on structures or poles higher than the first level above ground level to protect the view of the night sky, minimize ground reflection and reduce light scatter beyond the property line.

**§ 128.182.6. Exemptions.**

- A. The Planning Commission may allow exemptions from Article XXII, Outdoor Lighting as needed to relieve any unusual circumstances or difficulties or costs that would be encountered if an attempt were made to comply with this ordinance.
- B. The Town Council may allow exemptions from Article XXII, Outdoor Lighting to recognize that a good faith attempt has been made to comply with this ordinance but compliance is still not possible due to unusual circumstances or difficulties or costs encountered.

**§ 128.182.7. Liability.**

- A. A person utilizing or maintaining an outdoor light shall be responsible for all costs and any other liability resulting from failure to comply with this Article XXII, Outdoor Lighting.
- B. Responsibility for costs and liability begins from and after the day Article XXII, Outdoor Lighting becomes effective.

**§ 128.182.8. Enforcement and penalties.**

- A. The Building Official and the Department of Planning are authorized to enforce the provisions of this Article XXII, Outdoor Lighting.

**§ 128.182.9. Disclaimer.**

The Town of Denton does not, by approving or disapproving a lighting fixture, warranty or make assurance of any kind whatsoever, specifically as to whether the subject of the approval or disapproval is safe, suitable for its intended purpose, merchantable, or in compliance with any applicable codes or regulations.

## **ARTICLE XXIII.**

### **Site Plan Required for Certain Uses**

#### **§ 128-183. Purpose.**

For the purpose of assuring a sound, serviceable arrangement of the following structures and uses and insuring consistency with the Comprehensive Plan, as well as compliance with applicable requirements of this Chapter 128, Zoning and/or Chapter 73, Land Subdivision, site plans for the following major uses, whether proposed as special exception uses or permitted uses, shall be subject to review and recommendation by the Planning Commission. The site plan shall be approved, disapproved or approved subject to conditions by the Director of Planning.

#### **§ 128-184. Development types or land uses requiring site plan approval.**

A site plan is required for any development or land uses where the applicable district regulations require such a plan (Articles X and XI of this Chapter 128, Zoning) or for any of the following proposed uses or structures:

- A. Any residential development involving uses other than detached single-family residential units or structures including conversions of existing buildings.
- B. Redevelopment of vacant properties or buildings or changes in use of property or building.
- C. Uses subject to approval as special exception uses by the Denton Board of Appeals.
- D. Development which requires off-site improvements involving the expenditure of public funds.
- E. Any and all development or redevelopment in the Critical Area Buffer.
- F. Construction or expansion of a single family dwelling and ordinary accessory structure, and related land use activities.
- G. Commercial and industrial structures or uses.
- H. All signs except in conjunction with new development.

#### **§ 128-185. Procedures for processing.**

- A. For each application involving site plan approval, seven copies of a preliminary site plan, together with the required information described in Appendix I, this Chapter 128, Zoning, shall be submitted with the zoning certificate and building permit application to the Town Director of Planning no later than 45 days prior to the Planning Commission meeting.
- B. Minor site plans requiring an administrative approval shall not have the 45 days prior submittal requirement.
- C. The Director of Planning or designated representative shall be responsible for checking the site plan for general completeness and compliance with such administrative requirements as exist or may be established prior to routing copies thereof to reviewing departments, agencies, and officials. The Director of Planning shall insure that all reviews are completed on time and that site plans are submitted to the Planning Commission with review comments prior to the next regular Planning Commission meeting, provided the plans have been submitted 45 days prior to the meeting.

- D. Minor site plans, deemed complete and requiring only an administrative approval, shall be reviewed by Director of Planning.
- E. The Planning Commission and/or Director of Planning shall examine the proposed development with respect to the traffic and circulation patterns, parking, internal and external; relation to existing or proposed transportation in the area; utilities, stormwater management facilities, and community facilities, existing or proposed; surrounding development, existing or future; the preservation of trees or historic sites; provision for open space; and in general with the objective of insuring a durable, harmonious, and appropriate use of the land consistent with the objectives of the Comprehensive Plan. When the granting of a special exception is required, the Commission shall forward the site plan, together with its recommendation to the Board of Appeals. The Board of Appeals may prescribe additional information to be shown on the plan, with all changes and additions to be reviewed for compliance with this Chapter 128, Zoning and the Comprehensive Plan. If specified conditions are met in the revised plan, the Director of Planning may approve issuance of building permits in accord with the revisions without returning the plans for further Planning Commission review. The Director of Planning may approve minor changes in site plans after approval by the Planning Commission or Board of Appeals and approve issuance of building permits accordingly, if such changes do not substantially affect the original approval or conditions attached thereto.
- F. Nothing in this section shall be interpreted to permit the granting of a variance or special exception to the regulations of this Chapter 128, Zoning or to abridge the procedures or requirements of the laws and ordinances governing the subdivision of land.
- G. Subsequent to approval of the preliminary plan, two final drawings must be submitted to the Department of Planning, with one copy to be kept on file.

**§ 128-186. Required information to be shown.**

Every site plan that is submitted in accordance with this article shall contain the information shown in Appendix I at the end of this Chapter 128, Zoning.

**§ 128-187. Simplified site plans and concept plans.**

- A. Simplified site plan.
  - (1) Upon the determination by the Director of Planning, with the concurrence of all appropriate agencies, a simplified site plan may be filed for duplexes, conversions, redevelopment of existing facilities, development or redevelopment in a BEA, an accessory building and/or addition to a commercial or industrial use structure in those cases where a field inspection indicates that the scope of the proposed accessory building and/or addition is of such a nature that the provisions for stormwater management, sediment control, off-street parking, setbacks, water and sewerage, and other requirements can be adequately addressed with a simplified site plan. Said site plan may be approved by the Director of Planning upon concurrence of all appropriate agencies.
  - (2) The simplified site plan shall contain the information for simplified site plans shown in Appendix I at the end of this Chapter 128, Zoning.

B. Concept plan.

- (1) A concept plan is a site plan by which, at the early stages of development design, the Planning Commission may consider, approve, or restrict major aspects of the development without requiring an undue amount of final design work on the part of the developer. The concept plan is less detailed and specific than a major site plan in terms of exact arrangement of buildings, parking areas, open spaces, access points, and any other site design features. No building permits can be issued based upon a general development plan.
- (2) Concept plans shall be required as follows:
  - (a) All applications for Official Zoning Map amendments shall be accompanied by a concept development plan.
  - (b) To permit more than one principal structure and its accessory structures on a lot or parcel of land.
  - (c) For consideration of a planned development.

**§ 128-188. Specific standards and conditions on site plan approval.**

The following specific standards will be met in the site plan, in addition to other requirements of this Chapter 128, Zoning:

- A. Lighting. Lighting emitting objectionable glare or sky glow observable from surrounding properties or streets will be shielded.
- B. Public facilities. The Town and/or Health Department shall certify that the proposed water and sewer facilities are adequate to service the proposed development
- C. Screening. The Planning Commission may recommend requirement of screening the property lines and around, and within, the parking areas. Minimum standards are: planting strips will be no less than five feet wide planted with shrubs and/or trees, which are of a type and spaced at intervals which may be expected to form a year-round dense screen at least six feet high within three years; and opaque fencing may be used in lieu of trees and shrubs, subject to approval of the Director of Planning.
- D. Common areas. If the plan of development includes common areas, property, and/or facilities, including, but not limited to stormwater management facilities, the Director of Planning as a condition of approval shall establish such conditions on the ownership, use, and maintenance of such lands or property as it deems necessary to insure the preservation and maintenance of such areas, property, and facilities for their intended purposes.

**§ 128-189. Required improvements.**

In furtherance of the purposes of this Chapter 128, Zoning, and to assure public safety and general welfare, the Town departments, and agencies charged with the responsibility for the review and approval of site plans, shall require such of the following improvements as fall within their respective responsibilities:

- A. Designation of pedestrian walkways so that individuals may walk on same from store to store or building to building within the site and to adjacent sites.

- B. The concurrence of the State Department of Transportation with the location and design of vehicular entrances and exits to and from state-maintained streets and highways.
- C. Connection wherever possible of all walkways, travel lanes, and driveways, with similar adjacent developments.
- D. Screening, fences, landscaping, and buffer areas as are required by the provisions of this section and other ordinances of the Town.
- E. Easements or rights-of-way for all facilities to be publicly maintained. Such easements shall clearly be defined for the purpose intended.
- F. Outdoor lighting facilities as specified in Article XXII, Outdoor Lighting in this Chapter 128, Zoning
- G. Adequate stormwater management facilities as specified by Chapter 106, Stormwater Management.

**§ 128-190. Agreement bond for improvements.**

- A. Prior to approval of any site plan, there shall be executed by the owner or developer and submitted with the site plan an agreement to construct such required physical improvements as are located within public rights-of-way or easements or as are connected to any public facility in form and substance as approved by the Town of Denton, together with a bond or surety acceptable to the Town in the amount of the estimated cost of the required physical improvement of all work covered thereby which time may be extended by the Town Council upon written application by the owner or developer, signed by all parties (including sureties) to the original agreement. The adequacy, conditions, and acceptability of any bond or surety hereunder shall be determined by the approving authority for the Town. The legal sufficiency of the bond or surety shall be determined by the Town Attorney.
- B. The Town may also require agreement bonds for required landscaping and bufferyard plantings. The bond (amount to be determined by the Town Arborist) may be held for the Town for a period of one year to ensure that plantings remain healthy and alive during this period.

**§ 128-191. Approval and extension.**

Approval of a site plan submitted under the provisions of this article shall expire one year after the date of such approval unless building permits have been obtained for construction in accordance therewith. A single one-year extension may be given upon written request by the applicant to the Director of Planning made within 90 days before the expiration of the approved site plan. The Director of Planning shall acknowledge the request and shall forward the request within 45 days after receipt to the Planning Commission for a recommendation regarding the requested extension.

**§ 128-192. Modification, Revision and waiver.**

Any site plan may be revised using the same procedure as originally approved, and any requirements of this article may be waived by the Planning Commission, or the Director of Planning for minor modifications as specified in subsection A, in specific cases where such

requirement is found to be unreasonable. No such waiver shall be adverse to the purpose of this section.

Approved site plans may be modified as follows:

- A. Minor Modifications. The Director of Planning may authorize minor adjustments in an approved plan as follows:
  - (1) Minor modification of the size and location of drainage ways, sewers, roadways, planting or other similar features, in light of technical or engineering considerations.
  - (2) Minor modifications of the bulk of any proposed structure provided that the modified dimensions comply with all requirements of the applicable zoning district and do not allow buildings closer to property lines or otherwise adversely affect neighboring properties or the development authorized by the plan as originally approved.
  - (3) Any request for a modification of any condition imposed in a site design plan approval, which is deemed by the Planning Director to be a minor modification.
- B. Major Modifications. Modifications to any approved site design plan that the Director of Planning deems to be a major modification may be approved only in accordance with the procedures required for original plan approval, subject to waivers of plan submission requirements by the Director of Planning.

**§ 128-193. Building permit.**

No building permit shall be issued for any structure in any area covered by the site plan that is required under the provisions of this article except as it is in conformity to such site plan which has been duly approved.

## **ARTICLE XXIV.**

### **Administration**

#### **§ 128-194. Director of Planning and Codes.**

This chapter shall be administered and enforced by the Director of Planning and Codes. The Director of Planning may be provided with the assistance of such other persons as the Town Council may direct. Delegation of such duties and responsibilities in connection with the administration and enforcement of this chapter may be done as deemed appropriate in the judgment of the Director of Planning.

#### **§ 128-195. Permits.**

- A. No building shall be erected, constructed, demolished, altered, moved, converted, extended, or enlarged without the owner first having obtained a permit from the Department of Planning. Such permit shall require conformity with the provisions of this chapter.
- B. Posting of the property as stated herein shall not be required for sectional or comprehensive amendment procedures.

#### **§ 128-196. (reserved).**

#### **§ 128-197. (reserved).**

## **ARTICLE XXV.**

### **Interpretation and Conflict**

#### **§ 128-198. Minimum requirements.**

In interpreting and applying the provisions of this Chapter 128, Zoning, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by this Chapter 128, Zoning to interfere with, or abrogate or annul any easement, covenants, or other agreement between parties; provided, however, that where this Chapter 128, Zoning, imposes a greater restriction or higher standard upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by other resolutions, ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Chapter 128, Zoning shall govern. If, because of error or omission in the Official Zoning Map, any property in the jurisdiction of this chapter is not shown as being in a zoning district, the classification of such property shall be classified SR Suburban Residential, until changed by map amendment.

## **ARTICLE XXVI.**

### **Enforcement**

#### **§ 128-199. Duty of Director of Planning and Codes, officers, and employees.**

It shall be the duty of the Director of Planning to enforce the provisions of this Chapter 128, Zoning and to refuse to issue any permit for any building, or for the use of any premises which would violate any of the provisions of this Chapter 128, Zoning. It shall also be the duty of all officers and employees of the Town to assist the enforcing officer by reporting to him or her any seeming violation in new construction, reconstruction, or land use.

#### **§ 128-200. Instituting action to end violation.**

In case any building is erected, constructed, reconstructed, altered, repaired, demolished, or converted or any building or land used in violation of this chapter, the Director of Planning is authorized and directed to institute any appropriate action to put an end to such violation.

#### **§ 128-201. Violations and penalties.**

- A. It shall be considered a municipal infraction for any person or corporation to violate any provision of this Chapter 128, Zoning, or to erect, construct, alter or repair, convert, or maintain any building or structure, sign, or land in violation of any written statement or plan submitted and approved hereunder.
- B. It shall be considered a municipal infraction for any owner, tenant, or occupant of a building, structure, sign or land or part thereof, which is in violation of this Chapter 128, Zoning, or any architect, builder, contractor, subcontractor, agent, servant, person or corporation, knowingly to assist or further the commission of any violation of this Chapter 128, Zoning. There shall be a rebuttable presumption that the defendant was violating this Chapter 128, Zoning knowingly.
- C. In the event that any person is found to have committed a municipal infraction hereunder, notice shall be given in the same manner as for property maintenance violations that incorporate requirements stated in Chapter 94 of the Town Code.
- D. In the event that any person is found to have committed a municipal infraction hereunder, each infraction shall be punishable by a fine of up to the maximum municipal infraction fine permitted by state law for each single violation. Each day such violation continues shall be a separate offense. In addition to said fine, the Town may request during the adjudication of the infraction that the defendant abate the violation or, in the alternative, to permit the Town to abate the violation at the defendant's expense, with the costs to be assessed against the property as a lien collectible in the same manner as real estate taxes. Nothing herein shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation.

#### **§ 128-202. Banner enforcement.**

Should there be a violation of any provisions of § 128-135, the Town shall provide immediate notice of the violation to the lessee and/or the owner of the property on which the banner is located and shall require said persons to correct the violation within 24 hours of notice of the violation, which may include removal of the banner. In the event that this violation continues after the twenty-four-hour period referenced herein, the violation shall be a municipal infraction,

and this chapter enforced in accordance with Chapter 20, Infractions, of the Code of the Town of Denton.

## **ARTICLE XXVII.**

### **Miscellaneous Provisions**

#### **§ 128-203. Severability.**

If any section, paragraph, subdivision, clause, phrase, or provision of this Chapter 128, Zoning shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Chapter 128, Zoning, as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

#### **§ 128-204. When effective.**

This Chapter 128, Zoning shall take effect and become enforceable immediately upon its adoption by the Town Council of the Town of Denton. Nothing in this Chapter 128, Zoning shall impair or invalidate any work begun under any permit issued before the effective date hereof nor shall it impair or invalidate any unexpired permit for work not yet begun, provided that such work must conform to all terms of the permit and the Zoning under which such permit was issued. All applications receiving preliminary site plan approval before the effective date hereof shall be processed and decided in accordance with the Zoning in effect when the particular application was approved.

