

**CODE HOME RULE  
BILL NO. 2-17**

**A Bill Entitled:**

**“AN ACT TO REPEAL AND REENACT PART 4 OF CHAPTER 360 OF THE  
CODE OF PUBLIC LOCAL LAWS OF  
ALLEGANY COUNTY, MARYLAND (2011 EDITION)”**

**SECTION I.**

For the purpose of revising and updating the provisions of Part 4 Zoning of the Land Development Chapter 360 of the *Code of Public Local Laws of Allegany County, Maryland (2011 Edition)*, and pursuant to authority granted by the Legislature of the State of Maryland, said Part 4 of Chapter 360 of the *Code of Public Local Laws of Allegany County, Maryland (2011 Edition)* is hereby repealed, and a new Part 4 of Chapter 360 is hereby reenacted as follows:

**Chapter 360  
LAND DEVELOPMENT**

**Part 4  
Zoning**

**ARTICLE XIII  
General Provisions**

**§ 360-58. Purpose and Authority.**

- A. Purpose. This Part 4 is intended to regulate land use, the size of lots and the location, size and use of buildings and other structures for the purpose of providing sufficient and appropriate amounts of land for business and industry, residential use, public and private institutions, agriculture, open space and other purposes; and to ensure that these uses are consistent with the policies and recommendations of the Allegany County Comprehensive Plan and to provide for the harmonious and orderly development of the County in a manner which preserves the natural environment and the quality of life of its citizens.
- B. Authority. This Part 4 is adopted under the authority of and in compliance with the provisions of the Land Use Article of the Annotated Code of Maryland.
- C. Jurisdiction. This Part 4 shall apply to the unincorporated area of Allegany County.

- D. Severability. It is hereby declared to be the intention of the Allegany County Board of County Commissioners that the sections, paragraphs, sentences, clauses, and phrases of this Code are severable, and if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgement or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this code since the same would have been enacted without the incorporation into this code of such unconstitutional or invalid section, paragraph, sentence, clause, or phrase.
  
- E. No Use of Land or Buildings Except in Conformity with Code Provisions
  - (1) Subject to Article XIX Nonconforming Uses of this Code, no person may use or occupy any land or buildings or authorize or permit the use or occupancy of land or buildings under his control except in accordance with all of the applicable provisions of this Code.
  
  - (2) For the purposes of this section, the "use" or "occupancy" of a building or lands relates to anything and everything that is done to, on, or in that building or land.

**§ 360-59. Definitions and word usage.**

- A. All definitions applicable to this Part 4 are contained in Code Appendix 1: Stormwater Management and Zoning Definitions
  
- B. Terms defined. As used in this Part 4, the following terms shall have the meanings indicated:

- (1) Zoning terms and definitions.

ACCESSORY STRUCTURE - A detached structure on the same parcel of property as the principle structure, the use of which is incidental to the principle structure. Includes private garages, private swimming pools, storage buildings, carports, on-site communication structures and other essential service structures. Does not include mobile homes.

ADULT BOOKSTORE - A business establishment open to the public, or to members, that offers for sale or rental any printed, recorded, photographed, filmed or otherwise viewable material, or any sexually oriented paraphernalia or aid, if a substantial portion of the stock or trade is characterized by an emphasis on matters depicting, describing or relating to sexual activities.

ADULT LIVE ENTERTAINMENT USE - A commercial use or club involving employees, contractors or other workers displaying uncovered male or female genitals or nude female breasts related to some form of monetary compensation paid to the entity operating the use or to persons involved in such display.

ADULT THEATER - A business establishment open to the public, or to members, that maintains display devices for viewing on the premises films, videos or other viewable material, if a substantial portion of the stock or trade is characterized by an emphasis on matters depicting, describing or relating to sexual activities.

ADULT USE - A use involving one or more of the following: adult bookstore, adult live entertainment use, adult theater, and/or massage parlor. These uses shall only be permitted in a zoning district where the use is specifically permitted by this Part 4.