## APPENDIX I - BASIC INFORMATION REQUIRED ON SITE PLANS

*NOTE: All plats and plans must be clear and legible. Incomplete plats will be returned to the applicant for completion and re-submission.*

*Final Plats will include a GIS submittal in NAD\_1983\_StatePlane\_Maryland\_FIPS\_1900, Datum: D\_North\_American\_1983 with metadata.*

Item#	DESCRIPTION	Concept Plan	Minor Plan	Simplified Site Plan	Major Site Plan	
					Preliminary	Final
<b>I. PROJECT PLAT INFORMATION</b>						
1.	Name, address of owner, applicant, developer and lien holder, date of application.	X	X	X	X	X
2.	Name and address of engineer, land surveyor architect, planner, and/or landscape architect, as applicable, involved in document preparation.	X	X	X	X	X
3.	Date of survey.		X	X	X	X
4.	Seal, signature and license number of engineer, land surveyor, architect, and/or landscape architect, as applicable involved in document preparation. Each sheet must have a surveyor's seal.		X	X	X	X
5.	Title block denoting name and type of application, tax map sheet, block and lots, parcel, and street location.	X	X	X	X	X
6.	Location of tract by an insert map or vicinity map at a scale of no less than one (1) inch equals 600 feet, and such information as the names and numbers of adjoining roads, streams, and bodies of water, subdivisions, or other landmarks sufficient to clearly identify the location of the property.	X	X	X	X	X
7.	Existing and proposed zoning of tract and adjacent property.	X	X	X	X	X
8.	Proposed use of the structural addition.	X	X	X		
9.	Title, north arrow and scale (1"=100').	X	X		X	X
10.	Appropriate signature block for Town officials.		X	X	X	X
11.	Appropriate certification blocks.		X	X		X
12.	Standardized sheets 18"x24" (final - black ink on Mylar).		X		X	X
13.	Metes and bounds survey showing dimensions, bearings, curve, data, length of tangents, radii, arc, chords, and central angles for all centerlines and rights-of-way, and centerline curves on streets, datum and benchmark, primary central points approved by the Town Engineer.		X	X	X	X
14.	Acreage of tract to the nearest thousandth of an acre.	X	X	X	X	X
15.	Date of original and all revisions.	X	X	X	X	X
16.	Size and location of any existing or proposed structures with all setbacks dimensioned (for concept plan general location but not setbacks). Include storm drains, culverts, retaining walls, fences, stormwater management facilities, sediment and erosion structures.	X	X	X	X	X
17.	Location, dimensions, bearings, names of any existing or proposed roads or streets. The location of pedestrian ways, driveways, right of way widths (for concept plans, general locations).	X	X	X	X	X
18.	Location and type of utilities.		X		X	
19.	General location, character, size, height, and orientation of proposed signs.		X	X	X	
20.	All proposed lot lines (width and depth) and area of lots in square feet, number of lots, and lot numbers.		X		X	X
21.	Number of dwelling units	X	X		X	X
22.	Location, type, size, and height of fences, walls, screen planting and landscaping and buffer areas.		X	X	X	X
23.	Any existing or proposed easement (drainage and utility) or land reserved for or dedicated to public use. Location, dimensions of proposed reservations, right-of-ways, open space, buffers, forested areas along with means by which these areas will be permanently maintained.	X	X	X	X	X
24.	Copy and/or delineation of any existing or proposed deed restrictions or covenants.		X		X	X

**Notes: X = item required at indicated development stage**

Item#	DESCRIPTION	Concept Plan	Minor Plan	Simplified Site Plan	Major Site Plan	
					Preliminary	Final
<b>I.</b>	<b>PROJECT PLAT INFORMATION - Continued</b>					
25.	References to protective covenants governing the maintenance of undedicated public spaces or reservations.		X			X
26.	Statement of owner dedicating streets, rights-of-way, and any sites for public use.		X			X
27.	Development stages or phasing plans (for concept plans, general phasing). Sections numbered by phase.	X			X	X
28.	Total number of off-street parking spaces including ratio and number of units per space.	X	X	X	X	X
29.	List of required regulatory approvals/permits.	X	X	X	X	X
30.	List of variances required or requested.	X	X	X	X	X
31.	Requested or obtained design waivers or exceptions.	X	X	X	X	X
32.	Payment of application fees and tax payments up to date.	X	X	X	X	X
33.	Total area of the site that will be temporarily and/or permanently disturbed.		X	X	X	X
<b>II.</b>	<b>SETTING - ENVIRONMENTAL INFORMATION</b>					
34.	All existing streets, water courses, flood plains wetlands, or other environmentally sensitive areas on or adjacent to the site.	X	X	X	X	X
35.	Existing rights-of-way and/or easements on or immediately adjacent to the tract.	X	X	X	X	X
36.	Topographical features of subject property from USGS map or more accurate source at 2'-5' intervals, 50' beyond the boundary, with source stated on maps.	X			X	
37.	Field delineated or survey topo.		X			X
38.	General areas of >15% slope shaded and identified as steep slopes.	X	X	X		
39.	Slope analysis of >15% slopes. These areas shall be shaded and identified as steep slopes.				X	X
40.	Forest Stand Delineation, as required.		X	X	X	X
41.	Existing system of drainage of subject site and adjacent sites and of any larger tract or basin of which it is a part.		X	X	X	X
42.	A 100 Year Flood Plain based on FEMA maps.	X	X	X	X	X
43.	Tidal and non-tidal wetland delineation based on NWI maps and field review.	X	X	X	X	X
44.	Non-tidal wetlands identification based on field delineation/determination.				X	X
45.	Location of sensitive areas and their Buffers.	X	X	X	X	X
46.	Location and width of required Bufferyards.	X	X	X	X	X
47.	Soil types based on Caroline County Soil Survey.		X	X	X	
48.	Traffic Impact Study, as required.				X	
49.	Statement of effect on school district and school bus service.				X	
<b>The following additional information items are required in the areas designated Critical Areas</b>						
50.	Location of the Critical Area District boundary and Critical Area designation.	X	X	X	X	X
51.	Number of acres in the Critical Area.	X	X	X	X	X
52.	Mean high waterline and landward edge of tidal wetlands.	X	X	X	X	X
53.	Location of existing forested areas to be disturbed by construction. Planting plan approved by the Maryland Forest Service (final).	X	X	X	X	X
54.	Buffer management plan.	X	X	X	X	X
55.	The known locations of HPA's, the habitat of any threatened or endangered species, and the habitat of any Species in Need of Conservation (see Denton Critical Area Program). Habitat Protection Plan reviewed by the Maryland Fish, Heritage and Wildlife Administration.	X	X	X	X	X

Notes: X = item required at indicated development stage

Item#	DESCRIPTION	Concept Plan	Minor Plan	Simplified Site Plan	Major Site Plan	
<b>II.</b>	<b>SETTING - ENVIRONMENTAL INFORMATION - Continued</b>					
<b>The following additional information items are required in the areas designated Critical Areas - Continued</b>						
56.	The location of the Critical Area Buffer and the expanded Buffer, as required.	X	X	X	X	X
57.	The 100' Buffer line, lot coverage (impervious surfaces), mitigation size, and location of adjacent structures, if applicable.	X	X	X	X	X
58.	Hydric and highly erodible soils based on the Caroline County Soil Survey.	X	X	X	X	X
59.	Shore erosion protection plan, if applicable.					X
60.	Environmental assessment.		X	X	X	
61.	Statement of consistency with the Critical Area program.	X	X	X	X	X
<b>III.</b>	<b>PLATS, IMPROVEMENT PLANS, AND CONSTRUCTION INFORMATION</b>					
62.	Grading and drainage plans including roads, drainage ditches, sediment basins, and berms.		X		X	X
63.	Existing and proposed contour intervals as follows:		X		X	X
	Less than 5% slope = 1 foot					
	5 to 15% slopes = 2 feet or less					
	>15% = as required for construction					
64.	Proposed location and size of the vehicular entrance(s) to the site.	X	X	X	X	X
65.	Existing and proposed utility infrastructure plans and profiles including sanitary sewer, water, and stormwater management.		X	X	X	X
66.	Grades and sizes of sanitary sewers and waterlines.		X	X	X	X
67.	Direction and distance to water and sewer if not available on or adjacent to the site with invert and elevation of sewer.		X	X	X	
68.	Location of any outdoor storage areas.		X	X	X	X
69.	Location of fire hydrants.		X		X	X
70.	Construction details as required by ordinance.		X	X		X
71.	Stormwater Management Plan.		X	X	X	X
72.	Soil Erosion and Sediment Control Plan.		X	X	X	X
73.	Location and design of outdoor lighting facilities		X		X	X
74.	Lighting plan and details, as required.		X			X
75.	Proposed street names.				X	X
76.	Landscape plan and details, including required Bufferyards.		X	X	X	X
77.	Forest Conservation Plan.				X	X
78.	Preliminary architectural plan and elevations.				X	X
79.	Required County, State, and/or Federal or approvals, e.g., State Highway Administration, County Public Works, Army CORPS of Engineers, DNR Wetlands Permit/License, MDOE Quality Certification, MDOE sanitary construction permit, local Health Department approvals.		X	X		X
80.	Public works agreement and surety instruments, as required.		X			X

Notes: X = item required at indicated development stage

## APPENDIX II.

### Bufferyard Requirements

#### § 1. Bufferyard specifications.

- A. The following illustrations graphically indicate the specifications of each bufferyard. Bufferyard requirements are stated in terms of the width of the bufferyard and the number of plant units required per 100 linear feet of bufferyard. The recommended bufferyard should be one of the options illustrated. The “plant unit multiplier” is a factor by which the basic number of plant materials required for a given bufferyard is determined given a change in the width of that yard. The type and quantity of plant materials required by each bufferyard, and each bufferyard option, are specified in this section.
- B. Afforestation and reforestation plantings required under the Forest Conservation requirements contained in the ordinance may occur in bufferyards, provided that such plantings meet the minimum requirements for afforestation or reforestation.
- C. The options within any bufferyard are designed to be equivalent in terms of their effectiveness in eliminating the impact of adjoining uses. Cost equivalence between options was attempted where possible. Generally, the plant materials which are identified as acceptable are determined by the type(s) of soil present on the site. Each illustration depicts the total bufferyard located between two uses.
- D. Whenever a wall, fence, or berm is required within a bufferyard, these are shown as “structure required” in the following illustrations, wherein their respective specifications are also shown. All required structures shall be the responsibility of the higher intensity use.

#### § 2. Plant material.

- A. The following plant material substitutions shall satisfy the requirements of this section.
  - (1) In bufferyards C, D, and E evergreen canopy or evergreen understory trees may be substituted for deciduous canopy forest trees without limitation.
  - (2) In bufferyards B evergreen canopy or evergreen understory trees may be substituted as follows:
    - (a) In the case of deciduous canopy forest trees, up to a maximum of 50% of the total number of the deciduous canopy trees otherwise required.
    - (b) In the case of deciduous understory, without limitation.
  - (3) In all bufferyards, evergreen or conifer shrubs may be substituted for deciduous shrubs without limitation.
  - (4) In all bufferyards required of public service uses, the public service use may substitute evergreen canopy or evergreen understory plant materials for canopy forest trees and understory plant materials, without limitation.
- B. If the development on the adjoining use is existing, planned, or deed-restricted for solar access, understory trees may be substituted for canopy trees where canopy trees would destroy solar

access. Any existing plant material which otherwise satisfies the requirements of this section may be counted toward satisfying all such requirements.

C. Although the exact placement of required plants and structures shall be the decision of each user except that the following requirements shall be satisfied:

- (1) Evergreen (or conifer) Class III and IV plant materials shall be planted in clusters rather than singly in order to maximize their chances of survival.
- (2) Berms (B1, B2, and B3) required of bufferyard D and E options are intended to buffer more significant nuisances from adjacent uses and, additionally, to break up and absorb noise, which is achieved by the varied heights of plant materials between the masonry wall and the noise source.

D. All bufferyard areas shall be seeded with lawn unless ground cover is already established.

# Bufferyard A

Plant Unit Multiplier	Resulting Plant Units Required
0.6	1 Understory Tree 2 Shrubs
0.8	1 Canopy Tree 1 Understory Tree 4 Shrubs
0.9	1 Canopy Tree 2 Understory Trees 5 Shrubs
1.0	1 Canopy Tree 2 Understory Trees 6 Shrubs

## Bufferyard B

<b>Plant Unit Multiplier</b>	<b>Resulting Plant Units Required</b>
0.6	1 Canopy Tree 2 Understory Trees 4 Shrubs
0.8	1 Canopy Tree 2 Understory Trees 6 Shrubs
0.9	2 Canopy Trees 3 Understory Trees 8 Shrubs
1.0	2 Canopy Tree 4 Understory Trees 10 Shrubs

Bufferyard C

<b>Plant Unit Multiplier</b>	<b>Resulting Plant Units Required</b>
0.6	2 Canopy Trees 5 Understory Trees 7 Shrubs
0.8	3 Canopy Trees 6 Understory Trees 10 Shrubs
0.9	4 Canopy Trees 7 Understory Trees 11 Shrubs
1.0	4 Canopy Trees 8 Understory Trees 12 Shrubs

## Bufferyard D

<b>Plant Unit Multiplier</b>	<b>Resulting Plant Units Required</b>
0.6	2 Canopy Trees 2 Understory Trees 7 Evergreens/Confers 4 Shrubs
0.8	2 Canopy Trees 5 Understory Trees 10 Evergreens/Confers 19 Shrubs
0.9	2 Canopy Trees 5 Understory Trees 12 Evergreens/Confers 24 Shrubs
0.9	3 Canopy Trees 5 Understory Trees 9 Evergreens/Confers 18 Shrubs
0.7	3 Canopy Trees 4 Understory Trees 8 Evergreens/Confers 17 Shrubs

## Bufferyard E

<b>Plant Unit Multiplier</b>	<b>Resulting Plant Units Required</b>
0.6	4 Canopy Trees 5 Understory Trees 11 Evergreens/Confers 22 Shrubs
0.8	5 Canopy Trees 7 Understory Trees 14 Evergreens/Confers 29 Shrubs
1.0	6 Canopy Trees 9 Understory Trees 18 Evergreens/Confers 36 Shrubs
0.75	5 Canopy Trees 7 Understory Trees 14 Evergreens/Confers 27 Shrubs
0.6	4 Canopy Trees 5 Understory Trees 11 Evergreens/Confers 22 Shrubs

## **Bufferyard Structures**

### **Fences, Walls and Berms**

The following illustrations refer to requirements listed in Bufferyards D and E; berms (B1, B2, and B3) and fences/walls (F1, F2, F3, F4, F5, and F6).