AGRICULTURAL OPERATION - Includes, but is not limited to, all matters set forth in the definition of "operation" in the Maryland Code, Courts and Judicial Proceedings, Article 5-403(c) to be known as the "Allegany County Right to Farm," including cultivation and tillage of the soil; dairying, the spreading of manure, lime, fertilizer and the like; composting; spraying; producing; irrigating, protecting from frost, cultivating, growing, harvesting and processing of any agricultural crops or commodities; including viticulture, horticulture, timber or apiculture, raising fish or poultry and other fowl; production of eggs; production of milk and dairy products; production of livestock, including pasturage; fur-bearing animals, production of bees and their products; production of fruit, vegetables and other horticultural crops; production of aquatic plants; agriculture; production of timber; and any commercial agricultural practices or procedure performed as incident to or in conjunction with such operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market; usage of land in furtherance of educational and social goals (including, but not limited to 4-H Clubs and Future Farmers of America), agro-tourism and alternative agriculture enterprises; and the like. Operation at any time of machinery used in farm production or the primary processing of agricultural products is included. Storage of farm equipment, machinery or agricultural products is also included. Normal agricultural operations performed in accordance with generally accepted agricultural management practices which are authorized by various governmental agencies such as the Cooperative Extension Service and the Allegany County Soil Conservation District are permitted along with activities which may produce normal agricultural related noise and odors. Agricultural definition: raising, storage and processing of crops, plants, produce, animals, animal products, poultry and poultry products, and forest products. On lots less than two acres in size in the R-1 District, animal and poultry husbandry are considered nonconforming uses. Agriculture does not include the location of dwelling units on a parcel unless the requirements of Part 1 of this chapter, Subdivision Regulations, are met. Feeding swine, cattle or poultry in a building, feed lot or other facility holding more than 500 animals or 10,000 birds is not considered a normal agricultural use, but is considered to be a concentrated animal feeding operation.

**AGRICULTURAL STRUCTURE** - Includes barns, silos, storage buildings, garages and other structures associated with an agricultural use.

**ALLEY** - A right-of-way which affords generally a secondary means of vehicular access to abutting properties and not intended for general traffic circulation.

**BAR** - A commercial establishment that sells and serves alcohol to the public and does not meet the definition of a restaurant. Includes bars, taverns, saloons, night clubs, and dance halls.

**BILLBOARD** - A freestanding sign, other than a directional sign, not on the site where the advertised function is located.

**BUILDABLE LOT** - See Development Standards in Article XX Development Standards.

**BUILDING** - Any structure having a roof which is designed, built or occupied as a shelter for persons, animals or property or for commercial, industrial, institutional or other purposes.

**BUILDING CODE** - Includes any Building Code as adopted and amended by Allegany County.

**BUILDING\_LINE** - The line at the exterior edge of the roof, porch or patio of any building or the furthest extension of such building. This line must be at a distance at least equal to the required setback for the permitted use.

**BUILDING PERMIT** - A certificate that authorizes construction of a building or structure that is subject to the permitting requirements set forth by the Building Code of Allegany County. The requirements of permitting include the following: application, plan review, approval, inspection, and the issuance of a certificate of occupancy.

**COMAR 26** - Code of Maryland Regulations, Title 26, Department of the Environment, Regulation of Water Supply, Sewage Disposal and Solid Waste. All references to wells, septic systems, community water or sewer systems, public or major water or sewer systems are to be in conformance with COMAR 26.

**COMMERCIAL** -

(a) **MAJOR COMMERCIAL** - Major commercial uses may provide products or services on a regional scale and have greater impact than neighborhood commercial uses. May include neighborhood commercial uses, as well as personal services establishments, wholesale and retail stores, offices or office buildings, motels and hotels, bowling alleys, indoor and outdoor theaters, publishing houses, sign painting shops, building materials sales and storage,

warehouses, feed and grain sales and milling and storage, auto repair shops, car and truck sales, plant nurseries, bakeries and uses similar to those listed above.

(b) **NEIGHBORHOOD COMMERCIAL** - Neighborhood commercial uses provide products or services for the nearby residential areas and are small-scale and have lesser impacts than major commercial uses. May include grocery stores, retail stores, service stations, specialty shops, barbershops, hairdressers, professional offices, restaurants, printing shops, indoor theaters, government service offices, banks, car wash, shops for sale or repair of appliances, auto parts or repair shops, commercial storage facilities and uses similar to those listed above.

**COMPLETION** - With respect to building construction, the erection of footings, exterior walls and roof and the installation of windows and doors; with respect to site preparation or grading, final grading, stabilization of the land surface, seeding and mulching; with respect to commercial entrances, includes the construction of curbs, gutters and final paving.

**COMPREHENSIVE PLAN** - The County Comprehensive Plan, as updated or amended, and any part of such plan.

**CONCENTRATED ANIMAL FEEDING OPERATION** - Feeding swine, cattle or poultry in a building, feed lot or other facility holding more than 500 animals or 10,000 birds

**CONDITIONAL USE** - See "Special Exception."

**CONDOMINIUM** - A structure where individual units may be sold to occupants but the lot site is held in common ownership or retained by the developer or other person. So long as the lot itself is not subdivided, the sale of condominium units are not subject to subdivision regulations. Condominiums may include combination commercial-residential structures if both uses are permitted in a particular zoning district.

**CONSTRUCTION** - The process of erecting a structure; includes the process from grading or excavation of a lot or parcel through the complete erection or installation of a building or other structure and the final grading and stabilizing of the land surface.

**CONTRACTOR'S STORAGE YARD** - A facility, area or parcel erected and arranged for the storage of construction materials, equipment, and/or commercial vehicles utilized by building and construction contractors, craftsmen, tradesmen, or service providers; may include field office(s) related to such activities.

**DAY-CARE CENTER** - Any premises where care is provided simultaneously for children who are not relatives of the operator; considered an institutional use.

**DEVELOPMENT STANDARDS** - A set of criteria to be used in the design of planned developments and for commercial, industrial or institutional uses.

**DUPLEX** - A building containing two dwelling units under a common roof and situated on one lot. Detached single-family dwelling units or accessory structures on adjacent lots may not be connected structurally unless the lots are combined into one lot by deed.

**DWELLING UNIT** - Includes single-family units, duplex units, mobile homes, multifamily units, townhouses, condominium units and any other structure intended for human habitation.

**ESSENTIAL SERVICES** - Limited to streets, access roads, highways, rail lines and sidings, gas and oil pipelines, underground or overhead electrical and communications systems (except WECS, cellular, relay and transmitting towers), water or sewage systems (except sewage treatment plants), poles, towers, wires, lines, mains, drains, sewers, conduits, cables, substations, fire alarm boxes, police call boxes, traffic signals, hydrants, regulating and measuring devices and other similar equipment and accessories in connection therewith and signs identifying the service. Access roads, rail lines, pipelines and other essential services may be constructed across any zoning district to serve a use not expressly allowed in that district.

**EXTRACTIVE INDUSTRY** - Surface or subsurface mines for coal, clay, stone or other minerals; quarries; oil or gas drilling; sand and gravel pits; and borrow pits. Exploration for the above is permitted in all districts except the R-1 or R-2 Districts.

**FLOODPLAIN** - That area along or adjacent to a stream or body of water which has been or is expected to be inundated by the one-hundred-year frequency flood. Where applicable, this area will be determined by the latest Flood Insurance Study prepared by the Federal Emergency Management Agency (FEMA).

**FLOODPLAIN REGULATIONS** - Chapter 325, Floodplain Management, as adopted and amended.

**GRADING** - Any act by which soil, earth or rock is cleared, stripped, stockpiled, excavated, scarified, filled or any combination thereof.

**GROUP HOME** - A dwelling owned or leased by a governmental agency, nonprofit organization or private institution and used to house a group of persons unrelated by blood, marriage or adoption and with a resident staff employed as counselors or surrogate parents; considered an institutional use.

**HEIGHT OF BUILDING OR STRUCTURE** - The vertical distance measured from the finished grade at the front building line facing the street to the highest point of the building or structure.

**HOME OCCUPATION** - A business conducted by the resident, which is incidental and secondary to residential occupancy and does not change the residential character of the property. Home occupations include professional services, repair shops, day care centers, manufacture and sale of specialty items made on the premises and the storage of items to be delivered for sale by a vehicle to another site.

**HORTICULTURAL** - Includes raising of crops, flowers, shrubs, fruits and vegetables.

**INDUSTRIAL** - Includes manufacturing, assembly or processing plants, research and development facilities, storage tanks, utility plants and stations, slaughterhouses, railroad yards and service facilities, truck or motor freight warehouses or terminals, sales and leasing of industrial equipment, machinery or parts and extractive-type industries.

**INDUSTRIALIZED DWELLING (MODULAR)** - A building assembly or system of building subassemblies manufactured in its entirety, or in substantial part, off site without chassis and transported to the point of use for installation or erection, with or without other specified components, as a finished building or as a part of a finished building comprising two or more industrialized building units. "Industrialized building" does not include open frame construction which can be completely inspected on site.