## Fences



**WOOD PICKET**



**WOOD RAIL**



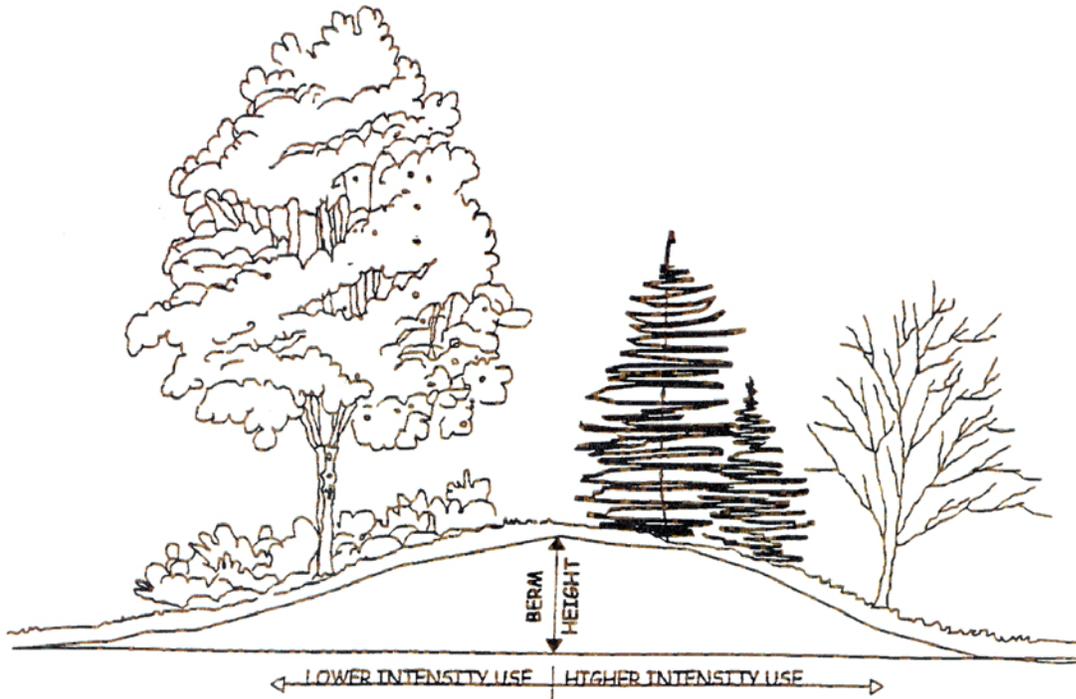
**WOOD STOCKADE**



**MASONRY**

FENCE TYPE	HEIGHT	SYMBOL
<b>WOOD PICKET</b>	<b>44"</b>	<b>F1</b>
<b>WOOD RAIL</b>	<b>48"</b>	<b>F2</b>
<b>WOOD STOCKADE</b>	<b>6'</b>	<b>F3</b>
<b>WOOD STOCKADE</b>	<b>7'</b>	<b>F4</b>
<b>MASONRY WALL</b> (Concrete Masonry Unit, Brick, Stone)	<b>6'</b>	<b>F5</b>
<b>MASONRY WALL</b>	<b>7'</b>	<b>F6</b>

## Berms



<b>MATERIAL</b>	<b>HEIGHT</b>	<b>SYMBOL</b>
<b>EARTH</b>	<b>4'</b>	<b>B1</b>
<b>EARTH</b>	<b>5'</b>	<b>B2</b>
<b>EARTH</b>	<b>6'</b>	<b>B3</b>

## APPENDIX III

### Sign Illustrations

The information contained in this Appendix III is intended to assist the reader in understanding the general sign requirements of Chapter 128, Zoning. The following illustrations outline the sign requirements by Zoning District. The illustrations and words contained herein are not regulatory. Where there is any conflict with the provisions contained in Article XV or elsewhere in Chapter 128, Zoning, those provisions shall apply regardless of what may be interpreted from the illustrations and words contained herein.

#### Protection of the small town character of Denton requires new and replacement signs that are:

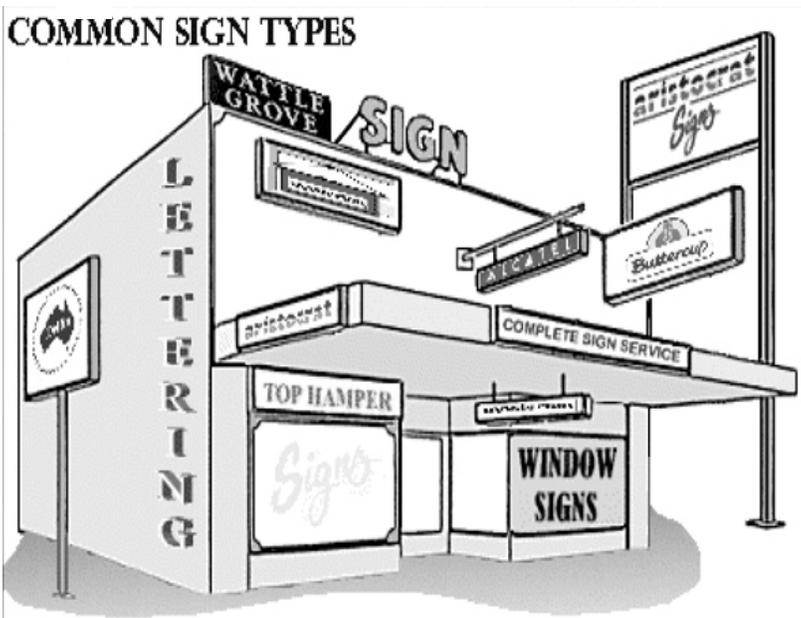
- Creative and distinctive
- Compatible with its surroundings
- Designed as an integral component of the style and character of the building architecture
- Appropriate to the type of activity to which it pertains
- Appropriately sized for its context

#### Definition of Sign:

A sign is any device attached to, painted on, or represented on a building, fence, or other structure; displays any letter, work, model, banner, flag, pennant, insignia, decoration, or device which is in the nature of an announcement, direction, advertisement, or other attention-directing device.

#### Typical sign types are:

- Flat Signs
- Projecting Signs
- Window Signs
- Freestanding Signs
- Roof Signs
- Message Boards
- A Frame Signs
- Political Signs
- Construction Signs
- Real Estate Signs
- Bulletins



## APPENDIX III

### Sign Illustrations

#### DETERMINING SIGNAGE AREA

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Wall Sign

**Signage** is measured by determining the entire area occupied by individual letters, symbols, and graphics or by the height and length of the sign in relationship to the street frontage a business occupies.

For individual letters and symbols mounted to a wall, building, or window, the area is considered to be the sum of the smallest rectangle, square, triangle, trapezoid, or any combination of shapes which enclose the sign.

**Sign measurements** shall be based on the entire area of the sign. Brackets and supports shall not be included in the calculation of the sign area if such framework is incidental to the display.



Projecting Sign

# APPENDIX III

## Sign Illustrations



No signs are permitted above the parapet or eave edge of roof.

**Sign area** is determined by the relationship between street frontage and allowable square footage of sign area as allowed by the underlying Zoning District.

**Sign Board** - Historic Buildings typically had an area for signage location.

**Combination Signs** are those where more than one type of sign is used on a storefront (Flat and Awning signs shown).

**APPENDIX III**  
**Sign Illustrations**

**SIGNAGE STANDARDS AND LOCATION**

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**Freestanding Sign**

**Two or More Face Sign** - Signs with two or more faces back-to-back and no more than 2-feet apart in dimension from each other are considered one sign area. Where one face is larger than the other, the larger face shall be used to determine the sign area.



**Window Sign**

**Window Signage** - temporary and permanent signs shall not exceed 50% of the total storefront glass area.

**APPENDIX III**  
**Sign Illustrations**



**Grand Opening Banner Sign**

**Grand Opening and Reopening Sign** - shall not exceed 32 square feet in sign area; displayed 2 weeks before opening; removed 3 days after; and limited to 2 off site signs requiring property owner permission.

**Special Sales Sign** - shall not exceed 24 square feet in sign area; limited to 2 banners; and displayed no more than 2 weeks at one time and no more than 6 times in any one year.

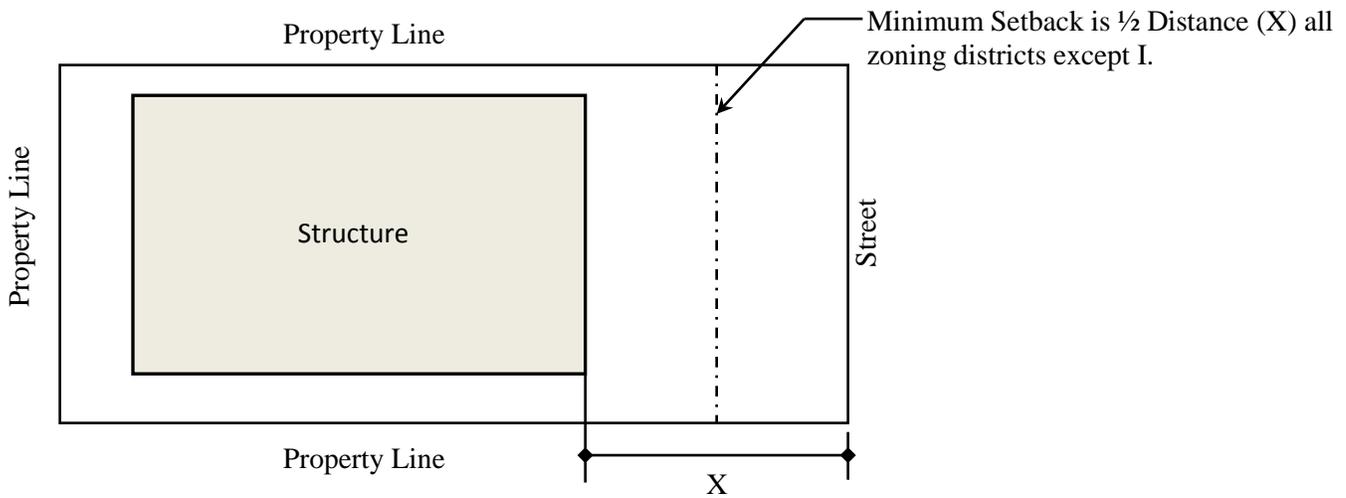


**Special Event Sign**

**Special Event Sign** - require property owner permission; off site signs shall not exceed 32 square feet in sign area; are limited to four (4) signs; and are not to be erected more than 4 weeks before event and shall be removed 5 days after the event.

### APPENDIX III

### Sign Illustrations



### LIGHTING - Illumination of Signs



**Lighting Intensity** - 150 feet from any residential area, the lighting shall be low enough in intensity to be inconsequential or lighting shall not be illuminated from 10 p.m. to 6 a.m.

**Lighting Direction** - illuminates only the face of the sign and shielded to prevent lighting from causing glare or otherwise impair vision of any operator of a motor vehicle.

**Internal Illumination** - prohibited in SR, TR, and MR Zoning Districts.



Internally illuminated

## APPENDIX III

### Sign Illustrations

#### SIGN TYPES BY ZONING DISTRICTS

#### SR, TR, MR, AND MI ZONING DISTRICTS PERMITTED SIGN TYPES AND STANDARDS

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Freestanding Sign

**Onsite, Indirectly Illuminated sign** identifying an apartment structure

- 15 square feet maximum sign area, apartment structure requires minimum 100 feet street frontage
- 6 feet maximum height



Real Estate Sign

**Real Estate sign:**

- 4 square feet maximum
- Non-illuminated

## APPENDIX III

### Sign Illustrations

#### GC and CM ZONING DISTRICTS

#### PERMITTED SIGN TYPES AND STANDARDS



Freestanding Sign

#### Freestanding sign:

area is determined by 1 square foot for each linear foot of street frontage

- 15 feet maximum height
- 100 square feet maximum area
- 20 square feet minimum area



Projecting Sign

#### Projecting sign:

- limited to 6 foot projection maximum or as property line limits allow
- shall not be larger than 12 square feet on one side and shall be not less than 7 feet from grade to bottom of sign



Flat Sign

#### Flat sign:

- install parallel to street frontage
- shall not project more than 9 inches from building face
- shall not exceed 60 square feet
- Limit 1

#### Real Estate sign:

- 15 square feet maximum
- Limit 1

## APPENDIX III Sign Illustrations

### CBC ZONING DISTRICT

#### PERMITTED SIGN TYPES AND STANDARDS



A Frame Sign



Tenant Directory Sign



Awning Sign



Window Sign

#### A frame sign:

- 24 inches wide x 36 inches high
- 42 inches minimum clearance surrounding sign
- Limit 1. Permit required

#### Directory Sign:

- 1 sign per building
- Limit 2 square feet sign area per tenant
- Located near entrances
- Maximum 10 square feet

#### Real Estate sign:

- Non-illuminated, 10 square feet maximum

#### Awning sign:

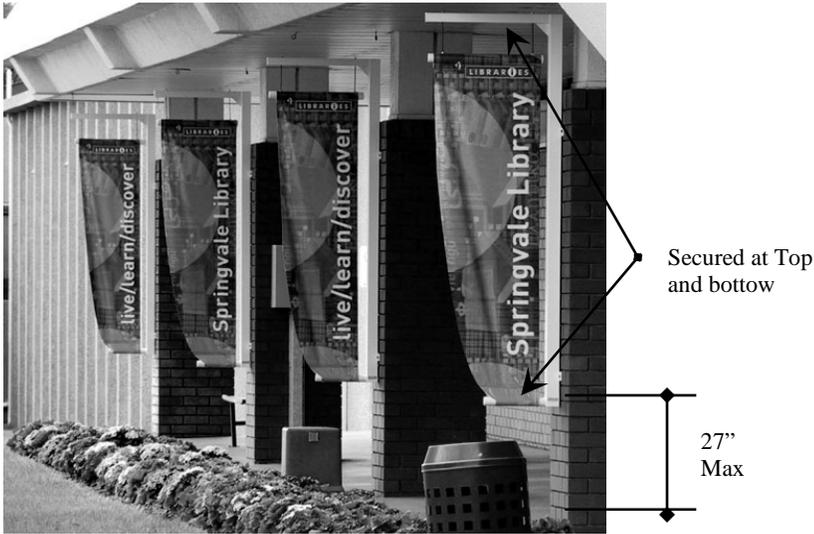
- Individual graphics or letters painted or affixed
- 3 inches high lettering or graphics. Larger than 3 inches the sign area is deducted from total allowable sign area for business.
- Shall not be internally illuminated.

#### Window sign:

- Permanent or temporary
- Total permanent and temporary signs shall not reduce visibility at grade floor by more than 50% of the total storefront glass area
- Temporary window signs are limited to 20% of total storefront glass area and shall be removed after 90 days

## APPENDIX III

### Sign Illustrations



Banner Sign

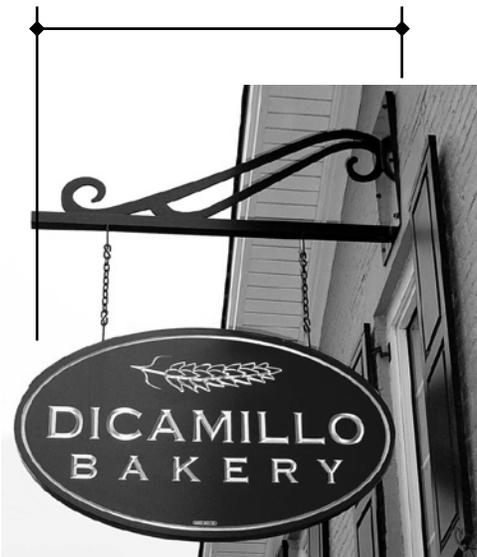
#### Banner Sign:

- Size determined by type of banner (Special Sales, Special Event, or other)
- Indirectly lit during hours of operation, lighting shall be directed downward
- Bottom of banner shall be securely fastened, 27 inches maximum above grade level when installed along pedestrian walkway

#### Flat Sign:

- Area calculated by 1 per street frontage, 9 inch maximum projection
- Install parallel to street

6 feet max or limited by distance to property line



Projecting Sign



Flat Sign

## APPENDIX III

### Sign Illustrations



Flat

Window - Total permanent and temporary is 50%

Combination Window and Flat Signs

#### Freestanding Sign:

- Limit 1 for improved lots with front yards
- Limit 1 indirectly lit by Planning Department approval
- Corner lots are permitted to have 2 signs
- 10 square feet maximum area
- 10 foot setback from property line
- 5 foot maximum height

#### Combination Sign:

- Different types of signs used in one business location
- Permitted combinations
  - 1 Projecting / 1 permanent window
  - Temporary window / flat, projecting, or awning
  - Banners, pennants, A Frame signs
  - Building directory

**APPENDIX III**  
**Sign Illustrations**

**RHC ZONING DISTRICTS**

**PERMITTED SIGN TYPES AND STANDARDS**



**Freestanding Sign:**

- Limit 1 detached on site sign
- Sign area measured 15 square feet for each 20 linear feet of street frontage
- Maximum sign area is 80 square feet



**Flat Sign:**

- 15 square feet for each 20 linear feet of street frontage
- Maximum sign area is 30 square feet or 20% of wall sign is located