**INSTITUTIONAL** - Includes schools, day-care centers, hospitals, churches, cemeteries, funeral homes, government offices, nursing homes, group homes, fire stations, community buildings, fraternal organizations, publicly owned recreation areas or any similar government or private use; does not include landfills or sewage treatment plants.

**JUNKYARD** - See "salvage yard."

**LANDFILL** - A solid waste facility as approved in the County Solid Waste Management Plan.

**LAND USE PERMIT** - A permit issued for the construction of a building or structure or for a particular use of a parcel of land or building or for grading, mining or other extractive process.

**LOT** - A contiguous area of land separated from other parcels of land by a boundary which is described on a subdivision plat or deed and, where necessary, properly approved by the Planning Commission and properly recorded with the

Clerk of the Circuit Court; includes the following meanings: parcel, tract or plot of land.

**LOT AREA** - The total horizontal areas of a lot as determined by the closure of the rear, side and front lot lines but does not include area lying within a publicly dedicated right-of-way.

**LOT DEPTH** - The distance between the front and rear lot lines. Newly created lots must have depth equal to or greater than the required lot depth for the type of use throughout its width. Lots which straddle a right-of-way must meet the same criteria on each side of the right-of-way.

**LOT LINES** - Lines of survey described in a recorded deed, subdivision plat or other instrument.

**LOT OF RECORD** - A lot or parcel of land separated from other parcels of land by a boundary which is described in a recorded deed, subdivision plat, survey map or other recorded description. Such description shall have been recorded with the Clerk of the Circuit Court prior to the effective date of the State Subdivision Regulations, March 3, 1972.

**LOT SPLIT** - A portion of an existing lot or parcel which is transferred to an adjacent parcel (See § 360-12 of Part 1, Subdivision Regulations). Also known as a lot line adjustment.

**LOT WIDTH** - The distance between the side lot lines measured at the front lot line on a public right-of-way. Newly created panhandle lots must have a handle with road frontage equal to or greater than the required lot width for the type of use. Lots on curved streets or cul-de-sac are measured at the setback line for lot width.

**LUMBERYARD** - Storage and sale of lumber products and related building materials; does not include sawmills, planing mills and the like.

**MANUFACTURED HOME (MOBILE HOME, SINGLE OR DOUBLE-WIDE)** - A structure, transportable in one or more sections, which in the traveling mode is eight body feet (2,438 body mm) or more in width or 40 body feet (12,192 body mm) or more in length, or, when erected on site, is 320 square feet (30 m<sup>2</sup>) or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein; except that such term shall include any structure that meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary (HUD) and complies with the standards established under this title. For mobile homes built prior to June 15, 1976, a label certifying compliance to the



Standard for Mobile Homes, NFPA 501, in effect at the time of manufacture is required. For the purpose of these provisions, a mobile home shall be considered a manufactured home.

**MASSAGE PARLOR** - A use in which manipulative exercises using the hands or a handheld mechanical device are conducted by one or more persons on the exposed skin of one or more other persons within private or semiprivate rooms, and that is related to some form of monetary compensation paid by the person(s) receiving the massage. This use shall not include any of the following:

- (a) Massages by state-licensed massage therapists or health-care professionals;
- (b) Massages involving persons who are related to each other;
- (c) Massages within a licensed hospital or nursing home;
- (d) Hand massages of the face, hands or feet; or
- (e) Therapeutic massages that are clearly incidental to a permitted exercise club or municipal, college or high school athletic program.

**MIXED-USE DEVELOPMENT** - A single development of more than one building and use, where the different types of land uses are in close proximity, planned as a unified complementary whole, and functionally integrated to the use of shared vehicular and pedestrian access and parking areas.

**MOBILE HOME, SINGLE-WIDE** - See "manufactured home."

**MOBILE HOME, DOUBLE-WIDE** - See "manufactured home."

**MOBILE HOME PARK** - A planned development containing two or more mobile homes required to have a common water and sewer system and internal road system.

**MODULAR HOME** - See "industrialized dwelling."

**MOTEL/HOTEL** - An establishment that provides lodging with access to rooms from either the exterior or interior of buildings.

**MOTOR HOME** - See "travel trailer."

**MULTIFAMILY HOUSING** - A structure or structures containing more than two dwelling units, including condominiums and apartment buildings, having a common water and sewer system and an internal road or parking system.

**NEIGHBORHOOD CONVENIENCE CENTER** - A small-scale shopping center housing neighborhood commercial uses in one structure or in several structures on the same site served by common utility systems and parking facilities.

**PLANNED DEVELOPMENT** - Includes planned residential developments, mixed-use developments, industrial parks, shopping centers, neighborhood convenience centers, mobile home parks, campgrounds and resorts, having water and/or sewer systems and an internal road system maintained by the developer or his assigns.

**PLANNED RESIDENTIAL DEVELOPMENT** - The development of any combination of residential uses including single family, multifamily, condominiums and townhouses. The development must have water and sewer systems in accordance with the Environmental Article of the Annotated Code of Maryland and an internal road system in accordance with Part 1, Subdivision Regulations.

**PLATTED STREET** - A public right-of-way so designated on a recorded plat.

**PRINCIPAL STRUCTURE OR USE** - The structure or use which is the primary permitted use on a particular lot or parcel; e.g., one single-family dwelling is the principal structure on an individual residential lot.

**PUBLIC UTILITIES STRUCTURES** - Includes electric substations, pump stations, water tanks, standpipes and related structures larger than 100 square feet; does not include buildings used to house these facilities or offices, treatment plants or storage buildings related to essential services or public utilities.

**RECREATIONAL USE** - Includes parks, playgrounds, swimming pools, skating rinks, tennis courts, golf courses and driving ranges, campgrounds, resorts, stadia, racetracks, fairgrounds and outdoor theaters. Recreation does not include the location of single-family dwellings, mobile homes, tents, travel trailers or campers on a parcel unless the requirements of the Subdivision Regulations are met.

**RECREATIONAL VEHICLE** - See "travel trailer."

**RESTAURANT** - Includes any commercial establishment located in a permanent building where meals are prepared, sold or served to the public and which derives a minimum of 60% of its gross monthly revenue from the sale of food.

**SALVAGE YARD** - Any land or building licensed and used for abandonment, storage, keeping, collecting or baling of paper, rags, scrap metals, other scrap or discarded materials or for abandonment, demolition, dismantling, storage or salvaging of unlicensed automobiles or other unlicensed vehicles not in running condition or machinery or parts thereof.

**SCREENING BUFFER** - A vegetated area designated to separate and provide a visual screening between specified uses. Vegetation should provide visual screening, as appropriate, and may include evergreen shrubs or trees. If the buffer width has existing mature vegetation that provides acceptable screening then the buffer area may remain undisturbed.

**SEDIMENT AND EROSION CONTROL CODE** - Part 2, Allegany County Sediment and Erosion Control Code, as adopted and amended.

**SERVICE STATION** - A structure or land used or intended to be used primarily for the sale of fuel for automobiles and other vehicles, and for the service and repair of automobiles and other vehicles up to a gvwt of 10,000 pounds. Service and repair, parking or storage of trucks over 10,000 pounds gvwt is not considered a permitted use under this definition.

**SETBACK** - A specified distance which a building or use must be from adjacent lots, other structures, rights-of-way or easements, stream channels or wetlands. Also referred to as a building restriction line.

**SEWAGE TREATMENT PLANT** - A facility for the treatment of sewage, subject to approval in the County Master Plan for Water and Sewer and permitted in Industrial Districts by right and through Special Exception in GU, Agriculture, and Conservation Districts.

**SEWER SYSTEM** - Includes community and major systems as defined by COMAR 26.04.03.

**SHOPPING CENTER** - A building or collection of structures containing several major commercial uses on the same parcel or site served by common utility systems and parking facilities.

**SINGLE-FAMILY DWELLING** - A detached dwelling unit including manufactured double-wide mobile homes 22 feet or greater in width and industrial modular homes intended to house one family. In the R-1 District, manufactured double-wide mobile homes are to be placed on a permanent, fully enclosed foundation (i.e., crawl space or basement) and must have a gabled roof the entire length of the structure.

**SITE PLAN** - A plan showing the layout of a proposed use or building; includes minor, standard and major site plans.

**SMALL-SCALE PRODUCT DEVELOPMENT AND TECHNOLOGICAL INNOVATION ENTERPRISES** - A land use that includes research and design and other light manufacturing. May include growing, production and sale of specialty agricultural products such as farm-brewed beer and ales and other

agricultural businesses, also including agricultural related events such as a Spring/Fall Farm Harvest, an agricultural product launching event or events that promote a product from the farm.