**Real Estate Sign:**

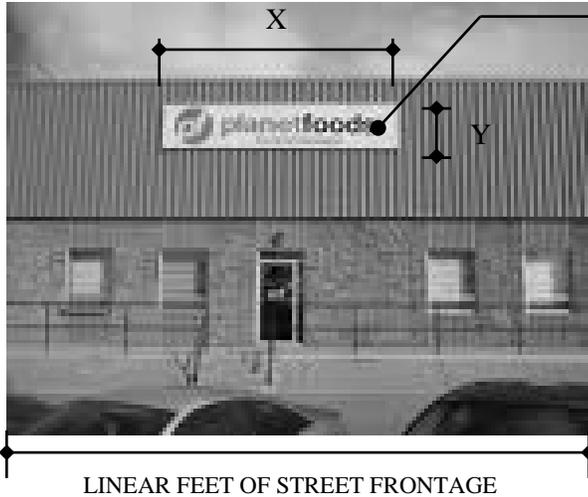
- 40 square feet maximum
- Non-illuminated

## APPENDIX III

### Sign Illustrations

#### I ZONING DISTRICTS

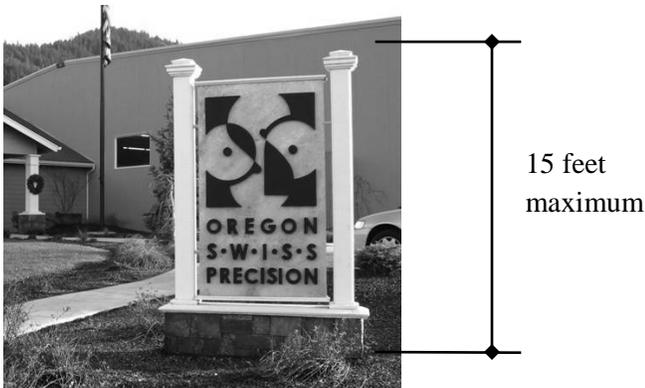
#### PERMITTED SIGN TYPES AND STANDARDS



#### 20 % of Street Frontage

For each 20 feet of building frontage, the sign area (x times y) is equivalent to 15 square feet in sign area

- Limited to 100 square feet or 20% of the wall area where sign is located



#### **Freestanding Sign:**

- One onsite limited to 15 square feet for each 20 linear feet of street frontage.
- Maximum sign area 100 square feet



#### **Real Estate Sign:**

- 40 square feet maximum
- Non-illuminated

## APPENDIX III

### Sign Illustrations

#### PN, RA, and RP ZONING DISTRICTS

##### PERMITTED SIGN TYPES AND STANDARDS

- 1. Residential Properties in PN, RA, and RP Zoning Districts:** Permitted sign types and standards are same for SR, TR, MI (residential uses), and MR Zoning Districts
- 2. Commercial Properties in PN and RA Zoning Districts:** Permitted sign types and standards are same for GC and CM Zoning Districts
- 3. Commercial Properties in RP Zoning District:** Permitted sign types and standards are same for SR, TR, MI (industrial uses), and MR Zoning Districts

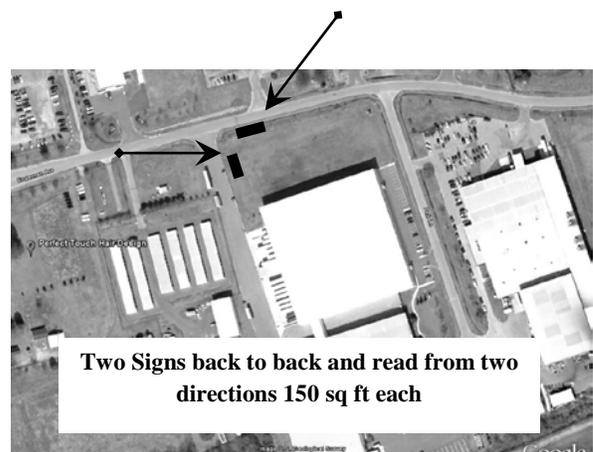
#### Commercial Center and Industrial Park

##### PERMITTED SIGN TYPES AND STANDARDS



##### Freestanding Sign:

- One sign listing multiple businesses limited to 300 square feet in area or two signs limited to 150 square feet in area
- Limited to 25 feet vertical height

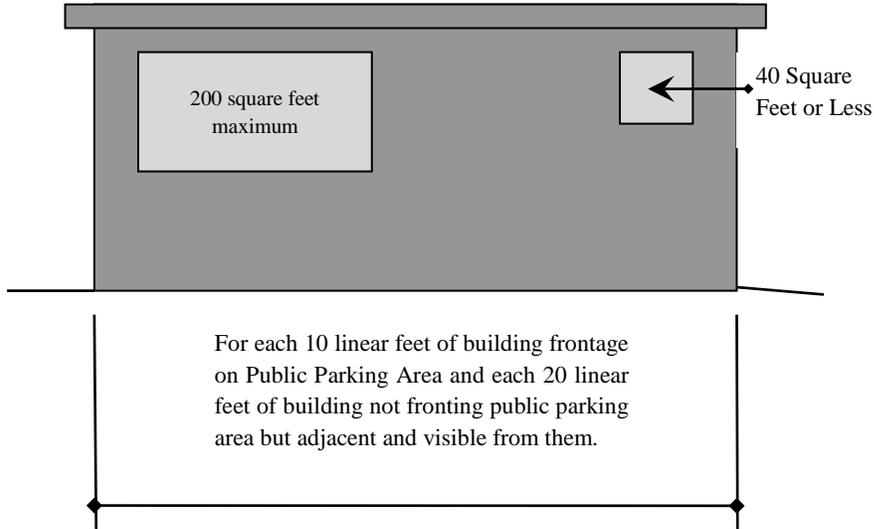


**APPENDIX III**  
**Sign Illustrations**

**Commercial Center and Industrial Park**

**PERMITTED SIGN TYPES AND STANDARDS**

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**APPENDIX III**  
**Sign Illustrations**

**ALL DISTRICTS:**

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**PERMITTED SIGN TYPES AND STANDARDS WITHOUT REQUIRING A PERMIT**

**Sign Associated with Residential Uses:**



**Maximum Signage Area - 4 square feet**



**Sign Containing Message That the Real Estate on the Property Is For Sale, Lease or Rent:**



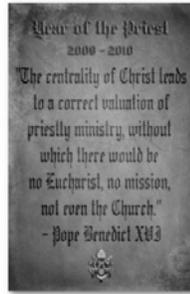
- Maximum Signage Area: limited by underlying zoning district
- Signs must be removed after 30-days of sale, lease, or rental
- One sign per street frontage
- Lots of 5 acres or more, having a street frontage of 400 feet or greater may install a second sign

APPENDIX III  
Sign Illustrations

ALL DISTRICTS:

PERMITTED SIGN TYPES AND STANDARDS WITHOUT REQUIRING A PERMIT

Church Bulletin Board, Identification Sign and Directional Sign:



- Limited to 1 per abutting street
- No internal illumination
- 16 square feet maximum

Traffic Sign, Authorized Government Sign, Regulatory Sign, Official Sign Installed by Public Utilities:



**APPENDIX III**  
**Sign Illustrations**

**ALL DISTRICTS:**

**PERMITTED SIGN TYPES AND STANDARDS WITHOUT REQUIRING A PERMIT**

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**Flag, Pennant, or Insignia of Any Governmental or Nonprofit Organization:**



No flag may be associated with a commercial promotion or advertising

**Political Sign:**



- Displayed on private property or with consent of owner
- Signage area limited to total of 32 square feet
- Remove 7 days after election or event
- Property owner is responsible for sign or removal

## APPENDIX III

### Sign Illustrations

#### ALL DISTRICTS:

#### PERMITTED SIGN TYPES AND STANDARDS WITHOUT REQUIRING A PERMIT

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#### Integral Decorative or Architectural Features of Buildings or Works of Art:



- No illumination (lighting)
- Features cannot contain letters, trademarks, or moving parts



#### Vehicle Sign:



- Magnetically or painted signage on motor vehicles not used as freestanding, or vehicle signs
- Signage shall have no projections along the sides, front, and rear
- Signs may project 8 inches above roofline

## APPENDIX III

### Sign Illustrations

#### ALL DISTRICTS:

#### PERMITTED SIGN TYPES AND STANDARDS WITHOUT REQUIRING A PERMIT

#### Construction Site Identification Sign:



- One per site
- Limited to 32 square feet in nonresidential zoning districts and 20 square feet in residential zoning districts
- Must receive approved grading permit before sign is installed
- Sign shall be removed after receiving final occupancy permit

#### PUBLIC SERVICE OR CIVIC ORGANIZATION:



- Maximum Signage Area: 16 Square feet
- Unlit or indirectly lit
- Meets all Federal and State Guidelines



**APPENDIX III**  
**Sign Illustrations**

**ALL DISTRICTS:**

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**PERMITTED SIGN TYPES AND STANDARDS WITHOUT REQUIRING A PERMIT**

**OTHER SIGNS**

- Holiday Signs and Lighting
- Signs directing and guiding traffic on private property limited to 4 square feet or less with no advertisement
- Temporary window signage limited to 20% of glazing area
- Temporary real estate development, commercial development, or subdivision limited to 32 square feet and removed when 90% of initial property is sold

## APPENDIX IV.

### Residential Infill and Redevelopment Guidelines

#### § 1. Introduction.

- A. Denton's residential neighborhoods, business districts, and downtown all contribute significantly to the Town's character, identity, and high quality of life. The following design and development guidelines are intended to encourage preservation and enhancement of these areas and to promote development that is consistent with adopted goals and objectives from the Town's Comprehensive Plan.
- B. The following design and development guidelines are advisory for permitted uses, but may also be used for those uses requiring discretionary review by the Town to encourage the highest level of design quality while at the same time providing the flexibility necessary to encourage creativity and innovation on the part of developers and designers.
- C. These are intended to supplement the Town's zoning regulations. Persons proposing residential development in the Town should consult these guidelines and incorporate them in development plans submitted for the Town's review.

#### § 2. Purpose.

- A. The Residential Infill and Redevelopment Guidelines are to allow implementation of the recommendations of the Comprehensive Plan, including but not limited to the recommendations concerning neighborhood conservation and neighborhood redevelopment areas. The design guidelines presented below are intended to ensure appropriate infill development and redevelopment in existing residential neighborhoods. Compatibility with nearby residences in these areas is of considerable importance. Therefore, the purpose of these guidelines are:
  - (1) To establish design guidelines for residential infill and redevelopment.
  - (2) To establish design principles that result in new residential infill housing and rebuilds that are more sensitive to existing housing and neighborhoods.
  - (3) To suggest a range of possible solutions with the goal of achieving a higher standard of design.
- B. The proposed development should not be restricted to the confines of traditional architecture. Opportunities for contemporary design should not be precluded. The guidelines are intended to stimulate the imagination of designers rather than to limit development flexibility or to dictate actual design solutions.

#### § 3. Applicability.

These guidelines are intended to apply to new residential principal structures, or accessory structures that may adversely impact the visual character of the block due to the location on the site or the proposed design characteristics, which are located in the targeted redevelopment areas as well as established neighborhood areas.

#### § 4. Streetscape/neighborhood.

- A. New development in existing neighborhoods should incorporate distinctive architectural characteristics of surrounding development. For example, complementary window and

door detailing, decoration, architectural styles, materials, roof style and pitch, finished-floor height, porches, and bay windows. New development should also continue the relationships of the surrounding neighborhood. Examples of common patterns that should be continued include entries facing the street, roof pitches, balconies, and front porches.

B. In assessing the “fit” of an infill dwelling, the neighborhood should be considered at two levels:

- (1) The immediate context, i.e., how the building relates to and impacts upon adjacent buildings or buildings in the immediate vicinity.
- (2) The broader context, i.e., how the building relates to the visual character and scale of the neighborhood created by the collection of structures on both sides of the street in which the building is situated.

The former refers to how the design of the new building is influenced by the adjacent structures. The latter refers to what effect the new building may have on the adjacent structures.

C. In some neighborhoods, visual character is clearly defined and there is little flexibility to do something “different” and contrary to existing patterns. However, in Denton there is wide variety and richness in visual character of the various neighborhoods, often from one street to another. Thus, in many circumstances, the building designer will be presented with unique and unusual design opportunities. There will be some neighborhoods where major changes are taking place and/or where the existing streetscape has little visual cohesiveness. In these circumstances it may be appropriate for the designer not to harmonize with the existing structures but to set new standards.

D. Building patterns and rhythms, which define the visual character, should be respected. A street will develop a certain pattern or rhythm giving cohesiveness to the whole streetscape. A sudden change in this pattern can appear disruptive and visually upsetting. These patterns and rhythms are established by various design elements, which include:

- (1) Building height;
- (2) Building form (bungalow, two-story, split-level, etc.);
- (3) Roof shape;
- (4) Architectural massing;
- (5) Finish materials and details; and
- (6) Landscaping.

Generally, new dwellings on infill lots should reinforce existing patterns, rhythms, and massing, respecting proportions and details and, if appropriate, incorporating some of these into the new design.

## **§ 5. Elements of design.**

A. At the beginning of the project, the applicant is encouraged to photograph the site and the surrounding houses, including the existing streetscape elements, e.g., sidewalks, street trees and landscaping, signage, etc. The applicant should identify repeated forms and

patterns on adjacent properties and along the block face. The Applicant can choose to repeat or introduce new design elements. Side-by-side placement of similar designs is discouraged.

B. “Designing in context means providing enough visual linkages between existing buildings and a proposed project so as to create a cohesive overall effect” (Fundamentals of Urban Design, Richard Hedman with Andrew Jaszewski, American Planning Association, 1984). Builders, property owners, and developers of infill and redevelopment projects should consult the Pattern Book for Denton Neighborhoods, Urban Design Associates (copies available at the Town office). Visual linkages that contribute to design unity may include the following:

- (1) Building silhouette;
- (2) Spacing between buildings;
- (3) Setbacks from street property lines;
- (4) Proportions of windows, bays, doorways, and other features;
- (5) Massing of building forms;
- (6) Location and treatment of entryways;
- (7) Surface materials, finish, and textures;
- (8) Shadow patterns from massing and decorative features;
- (9) Building scale;
- (10) Style of architecture; and
- (11) Landscaping.

C. These residential infill design guidelines examine five fundamental and related areas of design:

- (1) Siting, location, and topography;
- (2) Architectural envelope;
- (3) Openings;
- (4) Texture and details; and
- (5) Landscaping.

#### **§ 6. Siting, location, and topography.**

A. The topography and location of the proposed development site and the position of the building on that site guide the most basic principles about design. Building form should be a reflection of the site topography. For instance, a split-level or stepped house would appropriately fit a sloped site. The proposed structure should not require significant alteration of the existing topography and should avoid major reworking of existing grades.

B. When the proposed structure is to be located on an existing corner, it should respond to and enhance the streetscape of the front and flanking street without adversely affecting

the adjoining properties. The design should respond to the dual frontage of corner lots by incorporating the same level of interesting architectural treatment (e.g., windows, projections, ornamentation, etc.) in the flanking street design as in the frontage design.