**SOLAR ENERGY SYSTEMS** - Panels or other solar energy devices, the primary purpose of which is to provide for the collection, inversion, storage and distribution of solar energy for electricity generation, space heating, space cooling or water heating. Solar panels designed and utilized for heating swimming pools are not considered to be solar energy systems.

**SOLAR ENERGY SYSTEMS AS PRIMARY USE** - An energy generation facility or area of land used primarily to convert solar energy into electricity.

**SOLID WASTE PROCESSING/RESOURCE RECOVERY FACILITY** - A place or facility where a combination of structures, machinery or devices is used to reduce or alter the volume, chemical or physical characteristics of solid waste. The component materials of solid waste may also be recovered for use as raw materials or energy sources. A solid waste processing/resource recovery facility may be associated with a solid waste transfer station. For the purposes of this Part 4, solid waste collection, and recycling collection centers are not considered solid waste processing/resource recovery facilities. (Solid waste processing/resource recovery facilities are also subject to regulation by the Maryland Department of the Environment under COMAR 26.04.07.)

**SOLID WASTE TRANSFER STATIONS** - A place or facility where solid waste materials are taken from one collection vehicle (e.g., compactor trucks) and placed in another transportation unit (e.g., tractor trailer, railroad car) for movement to other solid waste acceptance facilities. A solid waste transfer station may be associated with a solid waste processing/resource recovery facility. For the purposes of this Part 4, solid waste collection and recycling collection centers are not considered solid waste transfer stations. (Solid waste transfer stations are also subject to regulation by the Maryland Department of the Environment under COMAR 26.04.07.)

**SPECIAL EXCEPTION** - A land use that is subject to Board of Appeals review and approval.

**STATE** - Includes the Maryland Department of the Environment, the County Health Department and the State Health Officer for Allegany County.

**STORMWATER MANAGEMENT CODE** - Part 3, Stormwater Management, as adopted and amended.

**STREETS** - A way for vehicular traffic whether designated as a street or highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated. A public street is one that has been dedicated to

public use. A publicly maintained street is one that has been accepted for maintenance by the County or other governmental agency.

(a) PRINCIPAL ARTERIALS

- [1] Serve interstate and intrastate travel.
- [2] Serve as major truck routes.
- [3] Have fully controlled limited access.
- [4] Connects Allegany County with major population centers (greater than 50,000).

(b) MAJOR ARTERIALS

- [1] Serve interstate and intrastate travel.
- [2] Serve as truck routes.
- [3] Partially controlled access.
- [4] Connects population centers within Allegany County and smaller population centers (less than 50,000) outside the County.

(c) MINOR ARTERIAL

- [1] Serve intracounty travel.
- [2] Connect principal and major arterials, particularly in urbanized areas.
- [3] Partially controlled access.
- [4] Connect small population centers with major towns inside the County.

(d) LOCAL STREETS

- [1] Serve intracounty travel in the urban areas of the County.
- [2] Access controlled by lot width of the permitted use.
- [3] Includes connector and collector streets.

(e) OTHER NONURBAN ROUTES

- [1] Serve intracounty travel outside the urban areas of the County.
- [2] Serve agricultural uses, forests, parks and isolated residences.

(f) COAL-HAUL ROADS

- [1] Connect coal mine preparation plants and other mining uses with arterial state highways.

(g) INDUSTRIAL PARK ACCESS ROADS

- [1] Connect County industrial parks with arterial state highways.
- [2] Generally designed as loop roads.

(h) INTERNAL STREETS

[1] A system of roads, streets or parking areas within a planned development designed to serve that development and connected to a publicly maintained road or street.

[2] Responsibility for maintenance of internal streets remains with the developer or his assigns.

**STRUCTURE** - Includes buildings, public utilities structures and other freestanding man-made structures anchored to or sitting upon the earth.

**SUBDIVISION REGULATIONS** - Part 1, Subdivision Regulations, as adopted or amended.

**SUBSURFACE MINERAL EXTRACTION** - Deep mining for coal and other minerals, drilling for oil and gas and other minerals.

**SURFACE MINING** - Includes strip mining of coal, quarrying of stone, sand and gravel pits, borrow areas and the like; includes accessory structures related to the mining use.

**TIMBER OPERATION** - Removal of woody plants involving grading; requires compliance with grading requirements in Part 2, Sediment and Erosion Control, of this chapter; does not include the removal of woody plants in conjunction with site preparation for other permitted uses.

**TOWNHOUSE** - A self-contained unit forming one of a series of at least three attached single-family dwellings on individual lots or a common lot separated from one another by a common wall without doors, windows or other provisions for human passage through such walls.

**TRAVEL TRAILER** - A vehicle primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.

**TRUCK** - As used in the definition, the term “truck” does not include any vehicle whose maximum gross vehicle weight (gvw) is 10,000 pounds or less, as rated by the Maryland Motor Vehicle Administration.

**TRUCK REPAIR FACILITY** - A facility other than a truck stop or terminal facility, including a truck yard (the primary purpose of which is to accommodate the parking or storage of trucks truck trailers awaiting repair or maintenance).

**TRUCK STOP** - A structure or land used or intended to be used primarily for the sale of fuel for trucks and, usually, incidental service or repair of trucks; or a group of facilities consisting of such a use and providing public facilities for eating, sleeping or truck parking.

**TRUCK TERMINAL** - A structure or land used or intended to be used primarily (a) to accommodate the transfer of goods or chattels from trucks or truck trailers to other trucks or truck trailers or to vehicles of other types, in order to facilitate the transportation of such goods or chattels; or (b) for truck or truck trailer storage. A truck terminal may include, as incidental uses only, sleeping quarters and other facilities for trucking personnel, facilities for the service or repair of vehicles, or necessary space for the transitory storage of goods or chattels. The term "trucking facilities" includes facilities for the storage of freight-shipping containers. Land used for the parking, storage or repair of trucks used as an accessory to a lawful business or industrial use of the land that such parking or storage area forms a part of shall not be considered a trucking facility within the meaning of this definition.

**VEGETATIVE BUFFER** - A vegetated area designated to protect a stream or other feature from impervious surfaces. Vegetation may include any type of vegetation, including grass.

**VEHICLE TOWING AND STORAGE FACILITY** - A lot or parcel arranged and dedicated to the purposes of conducting towing services for automobiles and other vehicles and/or commercial storage of vehicles and unmotorized conveyances. The use may also include an impound yard. Authorized use does not include the dismantling and/or salvaging activities or the storage of parts, scrap metal, etc. The use may also be accessory to existing auto sales, lots, auto repair shops, service stations, truck stops, and truck terminals.

**WATER SYSTEM** - Includes community and major systems as defined by COMAR 26.04.03.

**WIND ENERGY DEFINITIONS ARE AS FOLLOWS:**

**AGRICULTURAL WIND ENERGY DEVICE** - A single wind energy device situated in an agricultural setting that is designed and intended to utilize wind power to generate electricity or, in the case of certain agricultural applications, to power equipment or machinery, such as pumps, gears, wheels, mills, or similar mechanical devices incidental to farming. Energy produced by such devices is primarily intended for the use of the individual landowner upon whose property the device is situated.

**DOMESTIC WIND ENERGY DEVICE** - A single wind energy device situated in a residential setting that is designed and intended to utilize wind power to generate electricity primarily for the use and/or benefit of the individual landowner upon whose property the device is situated.

**INDUSTRIAL WIND ENERGY CONVERSION SYSTEMS (IWECS)** - An aggregation of parts including the base, tower, generator, rotor, blades, supports, guy wires and accessory equipment such as utility interconnect and battery banks,

etc., in such configuration as necessary to convert the power of wind into mechanical or electrical energy, i.e., wind charger, windmill or wind turbine. The energy produced by such systems is intended for sale to large-scale energy providers through the electrical grid system.

INDUSTRIAL WIND FARM - (Also referred to as "ARRAY.") Area arranged and dedicated to the construction and maintenance of more than one wind energy conversion system. The energy produced by such systems is intended for sale to large-scale energy providers through the grid system.

WIND ENERGY DEVICE - A wind energy conversion device (usually a turbine) that produces electricity. Turbines are typically manufactured as horizontal axis or vertical axis. Wind energy devices can be classified as industrial, agricultural, or domestic. See "industrial wind energy conversion systems," "agricultural wind energy device," and "domestic wind energy conversion systems."