- C. Dwellings on corner lots should take advantage of the dual frontage, make an architectural statement, and create interest in architecture and human activity on each street. Such a statement can be accomplished by providing wraparound porches, bay windows, turrets, varied exterior materials, roof features, hues, and articulation. Varied materials should be consistent with one another.
- D. Building setbacks are the distance between a structure's edges and the property lines. They create yard spaces for outdoor activity and landscaping. The pattern of street setbacks helps establish a rhythm to the streetscape and provides a transition between the public realm and the privacy of the house. Residential development in existing neighborhoods should be well integrated with existing dwelling units in the surrounding area. The Planning Commission may vary the required setbacks as set forth in §128-121E of this Chapter, 128 Zoning.
- E. Parking. Parking should not be sited in the front yard, reserving this area primarily as open space. Front drives can function as visitor parking. Parking should be placed to the rear of buildings, where feasible, with access from alleys, if they are provided. Alternatively, parking may be accessible from the front and located in the rear of the site, to the side, or in front, provided it is adequately setback from the principal entry.
- F. Garages.
  - (1) Front-loaded garages should conform to the following development guidelines:
    - (a) Upper-level dormers should be used to de-emphasize the garage.
    - (b) Porches or façades should protrude at least five feet in front of garage doors.
    - (c) Garage openings, trims, and color should de-emphasize the role of the visual impact of the garage in relation to the building as a whole.
  - (2) Rear-loaded garages should conform to the following development guidelines:
    - (a) Detached garages located behind the principal structure but accessible from the street should be consistent with the architecture and design of the principal structure.
    - (b) Consistency of design includes use of the same or compatible siding, roofing, trim, and colors.
  - (3) Side-loaded garages with parking on the side should conform to the following development guidelines:
    - (a) Windows, doors, and roof treatments of those portions of the garage facing the street should incorporate architectural detail expressive of the principal residence.
- G. Driveways.
  - (1) Traditional linear driveways are encouraged. To preserve the pedestrian

friendliness that exists in many of the existing single-family neighborhoods and to minimize the amount of land devoted to parking, access and impervious surfaces, U-shaped driveways are discouraged. Driveways on corner lots should be placed as far as possible from the intersection.

- (2) When a front drive or parking in the front setback is provided, additional landscaping and screening should be provided to soften the visual impact. For instance, a low hedge or shrub bed might be located between the neighboring property and the parking pad or a vine-covered trellis may define the boundary between the pad and side yard access to the rear. The intent is to make the pad an integral part of the landscaping, not an afterthought poured on the front yard. The house may be shaped to provide partial screening of the parking pad (such as an “L”).

H. Street connections and pedestrian pathways.

- (1) The design of infill development should ensure that new streets serving infill developments are compatible with the established street pattern and support the expansion of the overall grid street system. This may be accomplished by evaluating future street connections with Town staff prior to submitting a preliminary plan.
- (2) To the maximum extent practicable, infill projects should provide a complete connection through the site to tie into existing streets. Future expansions of existing cul-de-sacs and other street extensions should be examined to avoid placing limitations on redevelopment options. The use of cul-de-sacs in place of complete through-street connections is strongly discouraged. Dead-end streets should not be permitted except in cases when the street is designed to connect with future streets on adjacent land.
- (3) Pedestrian connections from the front door of a dwelling to the sidewalk are encouraged and should have a minimum width of three feet. New public sidewalk surface material in the residential areas should be compatible with existing surface materials.

I. Lot coverage. In general, lot coverage for residential rebuilds should reflect the established lot coverage patterns in the adjacent area.

J. Impervious surfaces. All land not covered by structures, driveways, walkways, porches, and patios should be appropriately landscaped with trees, grasses, shrubs, and other plants to minimize the amount of impervious surfaces that create runoff.

**§ 7. Architectural envelope.**

A. Orientation. Building orientation should reflect that of the neighboring properties. For example, where the predominant pattern in the block is gable ends of dwellings oriented perpendicular to the street, new infill development should be so oriented.

- (1) The orientation of infill development should be consistent with the established pattern of the neighborhood.
- (2) Building entrance. The front entrance to a single-family or duplex dwelling should be located on the front façade and oriented towards the front yard and

primary access street.

- (3) Attached garages. The front-wall plane of all attached garages should be recessed behind the front-wall plane of the dwelling's ground-floor living area or a covered porch by a minimum of four feet.
- (4) Lot orientation. To the maximum extent practicable, the orientation of new lots created by subdivision or splitting of existing lots should repeat the predominant relationship of buildings to buildings and buildings to street along the same and facing block faces.

B. Roofs. Infill development and rebuilds should have roof pitches that are complementary to those found on the block. The roof should relate in style and slope to the existing streetscape. A consistent pattern may not be apparent unless the entire block is considered. Details that characterize the roof should reflect the slope, existing materials, soffit, overhang depth and decorative elements common to the character of the neighboring buildings. Incorporation of character elements such as dormers, eaves and secondary roof elements over bay windows, porches, etc., are encouraged to reduce the impact of large roof areas and to provide a sense of scale to the house. One principal roof form should be chosen for the main body of the house. This will set the roof slope and material for all other roof elements.

C. Massing and proportions.

- (1) Massing and building proportions of established housing should be reflected in new development. Massing has to do with the overall bulk of a building and how it is distributed in space. Proportion has to do with how the parts or elements of the building relate to each other in terms of dimensions.
- (2) When similar massing is not possible to achieve, the building facade of a dwelling can be broken into smaller elements creating an illusion of a smaller building in scale with its neighbors.
- (3) New infill development and rebuilds of existing structures should maintain the scale of the surrounding block face with respect to height, bulk, and structure size. In areas where existing dwelling units are predominantly one story in height, new infill development and rebuilds should be designed in a way that minimizes the apparent difference. If a new building is taller than its neighbors, setting the taller element back from the lower level at the street facade may be appropriate. Corner buildings may benefit from this type of setback on both frontages.
- (4) Where there is no consistent streetscape in a block, the proposed dwelling unit may incorporate some of the more appealing features found along the street.

## **§ 8. Openings.**

Entryways, windows and garage doors make up the most distinctive elements of a house facade.

A. Entryways.

- (1) Character buildings in existing neighborhoods emphasize the principal entry. The entryway is most often placed on the front facade; it may have a wide set of stairs

with an intermediate landing leading to it; the door itself may be elaborately paneled and have a glaze transom or sidelights.

- (2) The entryway of new dwellings should be apparent and clearly visible. The entryway should be emphasized by echoing character elements from neighboring houses or by introducing equivalent focal detail. Entry porches are encouraged where existing streetscapes have such features. Porches are highly encouraged in the Historic District, and in areas where there is a significant amount of single-family prototypes that traditionally include porches. Porches, where provided, should be at least 60 square feet, with a minimum dimension of six feet (depth).
- (3) Housing prototypes that do not traditionally include porches should provide an articulated but not overly pronounced entryway. Examples of pronounced entryways are rounded doors, articulated entrances, columns, and/or other similar features.
- (4) Where possible, the height of the entry from the street should reflect that of its neighbors. Ground-level entry in a street of raised entries could disrupt visual continuity.
- (5) Stairs to the principal entry should be wide and interesting from the street. They may include planters, intermediate landings, sidewalks, banisters, and walkway lighting.

#### B. Windows

- (1) Where the proportion, size, and detailing of windows on existing dwellings in the block face contributes to the positive visual character of the area, the number, size, and composition of windows on new residential units should reflect these characteristics. From the street, excessive use of glazing should be exercised carefully and should be tempered by the need to retain a certain amount of solid wall surface. At the same time, the excessive use of solid wall should be tempered with the need to provide light and fresh air within the house and to provide views and security to the front yard and street. Careful arrangement, placement, proportioning, and detailing of windows and trim can add interest, balance, and order to the facade.
- (2) Windows in older homes are often framed by a variety of elements such as sash, stained glass, lintels, sills, and pediments. New houses should have windows that are similarly differentiated from the wall surface utilizing details such as wide wood trim.

C. Garage doors. Garage doors can dominate the streetscape, as they are the largest opening in the front facade. The garage door and its immediate surround should be visually interesting. Detailing, such as recessing the doorway to create deep shadows, providing plant shelf recesses flanking the door, or setting the garage facade back from the rest of the house, will lessen its visual impact. Front-loaded garages are discouraged.

### **§ 9. Texture and materials.**

A. Finishes and materials.

- (1) The choice and mix of materials on the facades of structures and garage doors is important in providing an attractive living environment, and the repetition of similar finishes and material along the street contributes to the visual continuity of the neighborhood. Exterior finishes and materials should be consistent with those used in the neighborhood, but new structures need not duplicate or replicate the neighbors.
- (2) Materials, finishes, and ornamentation should appear as integral parts of the structure rather than stuck on. Front facade treatments should wrap around the sides of the house visible from the street. Corner lots should have both exposed facades treated equally, as well as any other side walls exposed to the streets.

**B. Ornamentation.**

- (1) The level of richness in ornamentation of the neighboring houses should be used as a guide without literal mimicking. Ornamentation should be used with restraint and in the context of the existing neighborhood. When incorporated into the design, the use of brackets, eaves, cornices, columns and capitals should come from an understanding of their original structural use.
- (2) Ornamentation varies with periods of architectural style. The infill house applicant should understand the predominant style of a particular streetscape and may design the infill dwelling unit to echo those themes. This does not mean copying or repeating details, but rather using the existing details as a basis for incorporating contemporary but visually related detail into the new house.

**C. Color.** Color schemes which are compatible with the neighborhood are encouraged. Older character homes often have painted wood surfaces, siding or shingles. Often color schemes are muted with one or two strong accent colors on trim elements. While there are some successful exceptions, particularly recalling historical color schemes, vibrant colors should be used with discretion and in small amounts.

**§ 10. Additions.**

In planning an addition, it is important to pay careful attention to the architectural style of the existing residence. In many cases, additions can dramatically change the appearance of the residence and, therefore, the character of the neighborhood. Examples of ways to guide the quality of additions include the following:

- A. Ensure that the scale and mass of the addition is in keeping with that of the original structure, and that when completed the redeveloped residence does not visually overwhelm neighboring structures.
- B. Limit the location of additions to the side and rear sides of the structure, so as not to disrupt the established setback of the building. In particular, the construction of garages should not project beyond the plane of the original facade.
- C. Ensure that the addition's roof matches or complements the design of the original structure.
- D. Architectural elements such as windows should respect the prevailing geometry of the original structure. For instance, windows with a vertical orientation can compete with those of a horizontal orientation.

- E. Ensure the materials used for the addition are consistent with those of the original structure.

**§ 11. Landscaping.**

- A. Front yards are prominent features of the streetscape. In general, front yard landscaping should complement that of the neighborhood and define the line between the public domain and private property.
- B. Mature trees and natural drainageways are a few of the elements that contribute to the distinct character of residential neighborhoods. To protect these features and resources, infill projects should work within the context and integrity of this environment by preserving natural features to the maximum extent practicable. As much as possible, infill projects should retain healthy mature trees on the lot. Any mature tree that is removed to accommodate the new construction should be replaced. Replacement trees should be the same or similar species to the trees removed or damaged, or, alternately, a species native to Caroline County.

## **APPENDIX V.**

### **Commercial Infill and Redevelopment Guidelines**

#### **§ 1. Purpose and intent.**

The purpose of these guidelines is to:

- A. Protect the character of existing historic commercial areas;
- B. Improve the visual appearance along major highway and street corridors;
- C. Improve access and circulation to and within commercial and business sites;
- D. Improve sales and property values;
- E. Encourage appropriate design linkages between sites; and
- F. Require context-sensitive site planning and building design.

#### **§ 2. Applicability.**

The following guidelines apply to infill and redevelopment of commercial and business sites in the RHC (Regional Highway Commercial), GC (General Commercial), MI (Mixed Industrial) and CBC (Central Business Commercial) Districts. The Commercial Infill and Redevelopment Guidelines are intended to supplement the community appearance standards set forth in Chapter 128, Zoning § 128-85 and any guidelines or regulations relating to the Historic Overlay Zone, where applicable. If the property is located in the Historic Overlay Zone, and where any provision of these guidelines is inconsistent with a provision of any guideline or regulation relating to the Historic Overlay Zone, the guidelines or regulations relating to the Historic Overlay Zone shall apply. Persons proposing commercial, business, office or light industrial development in the RHC, GC, MI or CBC District should consult these guidelines and incorporate them in development plans.

#### **§ 3. Site amenities.**

- A. Larger commercial infill and redevelopment projects (25,000 square feet of floor area or greater) should contribute to the creation or enhancement of public spaces by incorporating site amenities. Examples include, but are not limited to, the following:
  - (1) Patio or plaza with seating area;
  - (2) Miniparks, squares, or greens;
  - (3) Transportation amenities, including bus stops where appropriate;
  - (4) Customer walkways or pass-throughs containing window displays;
  - (5) Water feature;
  - (6) Clock tower;
  - (7) Public art;
  - (8) Any other well-designed area and/or focal feature that enhances such development and serves as a gathering place.
- B. Site planning should integrate the principles of Crime Prevention through Environmental Design (CPTED) to the maximum extent practicable. Applicants are encouraged to consult with the Denton Police Department regarding application of CPTED principles.

#### **§ 4. Site layout/development pattern (development setback/orientation).**

- A. The layout of principal buildings and accessory structures and parking areas along a street is an example of a repeated site pattern that creates a cohesive visual identity and attractive pedestrian street scene for an area. Creating a strongly defined street edge will improve an area's visual appeal. This principle applies to suburban as well as downtown locations. As the Town grows and expands outwards, these edge uses will become part of the central urban fabric.
- B. General site layout along major street frontages:
  - (1) At least some (a minimum of 30%) of a development site's street frontage(s) along major streets (arterials and major collector streets) should be occupied by building wall. Such building wall may be part of a principal building, pad site building, or accessory building. In the case of drive-through facilities, a site wall of a minimum three feet in height that reflects the building architecture may be used to meet the 30% target.
  - (2) The remaining frontage along major streets should be occupied by a decorative architectural feature such as a wall placed on the setback line to screen the parking area, or substantial landscaping, landscaped entryway signage or features, and/or site amenities.
- C. Site layout and building orientation at major intersections. Major intersections of commercial activity need special attention so that all four corners are linked and function as a whole, and so that a sense of place and arrival is maintained or created. Commercial developments located at the intersection of two major streets should comply with the following guidelines:
  - (1) Primary parking areas and drive-through facilities should not be located within a 150 foot radius measured from the intersection of the center lines of the two thoroughfare streets.
  - (2) Development located within a 150 foot radius from the intersection of the center lines of the two thoroughfare streets should include two or more focal point features which are visible from the intersection streets such as:
    - (a) A distinctive design that does not represent standard franchise architecture;
    - (b) A taller architectural feature or appendage (e.g., a clock tower, spire, or interesting roof form);
    - (c) Public art or sculpture;
    - (d) Fountains or other water feature;
    - (e) Public plazas or other open space; or
    - (f) Landscape feature.
- D. Additions to strip centers.
  - (1) To the maximum extent practicable, additions of leasable square footage to strip commercial centers should avoid extending the linear pattern or line created by an existing strip building(s).
  - (2) Additions of leasable square footage or structures should be arranged to help frame

and define the fronting streets and the walking and shopping areas along those streets.

- E. Orientation of entry facades. Entry facades should orient towards the primary street or the active pedestrian zone within the site to create an inviting image and consistent front and street edge definition.

**§ 5. Multiple-building developments/pad sites.**

- A. Generally. The siting and design of smaller retail stores, or pads, can create an inviting appearance in a larger, multiple-building development by reducing a project's scale and expanding the range of activities and businesses found within a single development. Adding pad sites to a commercial center can help to improve the development's visual interest by framing entries and placing storefront spaces closer to the street to create a more active street scene. The siting and orientation of these smaller stores should create spaces that relate to both the primary buildings and the street frontage and should be architecturally compatible with the primary or anchor buildings of the development.
- B. Location of pad sites. Pad site buildings should be sited along the edge of entry drives or between a large parking lot and the street to help define the streetscape and lessen the visual impact of the parking lot from the street.
- C. Building orientation on pad sites. Any side of a pad site building that directly faces a public street should contain a combination of at least two of the following:
  - (1) Customer entrance, windows, trellises, awnings, areas of glass block, arcades, pergolas, or planters. Customer entrances should be emphasized through incorporation of a building recess, projections, canopy, or similar design elements.
  - (2) To the maximum extent practicable, spaces between adjacent pad site buildings should be improved to provide small pockets (preferably heavily landscaped) of customer parking, pedestrian connections, small-scale project amenities, or focal points. Examples include, without limitation:
    - (a) A landscaped pedestrianway linking customer entrances between two or more pad site buildings;
    - (b) A public seating or outdoor eating area;
    - (c) An area landscaped with living materials emphasizing four-season colors, textures, and varieties; or
    - (d) Sculptures or fountains.
- D. Pad site building design.
  - (1) All four walls of a pad site building should incorporate the same facade and building design as those on the primary commercial building(s) in the development or center, including:
    - (a) Roofline or roof materials;
    - (b) Facade colors;
    - (c) Pedestrian entry locations and entryway architecture/design;
    - (d) Amounts of glazing on facades visible from public streets; and

- (e) Other distinctive architectural features.
- (2) Significant departures from off-the-shelf standardized franchise building design may be required to meet the above standard.
- (3) Pad site buildings should incorporate exterior building materials from the material palette used on the primary commercial building(s)

**§ 6. Relationship to surrounding development: operational compatibility.**

- A. Commercial infill and redevelopment adjacent to or in relatively close proximity to residential uses should relate well to surrounding development. Such development should respect adjacent residential uses and surrounding neighborhoods by ensuring intensive operations, such as loading areas, do not adversely impact neighbors.
- B. The Planning Commission may impose conditions upon the approval of development applications to ensure that infill and redevelopment projects will be compatible with existing neighborhoods and uses, including but not limited to conditions on the following:
  - (1) Location on a site of activities that generate potential adverse impacts on adjacent uses, such as noise and glare;
  - (2) Placement of trash receptacles;
  - (3) Location of delivery and loading zones.

**§ 7. Vehicular circulation.**

- A. Internal vehicle circulation should provide a clear visual path to provide safe, convenient and efficient vehicular access within and between developments. Circulation patterns should be designed to limit points of access from major thoroughfares and minimize the impacts of nonresidential traffic on adjacent residential properties.
- B. Primary vehicle access: large commercial centers.
  - (1) Primary access to large commercial centers should be from the major collector street system. In order to maximize the efficiency of the Town's street network, major traffic generators should be located so that their primary access is from a major collector or commercial access road.
  - (2) Large commercial centers should be located at the intersection of major streets so that access is available for both east/west and north/south traffic. Primary access points should be located so that commercial traffic is separated from the residential street system.
- C. Primary vehicle entrances. The number and location of vehicle entrances to a commercial development should be consistent with the existing or anticipated design of adjacent streets.
  - (1) To the maximum extent feasible, the number of entry driveways on a thoroughfare street should be minimized in order to reduce the number of conflicting points and facilitate traffic flow.
  - (2) It is recognized, however, that certain existing tracts may not be able to fully comply with these guidelines due to limited frontage or other constraints. When compliance with the guidelines is precluded due to the location of driveways on

adjoining properties, attempts should be made to obtain alternative access where feasible, including joint-access driveways, shared parking with adjacent landowners, access easements to adjoining properties, or access to intersecting streets.

D. Internal vehicle circulation.

- (1) Internal vehicle circulation patterns should provide a clear and direct path to the principal customer entrance of the primary building, to outlying pad sites, and to each parking area.
- (2) In large commercial centers, a clear system of main circulation drives (containing few or no parking spaces that directly access the main drives) should be established to carry the highest volumes of traffic within the site.
  - (a) To the maximum extent feasible, the intersection of two main circulation drives should be designed as a "T" intersection, rather than a four-legged intersection, to minimize vehicular conflicts.
- (3) In small commercial centers (less than 50,000 square feet), where traffic volumes are lower and, consequently, pedestrian-vehicular and vehicular-vehicular conflicts are less likely, more flexibility is available in the location and design of internal drives.
  - (a) Because of the lower traffic volumes, entry drive throat lengths can be shorter.
  - (b) The use of four-legged intersections can be utilized more extensively.
  - (c) Depending on the size of the shopping center and the number and location of access points, fewer restrictions may be placed on the extent to which traffic entering the site is directed to the drives along the building facades.
- (4) Main drive aisles should be continuous and connect to the main entrance to the development site.
- (5) Internal intersections must have adequate sight lines, design geometrics, and/or traffic controls to minimize accident potential.

E. On-site truck traffic, loading and circulation.

- (1) Every shopping center is required to provide loading and delivery facilities separate from customer parking and pedestrian areas.
- (2) Due to their greater size and lower maneuverability, truck circulation paths should be designed with larger curve radii and more maneuvering room.
- (3) As the size of the development and the volume of trucks increase, internal circulation patterns should reflect an increasing separation between automobile and truck traffic in order to minimize accidents and congestion.

F. Vehicle connections with adjacent properties.

- (1) Adjacent nonresidential uses:
  - (a) To the maximum extent feasible, connections between adjacent nonresidential development parcels should be provided by siting a logical array of access points continuous to the adjacent development.

- (b) To the maximum extent feasible, common or shared service and delivery access should be provided between adjacent parcels and/or buildings.
- (2) Adjacent residential uses. Commercial drives or on-site streets should not align with access to adjacent residential developments. Exceptions may be made in cases where physical constraints dictate that no other option is possible.
- (3) Emergency access. All commercial developments must comply with the currently adopted building code provisions regarding emergency vehicle access and fire lanes.

**§ 8. Pedestrian access and circulation.**

- A. Generally. Applicants should submit a detailed pedestrian circulation plan with all subject development applications that shows compliance with the following guidelines.
- B. Pedestrian connections. An on-site system of pedestrian walkways should be designed to provide direct access and connections to and between the following:
  - (1) The primary entrance or entrances to each commercial building, pad site buildings;
  - (2) Any sidewalks or walkways on adjacent properties that extend to the boundaries shared with the commercial development;
  - (3) Any public sidewalk system along perimeter streets adjacent to the commercial development;
  - (4) To the maximum extent practicable and appropriate, adjacent land uses and developments, including but not limited to adjacent residential developments, retail shopping centers, office buildings, or restaurants;
  - (5) To the maximum extent practicable and appropriate, any adjacent public park, greenway, or other public or civic use, including but not limited to schools, places of worship, public recreational facilities, or government offices.
  - (6) All parking areas that serve such primary building; and
  - (7) Site amenities or gathering places.
- C. Pedestrian connections to perimeter public sidewalks. Connections between the on-site (internal) pedestrian walkway network and any public sidewalk system located along adjacent perimeter streets should be provided at regular intervals along the perimeter street as appropriate to provide easy access from the public sidewalk to the interior walkway network.
- D. Minimum walkway width. All on-site pedestrian walkways and sidewalks shall be a minimum of five feet wide, except that walkways adjacent to a parking area where cars may overhang the walkway should be a minimum seven feet wide.
- E. Walkways along buildings.
  - (1) Walkways along primary buildings. Continuous pedestrian walkways no less than eight feet wide should be provided along the full length of a primary building along any facade featuring a customer entrance and along any facade abutting customer parking areas.
  - (2) Walkways along pad site buildings. Continuous pedestrian walkways no less than

five feet wide shall be provided along the full length of a pad site building along any facade featuring a customer entrance and along any facade abutting customer parking areas.

- (3) Walkways through vehicle areas in large commercial centers. At each point that the on-site pedestrian walkway system crosses a parking lot or internal street or driveway, the walkway or crosswalk should be clearly marked through the use of a change in paving materials distinguished by their color, texture, or height.

## **§ 9. Parking.**

- A. Generally. The typical suburban commercial development pattern of placing large amounts of parking between the fronts of buildings and the adjacent street and between buildings contributes to a bleak and formless arrival experience and a detached relationship between the building and the street. Locating parking along the side and rear of buildings can help reduce the impression of a "sea of parking" while providing convenient automobile and pedestrian access.
- B. Parking location. A minimum of 30% of the off-street surface parking spaces provided for all uses contained in the development's primary building should be located other than between the front facade of the primary building and the primary abutting street (e.g., to the rear or side of the primary building). Alternative provisions may be considered when the commercial development abuts an existing residential neighborhood.
- C. Parking orientation. To the maximum extent feasible, parking should be oriented to minimize visual and noise impacts on adjacent residential properties.
- D. Parking blocks. In order to reduce the scale of large surface parking areas, the total amount of surface parking provided should be broken up into parking blocks containing no more than 40 spaces for large commercial centers and no more than 26 spaces for all other commercial development:
  - (1) Parking blocks should be separated from each other by landscaping, access drives or public streets, pedestrian walkways, or buildings.
  - (2) Each parking block should have consistent design angles for all parking within the block.
  - (3) Parking blocks should be oriented to buildings to allow pedestrian movement down and not across rows (typically with parking drive aisles perpendicular to customer entrances).
  - (4) Through access should be provided within and between parking blocks; dead-end drives are strongly discouraged.

## **§ 10. Building design.**

- A. Generally. Building design that creates or adds to the visual interest of a streetscape and a pedestrian scale is an essential element of infill and redevelopment. Building height, scale, and massing can be used to emphasize important corners, designate points of entry, and create a visible roofline silhouette. The primary mass of structures should include secondary projections that reduce the apparent scale, create visual interest, and promote compatibility with adjacent uses. Building design for infill and redevelopment projects should be compatible with adjacent development. The following design guidelines generally apply.

- B. Compatibility with surrounding development infill and redevelopment projects in existing developed areas with an established pedestrian scale and character should be compatible with or complement the established proportions and building mass of adjacent developments.
- C. Transition to adjacent residential uses. Where buildings are adjacent to residential uses, building massing should create a transition from the edges of a commercial center inward. To achieve this effect, smaller and lower building mass should be located near edges of the center where adjacent buildings are smaller or residential in scale.
- D. Building facades.
  - (1) The building facade should incorporate wall plane projections or recesses to break-up the overall wall into smaller, appropriately scaled sections;
  - (2) Each building facade should have a repeating pattern that includes instances of either a) color change; b) texture changes; c) material module change; or d) expression of an architectural or structural bay through a change in plane, such as an offset, reveal, or projecting rib.
  - (3) The above guidelines may be waived if the applicant can demonstrate an alternative building design that significantly articulates a wall plane.
- E. Multistory buildings: base and top treatments. The following guidelines apply to buildings greater than two stories:
  - (1) The composition of the building should present a clearly recognizable base, middle, and top, or a clearly defined alternative building composition.
  - (2) A recognizable base may consist of but is not limited to:
    - (a) Thicker walls, ledges, or sills;
    - (b) Integrally textured materials such as stone or other masonry;
    - (c) Integrally colored and patterned materials such as smooth finished stone or tile;
    - (d) Lighter or darker colored materials, mullions, or panels; or
    - (e) Planters.
  - (3) A recognizable top may consist of but is not limited to:
    - (a) Cornice treatments, other than just colored stripes or bands, with integrally textured materials such as stone or other masonry or differently colored materials;
    - (b) Sloping roof with overhangs and brackets; or
    - (c) Stepped parapets.
- F. Consistency of style. The design of the building should provide a distinctive quality, consistent architectural character and style that avoids monotonous and featureless building massing and design.

**§ 11. Architectural detail: facades, entrances, roofs, awnings.**

- A. General. The following guidelines generally apply to the architectural detail of commercial

structures.

- B. Architectural compatibility with surrounding areas. Infill and redevelopment projects in existing developed areas with an established character should be compatible with or complement the established architectural character of the area in terms of consistency of rooflines, roof materials and roof colors; similar window and door patterns; and similar decorative elements.
- C. Building facades. Facades that face public streets, adjacent development, or connecting pedestrian frontage should be subdivided and proportioned using features such as windows, entrances, arcades, arbors, and awnings along no less than 60% of the facade. A minimum of 10% of the entire such facade area should be composed of transparent materials, unless the Planning Commission finds that such transparency would be inconsistent with the operational requirements of the building. At least 1/2 of this amount should be provided so that the lowest edge of the transparent material is no higher than four feet above the street level.
- D. Customer entrances. Building facades facing a primary access street should have clearly defined, highly visible customer entrances that include such features as the following:
  - (1) Canopies or porticos;
  - (2) Overhangs, recesses/projections;
  - (3) Arcades;
  - (4) Raised corniced parapets over the door;
  - (5) Distinctive roof forms;
  - (6) Arches, outdoor patios;
  - (7) Display windows;
  - (8) Integral planters or wing walls that incorporate landscaped areas and/or places for sitting.
- E. Roofs. To the maximum extent practicable, where buildings are adjacent to residential uses, rooflines should be of a similar height or stepped down to a similar height to enhance the compatibility with nearby residential areas. In addition, roofs should feature such as the following:
  - (1) Parapets concealing flat roofs and rooftop equipment such as HVAC units from public view are appropriate. Parapets should feature three-dimensional cornice treatment and should be the primary means of screening rooftop equipment;
  - (2) Overhanging eaves, extending no less than three feet past the supporting walls;
  - (3) Sloping roofs that do not exceed the average height of the supporting walls;
  - (4) Three or more roof slope planes.
- F. Downspouts. All downspouts should be concealed from view.
- G. Awnings.
  - (1) Awnings should be no longer than a single storefront.
  - (2) Fabric awnings are encouraged; canvas awnings with a matte finish are preferred. Awnings with high-gloss finish are discouraged. Illuminated, plastic awnings are

discouraged.

- (3) Rigid-frame awnings should stop at the top section and should not be included in the valance.
- (4) Awning colors should be compatible with the overall color scheme of the facade from which it projects. Solid colors or subtle striped patterns are preferred.
- (5) Awnings for rectangular openings should be simple shed shapes. Semicircular shapes should not be used for arches.

## **§ 12. Building materials and colors.**

A. Generally. The exterior materials and colors used in a building's design create impressions of not only the individual building but of the image of the overall community. Commercial infill and redevelopment should use high-quality materials and colors that are compatible with residential areas and reflect the historic character of established commercial areas. Applicants should submit a color palette and building materials board as part of their development plan application.

B. Building materials.

- (1) All buildings should be constructed or clad with materials that are durable, economically maintained, and of a quality that will retain their appearance over time, including but not limited to natural or synthetic stone; brick; stucco; integrally colored, textured, or glazed concrete masonry units; high-quality prestressed concrete systems; water-managed exterior insulation finish systems (EIFS); or glass.
- (2) Natural wood or wood paneling should not be used as a principal exterior wall material, but durable synthetic materials with the appearance of wood may be used.
- (3) Exterior building materials should not include the following:
  - (a) Split shakes, rough-sawn or board-and-batten wood;
  - (b) Vinyl siding;
  - (c) Smooth-faced gray or stained concrete block, painted concrete block, tilt-up concrete panels;
  - (d) Field-painted or pre-finished standard corrugated metal siding;
  - (e) Standard single or double tee concrete systems; or
  - (f) Barrier-type EIFS.
- (4) In selecting exterior building materials, consideration should be given to the appropriateness of the materials to the scale of building proposed.

C. Building color.

- (1) Color schemes should tie building elements together, relate separate (freestanding) buildings within the same development together, and should be used to enhance the architectural form of a building.
- (2) All building projections, including but not limited to chimneys, flues, vents, gutters, and downspouts, should match or complement in color the permanent color of the surface from which they project.

- (3) Facade colors must be low-reflecting, subtle, and neutral. Intense, bright, black, or fluorescent colors are prohibited.

### **§ 13. Landscaping and screening.**

- A. Generally. Landscaping is a visible indicator of quality development, and must be an integral part of every commercial project and not merely located in leftover portions of the site. Landscaping is intended to visually tie the entire development together, define major entryways and circulation (both vehicular and pedestrian) and parking patterns, and, where appropriate, help buffer less intensive adjacent land uses.
  - (1) Site landscaping should include plants similar in form and scale to existing vegetation in the neighborhood or area.
  - (2) Each area required to be landscaped should be covered in live material.
- B. Site perimeter landscaping abutting street edges. The consistent use of plantings along street edges provides a visual cohesion along streets and helps buffer automobile traffic. The intent of these standards is to provide an attractive, shaded environment along street edges that gives visual relief from continuous hard street edges, focuses views for both pedestrians and motorists, and increases the sense of neighborhood scale and character.
- C. Parking lot landscaping. Parking lot landscaping should be used to minimize the expansive appearance of parking lots, provide shaded parking areas, and mitigate negative acoustic and visual impact of motor vehicles.
  - (1) Interior parking lot landscaping. For all interior parking lot landscaping, see Chapter 128, Zoning § 128-106.
  - (2) Perimeter parking area landscaping.
    - (a) Parking lot edges should be buffered from public rights-of-way, public open space, and adjacent properties.
    - (b) The perimeter of all parking areas, except for thoroughfares and collector streets, should be screened according to the height and material standards as set forth in Article VI, § 128-106, Parking areas screening and landscaping, of the Chapter 128, Zoning.
- D. Service area screening. Service, loading, and dumpster areas create visual and noise impacts on surrounding neighborhoods. These impacts should be mitigated by appropriately orienting and visually screening service areas, including trash receptacles, from public rights-of-way and adjacent uses.
  - (1) To the maximum extent feasible, areas for outdoor storage; truck parking; trash collection or compaction; loading; or other such service areas should not be visible from abutting streets and should be oriented toward on-site service corridors.
  - (2) No areas for outdoor storage; trash collection or compaction; loading; or other such uses should be located within 20 feet of any public street, public sidewalk, or internal pedestrian walkway.
  - (3) Loading docks, truck parking, outdoor storage, trash collection, trash compaction, and other service functions should be incorporated into the overall design of the building and landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets.

Screening materials should be the same as, or of equal quality to, the materials used for the primary building and landscaping.

- (4) Non-enclosed areas for the storage and sale of seasonal inventory should be permanently defined and screened with landscaping, walls and/or fences. Materials, colors, and design of screening walls and/or fences and of any covering for such area should be compatible with those used as predominant materials and colors on the primary building(s).
- E. Mechanical/utility equipment screening. Mechanical and utility equipment detracts from the character of an area. Steps should be taken to mitigate the negative visual and acoustic impacts of mechanical and utility equipment systems on surrounding development.
- (1) Mechanical/utility screening should be an integral part of the building structure and architecture and not give the appearance of being tacked on to the exterior surfaces.
  - (2) All mechanical equipment and utilities should be screened.
- F. Fencing and walls. Fencing and walls should be provided that complement the design of the overall development and surrounding properties.
- (1) Opaque fences and walls are allowed only in side and rear setbacks. Fences and hedges should be used in front setbacks if they are enclosing a parking area that abuts a public street, or a defined dining area, or public gathering space.
  - (2) Materials. Walls and fences should be constructed of high-quality materials, such as decorative blocks, brick, stone, treated wood, and ornamental metal. Chain link fencing is not to be allowed.
  - (3) Breaks for connections. Breaks in the length of a perimeter fence should be made to provide for required pedestrian connections to the perimeter of a site or to adjacent development, such as perimeter sidewalks and public trails.
  - (4) Maximum length. The maximum length of continuous, unbroken and uninterrupted fence or wall plane should be no more than 50 feet. Breaks should be provided through the use of columns, landscaping pockets, transparent sections, and/or a change to different materials.

#### **§ 14. Lighting.**

- A. Generally. Applicants shall submit a unified lighting plan with final plan applications for all commercial infill/redevelopment projects subject to these lighting standards and Article XXII “Outdoor Lighting”. A point-by-point calculation to show compliance with the lighting standards is required. The calculations shall be measured at grade for lighting levels within the development site. A cut sheet of proposed fixtures, including a candlepower distribution curve, shall also be submitted. A vertical plan footcandle calculation shall be submitted for property lines abutting residential properties.
- B. Compatibility with surrounding area. The lighting plan should consist of recognizable, distinctive designs and fixtures that are compatible with or complement surrounding neighborhoods.
- C. Lighting for security.
- (1) Accent lighting on buildings is encouraged as a security feature.

- (2) Interior and exterior lighting should be uniform to allow for surveillance and avoid isolated areas.
  - (3) Security lighting should be fully shielded and use a decorative fixture.
- D. Design of fixtures/prevention of spillover glare. Light fixtures shall use cutoff lenses or hoods to prevent glare and light spill off the project site onto adjacent properties, buildings, and roadways.
- E. Color of light source. Sports lighting fixtures should be color-correct types such as halogen or metal halide to ensure true color at night and ensure visual comfort for pedestrians. For uses other than sports, light fixtures with soft yellow or orange lights (e.g., high pressure sodium) instead of harsh white lights (e.g., metal halide) are encouraged to protect the view of the night sky
- F. Lighting for pedestrian areas.
  - (1) Pedestrian walkway lighting. Pedestrian-level bollard lighting, ground-mounted lighting, or other low, glare-controlled fixtures mounted on building or landscape walls should be used to light pedestrian walkways.
  - (2) Lighting height. Light pole, building-mounted, or tree-mounted lighting structures should be no more than 20 feet high. Bollard-type lighting should be no more than four feet high.
  - (3) Illumination levels. Pedestrian areas and driveways should be illuminated to a minimum average of 1 footcandle, with a uniform maximum to minimum ratio of 5:1.
- G. Parking lot lighting standards.
  - (1) Luminaire fixture height. The mounting height for luminaire fixtures should not exceed 33 feet as measured to the top of the fixture from grade.
  - (2) Average maintained footcandles.
    - (a) The maximum average maintained footcandles for all parking lot lighting shall be three footcandles; the minimum average maintained footcandles should be 1 footcandle. For the purpose of this standard, the average maintained footcandle shall be calculated at 0.8 of initial footcandles.
    - (b) The maximum maintained vertical footcandle at an adjoining residential property line shall be 0.5 footcandles, measured at five feet above grade.
  - (3) Uniformity ratios. Luminaire fixtures should be arranged in order to provide uniform illumination throughout the parking lot of not more than a 6:1 ratio of average to minimum illumination, and not more than 20:1 ratio of maximum to minimum illumination.
- H. Canopy lighting.
  - (1) Average maintained footcandles. The maximum average maintained footcandles under a canopy should be 35 footcandles.
  - (2) Fixtures. Acceptable fixtures and methods of illumination include:
    - (a) Recessed fixtures incorporating a lens cover that is either recessed or flush with the bottom surface (ceiling) of the canopy.

- (b) Indirect lighting where light is beamed upward and then reflected down from the underside of the canopy. Such fixtures shall be shielded such that direct illumination is focused exclusively on the underside of the canopy

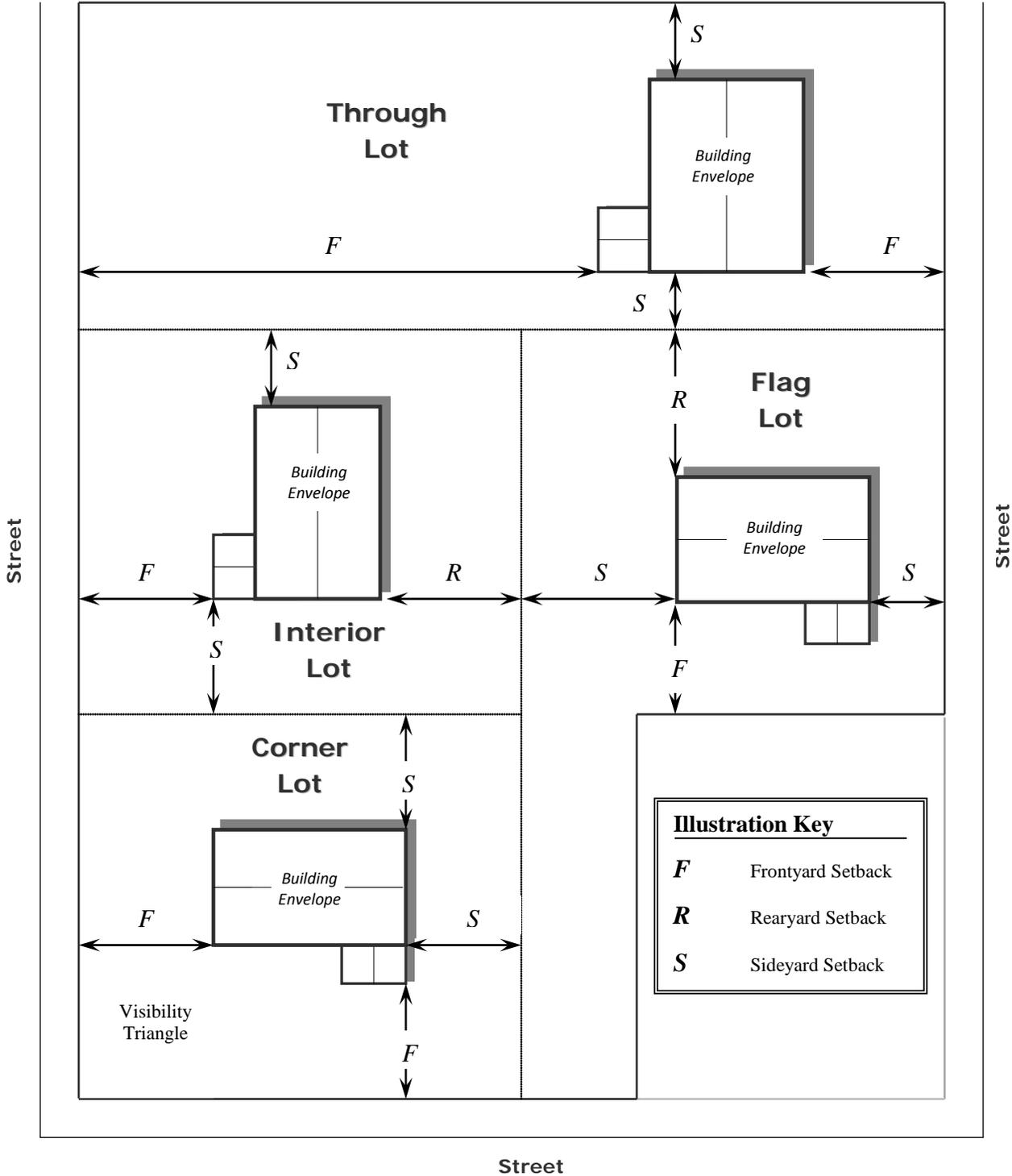
**§ 15. Signage.**

- A. Signage should be scaled appropriately to appeal to both pedestrians walking on the adjacent sidewalks and to vehicles driving at reduced speeds. The following sign guidelines are intended to create aesthetically pleasing and cohesive sign standards while reinforcing the existing context of the infill or redevelopment area.
- B. All commercial developments shall comply with the signage requirements set forth in the Chapter 128, Zoning.
- C. On all street frontages, signage material should be integrated into the overall design of the building.
- D. Signs should be located to complement the architectural features of a building, such as above the building entrance, storefront opening, or other similar feature.

**APPENDIX VI.**

**ZONING**

Lot Types and Yard Requirements



Official Table of Use Regulations  
by General Zoning Districts

[Amended 4-7-2003 by Ord. No. 422, effective 4-27-2003; 5-3-2004 by Ord. No. 448,  
effective 5-10-2004; 4-2-2007 by Ord. No. 535, effective 4-9-2007; 4-6-2009 by Ord. No. 572,  
effective 4-16-2009; 10-5-2009 by Ord. No. 590, effective 10-15-2009]

KEY

P - Permitted use within zoning district

C - Permitted use subject to conditions required by the Planning Commission (site plan review and approval required)

E - Use subject to special exception from the Board of Appeals (site plan review and approval, & Planning Commission recommendation required)

Uses marked with an asterisk (\*) indicate that use is subject to supplemental development standards as detailed in Article XI.

	Zoning Districts											
	SR	TR	MR	GC	CBC	CM	RHC	I	PN	MI	RA	RP
<b>RESIDENTIAL</b>												
Single-family detached	P	P	P	P	P	P			P	P	P	
Manufactured home park/subdivision *			E									
Two-family conversion of single family house *												
Accessory apartment in combination with primary residence *	C	C	C	C	C	C			P	C	C	
Accessory apartment in combination with commercial use *				C	C	C			P			
Duplex *			C	C	C				P	C		
Multifamily conversion of single-family house												
Townhouses *			C	E	E				P	C		
Apartments *			C	E	E				P	C		
Homes for disabled or infirm	E	E	E	E	E	P			E	E		
Nursing care, intermediate care homes *	E	E	E	E	E	P			E	E		
Adult Assisted Living *			C	E	E							
Child Day-Care Family *	P	P	P	P	P	P	P		P	E	P	
Rooming houses, boardinghouses			E	C	C				E	E		
Tourist home and other temporary residences renting by the day or week (bed-and-breakfast)	E	E	E	C	C		C		E	E		
Temporary emergency, construction and repair residences *	P	P	P	P	P	P	P	P	P	P	P	P
Guesthouse	P	P	P						P	P	P	
Farm Caretaker Home*											C	
Home occupation *	C	C	C	C	C	C			C	C	C	

	Zoning Districts											
	SR	TR	MR	GC	CBC	CM	RHC	I	PN	MI	RA	RP
Planned residential development *	E	E	C							C		
<b>COMMERCIAL</b>												
<b>Sales</b>												
Adult-oriented business *								C				
Viewing Booth and Live Viewing Booths												
Agricultural machinery, service, supplies							C	C		C	E	
Neighborhood center *	E	E	E						E			
Lumber and/or other building materials							C	C		C		
Retail shops and stores selling antiques, apparel, art supplies, beverages, books, cards, confections, dry goods, drugs, fabrics, floor covering, flowers, food stuffs, furniture, garden supplies, gifts, hardware, hobbies, household appliances, jewelry, luggage, musical instruments, novelties, paint, periodicals, records, shoes, sporting goods, fishing supplies, boating and marine supplies and equipment, stationary, tobacco, and other miscellaneous related items which generate typical retail traffic volumes.				C	C	C	C	E	C	E		
Convenience store and other retail uses designed to attract a large volume of stop-and-go traffic.				C	E		C		C			
Supermarket (retail and wholesale)				C			C		E			
Department store (retail and wholesale)				C	C		C		C			
Yard sales and garage sales, so long as such sales are not conducted on the same lot for more than three days (whether consecutive or not) during any ninety-day period	P	P	P	P	P	P	P		P	P	P	
Wholesale or warehouse establishments (under 20,000 square feet)					E		C	C		C		
Wholesale or warehouse establishments (20,000 square feet and over)							C	E		E		
<b>Office, clerical research and services not primarily related to goods or merchandise</b>												
<b>Sales</b>												

	Zoning Districts											
	SR	TR	MR	GC	CBC	CM	RHC	I	PN	MI	RA	RP
Operations designed to attract and serve customers or clients on the premises, such as the office of attorneys, physicians, other professionals, insurance and stock brokers, travel agents, government office buildings, etc.			E	C	C	C	C		E	E		
Operations designed to attract little or no customers or client traffic other than employees of the entity operating the principal use			E	C	C		C		E	E		
Banks with drive-in windows				C	C		C		P	E		
<b>Restaurant</b>												
No substantial carry-out or delivery service, no service or consumption outside fully enclosed structure				C	C		C		P			
No substantial carry-out or delivery service, no drive-in service, service or consumption outside of fully enclosed structure allowed				C	C		C		P			
Carry-out and delivery service, service or consumption outside fully enclosed structure allowed				E	C		C		E			
Bar/Nightclub, no carry-out service				E	E		C		C			
Bar/Nightclub, carry-out service				E	E		E		C			
Liquor Store				E	C		C		C			
Barbershop/Beauty salon				C	C		C		C			
Tattoo Parlor				C	E		C					
Funeral home				C	C		C		E			
Motel/Hotel				C	C		C		E			
Laundromat and dry cleaning				C	C		C					
Laundromat (self service)				C	C		C		E			
General service and repair establishments, provided that no outside storage of material is permitted				C	C		C	C	E	C		
Motor vehicle and boat sales or rental *				E			C	C		C		
Manufactured home sales							E	E		E		
Motor vehicle repair and maintenance, not including substantial body work				E			C	C		C		
Motor vehicle painting and body work				E			C	C		E		

	Zoning Districts											
	SR	TR	MR	GC	CBC	CM	RHC	I	PN	MI	RA	RP
Gas sales *				C	E		C		C			
Neighborhood filling station												
Car wash *				E			C		E			
Scrap materials, salvage yards, junkyards and automobile graveyards												
Hospital clinic for large or small animals *				C			C				C	
Veterinary				C			C				C	
Kennel				C			C				E	
<b>Other commercial</b>												
Child or Adult Day-Care Centers *	E	E	E	C	C	C	C		C	E		
Child Care Centers within a business *						C	C	C		C		
Truck filling station, repair or service shop							C	C				
<b>INDUSTRIAL</b>												
Industrial Park *								C				
General light manufacturing or fabricating including processing, cleaning, testing and distribution of materials, foodstuffs and products *							E	C		C		
Any manufacturing, compounding, processing, packaging, treatment or distribution of products which may, in the opinion of the Zoning Administrator, have accompanying hazards such as fire, explosion, noise, vibration, dust, pollution or the emission of smoke, odor, wastes or toxic gases (heavy industry)												
<b>AGRICULTURE, SILVICULTURAL, MINING, OR QUARRYING OPERATIONS</b>												
Agricultural operations, excluding livestock							E				P	
Silvicultural operations							E				P	
Mining or quarrying operations, including on-site sales of products											E	
Reclamation landfill												
<b>STORAGE AND PARKING</b>												

	Zoning Districts											
	SR	TR	MR	GC	CBC	CM	RHC	I	PN	MI	RA	RP
Automobile parking garages or parking lots not located on a lot on which there is another principal use to which parking is related				C	C		C					
Storage of goods not related to sale or use of those goods on the same lot where they are stored *												
All storage within completely enclosed structure				C	C	C	C	C		C		
Storage outside completely enclosed structures							E	E		E		
Parking of vehicles or storage of equipment outside enclosed structures where: (a) vehicles or equipment are owned and used by person making use of the lot, and (b) parking or storage is more than a minor and incidental part of the overall use made of the lot. Parking or storage of waste removal vehicles and equipment is not included *							C	C		C		
<b>INSTITUTIONAL RESIDENCE OR CARE OR CONFINEMENT FACILITIES</b>												
Hospitals, clinics, other medical (including mental health) treatment facilities in excess of 10,000 square feet of floor area *	E	E	E	E		E	E					
Nursing care institutions, intermediate care institutions, disabled or infirm institutions, child-care institutions	E	E	E	E		C	E		E			
Institutions (other than halfway houses) where intellectually disabled persons are housed			E	E	E	E			E			
Group homes, private			E	E	E	C			E			
Group home/halfway house *			E	E	E				E			
Group home/disabled or infirm home			E	E	E	C			C			
Clinics, less than 10,000 square feet *				C	E	C	C		E			
<b>EMERGENCY SERVICES</b>												
Police stations	E	E	E	E	E	E	E	E	E	E		
Fire stations	E	E	E	E	E	E	E	E	E	E		
Rescue squad, ambulance service	E	E	E	E	E	E	E	E	E	E		
Civil defense operation	E	E	E	E	E	E	E	E	E	E	E	

	Zoning Districts											
	SR	TR	MR	GC	CBC	CM	RHC	I	PN	MI	RA	RP
<b>EDUCATIONAL, CULTURAL, RELIGIOUS, PHILANTHROPIC, SOCIAL, FRATERNAL USES</b>												
Elementary or secondary school and associated grounds and facilities	C	C	C	C	C	C	C	E	C	E	C	
Trade or vocational schools	E	E	C	C	C	C	C	E	C	E	C	
Colleges, universities, community colleges (including associated facilities such as dormitories, office buildings, athletic fields, etc.)	C	C	C	C	C	C	C	E	C	E	C	
Churches, synagogues and temples (including associated residential structures), religious personnel and associated buildings, but not including elementary school or secondary school buildings	C	C	C	C	C	C	C	E	C	E	C	
Libraries, museums, art galleries, art centers and similar uses (including associated educational and instructional activities)												
Located within a building designed and previously occupied as a residence or within a building having a gross floor area not exceeding 3,500 square feet	C	C	C	C	C	C	C		C	E	E	E
Located within any permissible structure	E	E	E	C	C	C			E	E	E	E
Social, fraternal clubs and lodges, union halls and similar uses	E	E	E	E	E				E	E		E
<b>RECREATION, AMUSEMENT, ENTERTAINMENT</b>												
Bowling alleys, skating rinks, indoor tennis and squash courts, billiard and pool halls, indoor athletic and exercise facilities and similar uses			E	C	C		C	E	E	E		E
Movie theaters				C	C		C		E			
Coliseums, stadiums and similar facilities							E	E				
Privately owned outdoor recreational facilities such as golf and country clubs, swimming or tennis clubs, etc., not constructed pursuant to a permit authorizing the construction of some residential development *	E	E	E				E	E	E	E		E

	Zoning Districts											
	SR	TR	MR	GC	CBC	CM	RHC	I	PN	MI	RA	RP
Publicly owned and operated outdoor recreation facilities such as athletic fields, golf courses, tennis courts, swimming pools, parks, boat landings and ramps, etc., not constructed pursuant to a permit authorizing the construction of another use such as a school	E	E	E				C	C	E	C		C
Golf driving ranges not accessory to golf course, par-3 golf courses, miniature golf courses, skateboard parks, water slides and similar uses							C	C	E			E
Horseback riding; stables (not constructed pursuant to permit authorizing residential development) *	E							E	E		E	E
Automobile, motorcycle and go cart racing tracks							E	E				
Drive-in movie theaters							E	E				E
<b>MISCELLANEOUS PUBLIC AND SEMIPUBLIC FACILITIES</b>												
Sanitary landfill												
Military reserve, National Guard centers												
Utility facilities;												
Neighborhood	C	C	C	C	C	C	C	C	C			
Community or regional							C	C				
<b>UNCLASSIFIED, MISCELLANEOUS</b>												
Towers and antennas 50 feet tall or less	P	P	P	P	P	P	P	P	P	P	P	
Towers and antennas more than 50 feet tall	E	E	E	E	E	E	E	E	E	E	E	
Earth satellite antenna (satellite dish)												
-24 inches or less in diameter	P	P	P	P	P	P	P	P	P	P	P	P
-Greater than 24 inches in diameter	E	E	E	E	E	E	E	E	E	E		
Post office	E	E	E	C	C	C	C	E	E	E		
Airport								E				
Open-air markets (farm and craft markets, produce markets)				C	C		C				C	
Horticulture sales with outdoor displays				C	C		C				C	
Cemetery	C											
Crematorium								E				
Temporary structures used in connection with the construction of a permanent building or for some nonrecurring purpose	P	P	P	P	P	P	P	P	P	P	P	P

	Zoning Districts											
	SR	TR	MR	GC	CBC	CM	RHC	I	PN	MI	RA	RP
Bus station, train station	E			E	E		E		E			
Commercial greenhouse operations *												
No on-premises sales	E	E	E	C			C	C	E		P	
on-premises sales permitted				C			C	C			P	
Special events	C	C	C	C	C	C	C		C	C	E	E
Off-premises signs							E	E		E		
Vendor operations and peddlers *	C	C	C	C	C	C	C	C	C	C	C	C
Auction House (no vehicles sold)				E			C					
Farmer's Market *				C	C							
Garden center				C			C		C		C	

ZONING

Town of Denton

Table of Density and Dimensional Regulations

[Amended 8-7-2000 by Ord. No. 382, effective 8-27-2000; 5-6-2002 by Ord. No. 414, effective 5-26-2002; 11-3-2003 by Ord. No. 429, effective 11-10-2003; 6-6-2005 by Ord. No. 485, effective 6-13-2005; 7-7-2009 by Ord. No. 582, effective 7-16-2009; 3-1-2010 by Ord. No. 597, effective 3-11-2010]

District/Use	Minimum Lot Area and Dimensions				Density	Minimum Yard Area Requirements			Side (Individual) (feet)	Maximum Height	
	Lot Area (square feet)	Lot Area Per Dwelling Unit (square feet)	Width (feet)	Depth (feet)	Residential Density (maximum du/acre)	Front (feet)	Rear (feet)	Side (Aggregate) (feet)		(feet)	(stories)
<b>SR</b>											
Single-family	10,000	10,000	80	100	4.3	25	20	20	10	40	3
<b>TR</b>	8,000	8,000	80	100	5	25	20	20	10	40	3
<b>MR</b>											
Single-family	7,500	7,500	75	100	5.8	25	20	20	10	40	3
Duplex <sup>2</sup>	8,000	4,000	—	—	6	25	20	30	15	40	3
Townhouse <sup>2,8</sup>	12,000	4,000	—	—	8	25	20	60	30	40	3
Multifamily <sup>2</sup>	12,000	4,000	—	—	8	25	20	60	30	30	2
<b>GC</b>											
Nonresidential	—	—	—	—	—	—	Note 3	—	Note 3	50	4
Dwellings	8,000	8,000	80	100	5	—	20	30	15	40	3
<b>CBC</b>											
Nonresidential	—	—	—	—	—	—	Notes 3,4	—	Notes 3,4	40	3
Dwellings <sup>6</sup>	8,000	8,000	80	100	5	—	20	30	15	40	3
<b>CM</b>											
Nonresidential	—	—	—	—	—	—	Notes 3,4	—	Notes 3,4	40	3
Single-family <sup>9</sup>	7,500	7,500	75	100	5.8	25	20	20	10	40	3
Duplex <sup>2,5,9</sup>	8,000	4,000	—	—	6	25	20	30	15	40	3
Townhouse <sup>2,8,9</sup>	12,000	4,000	—	—	10	25	20	60	30	40	3
<b>RHC</b>	20,000	n/a	100	125	n/a	50	20	50	20	50	4
<b>LI</b>	—	n/a	—	—	n/a	50	20	50	20	50	4
<b>MI</b>											
Nonresidential	—	n/a	—	—	n/a	—	20	50	20	50	4
Single-family	7,500	7,500	75	100	5.8	25	20	20	10	40	3
Duplex <sup>2,5</sup>	8,000	4,000	—	—	6	25	20	30	15	40	3
Townhouse <sup>2,8</sup>	12,000	4,000	—	—	8	25	20	60	30	40	3
Multifamily <sup>2</sup>	12,000	4,000	—	—	8	25	20	60	30	30	2
<b>RA</b>											
Nonres. Excl. farming	—	n/a	—	—	n/a	—	Note 3	—	Note 3	40	3
Main Residence <sup>7</sup>	20 Acres	20 Acres	—	—	0.05	25	25	50	25	40	3
Farm Caretaker Home <sup>7</sup>	20 Acres	20 Acres	—	—	0.05	25	20	20	10	30	2
<b>RP</b>											
Active Recreation	—	—	—	—	—	25	20	50	25	30	2
Passive Recreation	—	—	—	—	—	10	10	20	10	—	—
Residential	—	n/a	—	—	n/a	—	—	—	—	—	—

The minimum requirements of the Table of Density and Dimensional Regulations are subject to the supplemental requirements of Article XIV (Supplementary Height, Area, and Bulk Requirements).

## DENTON CODE

### NOTES: § 128-118 NOTES TO THE TABLE

<sup>1</sup> (Reserved)

<sup>2</sup> Side yards for duplex, townhouse, and multifamily development refer to yard requirements for structures, not individual units.

<sup>3</sup> There shall be a side yard not less than 10 feet in width on the side of a lot adjoining a residential district. There shall be a rear yard not less than 20 feet in depth on the rear side of a lot adjoining a residential district.

<sup>4</sup> On an interior lot, there shall be a side yard not less than 10 feet in width on the side of a lot adjoining a residential district. On an interior lot, there shall be a rear yard not less than 10 feet in depth on the rear of a lot adjoining a residential district.

<sup>5</sup> Dwelling units of a duplex may be sold separately if separate utilities are provided.

<sup>6</sup> Minimum lot and yard requirements shall not be applicable to accessory apartments when incidental to principal commercial uses in the Central Commercial (CC) District.

<sup>7</sup> Main residence and farm caretaker home shall be located on the same parcel. Only one caretaker home shall be allowed.

<sup>8</sup> Townhouse development is subject to the regulations contained in § 128-74.

<sup>9</sup> Single-family, duplex, and townhouse dwelling units in the CM District shall only be for permitted uses in the CM Zone as shown on the Official Table of Use Regulations and shall not be permitted for ordinary residential housing.

ORDINANCE NO. 611

INTRODUCED BY: Councilperson Porter

AN ORDINANCE OF THE TOWN OF DENTON REPEALING AND REENACTING WITH AMENDMENTS CHAPTER 128, ZONING OF THE TOWN CODE, ADOPTING A NEW OFFICIAL ZONING MAP FOR THE TOWN OF DENTON, AND ADOPTING A NEW OFFICIAL CRITICAL AREA OVERLAY DISTRICT MAP FOR THE TOWN

WHEREAS, the Town of Denton is authorized by Maryland Annotated Code Article 66B §4.01 *et seq.* to enact and administer a zoning ordinance, which ordinance is Chapter 128 of the Denton Town Code; and

WHEREAS, the Town of Denton is authorized by Maryland Annotated Code Article 66B §§4.04 and 4.05 to amend, supplement, modify or repeal sections of the zoning ordinance; and

WHEREAS, the Town of Denton has recently adopted a new Comprehensive Plan for the Town; and

WHEREAS, in order to implement the provisions of the newly adopted Comprehensive Plan, the Town proposes numerous revisions to Chapter 128, Zoning of the Town Code such that the Town wishes to repeal and reenact with amendments the entire Chapter 128, Zoning; and

WHEREAS, in accordance with the newly adopted Comprehensive Plan, the Town also proposes to adopt a new Comprehensive Zoning Map and a new Critical Area Overlay District Map for the Town; and

WHEREAS, the Denton Planning Commission considered the revised Chapter 128, Zoning, Comprehensive Zoning Map, and Critical Area Overlay District Map at its August 31, 2010 meeting and has recommended that the Town Council approve this Ordinance; and

WHEREAS, the Town Council held a public hearing on the revised Chapter 128, Zoning, the Comprehensive Zoning Map, and Critical Area Overlay District Map on September 13, 2010.

NOW, THEREFORE, the Town of Denton hereby ordains:

Section 1: The recitals set forth above are incorporated herein by reference and made a part of this Ordinance.

Section 2: Chapter 128, Zoning of the Town Code shall be repealed and reenacted with amendments to read as shown on the attached Exhibit A.

Section 3: The Official Zoning Map, a copy of which is attached hereto as Exhibit B, shall be the Official Zoning Map of the Town.

Section 4: The Official Critical Area Overlay District Map, a copy of which is attached hereto as Exhibit C, shall be the Critical Area Map for the Town.

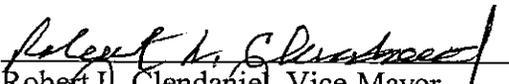
Section 5: The original Official Zoning Map of the Town and the original Official Critical Area Overlay District Map for the Town shall be located in the Department of Planning and Codes Administration.

Section 6. In accordance with § C3-12 of the Town Charter, this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect seven (7) days from and after the date of its final passage and adoption, except that in accordance with Article 66B, Section 4.04 of the Maryland Annotated Code, this ordinance shall not be effective until at least ten (10) days after a public hearing is held.

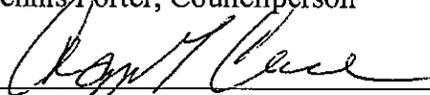
ENACTED THIS 13<sup>th</sup> DAY OF September, 2010.

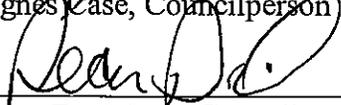
DENTON TOWN COUNCIL:

  
Conway Gregory, Mayor

  
Robert L. Clendaniel, Vice-Mayor

  
Dennis Porter, Councilperson

  
Agnes Case, Councilperson

  
Dean Danielson, Councilperson

ATTEST:

Karen L. Monteith  
Karen L. Monteith

Approved for legal sufficiency this 13<sup>th</sup> day of September, 2010.

Sharon M. Van Emburj  
~~Stephen H. Kehoc~~, Esquire  
Sharon M. Van Emburj

Date Introduced 8/9/10  
Date Amendments Introduced \_\_\_\_\_  
Date Passed 9/13/10  
Effective Date 9/23/10