WIND TURBINE - See "wind energy device."

ZONING VARIANCE - A change of density, bulk or area requirements, with respect to the location of a building or a use on a lot of record, where the physical or natural character of the lot would otherwise preclude the use of the lot.

C. Word usage.

- (1) The words "shall" and "will" are always mandatory, and the words "may" and "should" are permissive.
- (2) The word "includes" does not limit a term to the specified examples but is intended to extend the term's meaning to all other instances or circumstances of like kind or character.
- (3) The word "person" includes an individual, a corporation, a partnership and incorporated association or any similar entity.
- (4) The phrase "used for" includes the following meanings: arranged for, intended for, designed for or maintained for.
- (5) Words used in the present tense include the future tense, the singular includes the plural, the masculine includes the feminine and neuter genders.
- (6) The word "County" means the Board of County Commissioners of Allegany County, Maryland or any official designated by the County Commissioners to administer and enforce this Part 4. The word "state" means the State of Maryland.
- (7) The terms "Board of County Commissioners", "Board of Appeals", "Land Development Services", "Health Department", "Planning Commission",



"Planning Department", "Public Works Department" and "Soil Conservation District" mean the respective boards, commissions, departments and officers of Allegany County.

**§ 360-60. Zoning Map.**

- A. The County Zoning District Map, prepared in association with this Part 4, is a part of this chapter and a copy is recorded with the Clerk of the Court. The Zoning District Map also appears on the current copy of the County Tax Maps in the County zoning office.
- B. For the purposes of this Part 4, the following districts are established:
  - (1) Urban districts:
    - R-1 Residential 1
    - R-2 Residential 2
    - B-1 Neighborhood Commercial
    - B-2 Major Commercial
    - I Industrial
    - GU General Urban
  - (2) Nonurban districts:
    - A Agriculture, Forestry and Mining
    - C Conservation
  - (3) LaVale Overlay District
- C. Urban districts
  - (1) Urban districts are designed to accommodate various forms of urban development, including residential, commercial, mixed-use, industrial, institutional and recreational uses. In addition, major subdivisions, minor subdivisions and planned developments, including mobile home parks, industrial parks, shopping centers, and neighborhood convenience centers are to be accommodated in the urban districts.
  - (2) In general, urban districts include land already developed for the purposes listed above and include adjacent lands where development is projected to occur in the Allegany County Comprehensive Plan.

D. Nonurban districts

- (1) Nonurban districts are designed to accommodate a number of nonurban land uses, including agriculture, forestry, mining, extractive industries, wildlife habitat, outdoor recreation and communication, transmission and transportation services, as well as to protect floodplain areas, steep slope areas, designated wetlands and habitat areas and public supply watersheds from intense urban development.
- (2) Single-family dwellings and mobile homes in minor subdivisions will also be allowed on individual lots in nonurban districts. Planned residential developments, campgrounds and resorts may be allowed as a Special Exception in non-urban districts, provided that the requirements for major subdivisions are met.

E. LaVale Overlay District

- (1) The LaVale Overlay District is designed to recognize the unique characteristics of the LaVale area which was previously subject to the LaVale Zoning Ordinance which is hereby repealed per § 360-74 of this Code. The purpose of the LaVale Overlay District is to supplement the regulations of the underlying zoning districts. For the purposes of this Code, certain uses that may otherwise be permitted or prohibited in the underlying zoning districts described above, are prohibited or permitted in the LaVale Overlay District (See Table 1, Permissible Uses). In all other respects, the requirements of the base zoning districts apply to the LaVale Overlay District.

**§ 360-61. Zoning district boundaries.**

In transferring zoning district boundaries from the zoning district and tax maps to actual sites in the field, the following criteria are to be followed:

- A. Zoning district lines which appear to be drawn on streets or highways are intended to follow the center line of these streets or highways.
- B. In cases where road and highway rights-of-way are exceptionally wide, zoning district boundaries may follow the right-of-way line of the highway.
- C. Where zoning district lines appear to follow streams or drainage channels, the lines are intended to follow the center line of these streams or drainage channels.
- D. Where zoning district boundaries follow power lines, gas lines, railroad tracks or other rights-of-way, they are also designed to follow the center lines of such rights-of-way.
- E. Where zoning district lines are shown to follow property lines, they do in fact follow the property lines as laid out in the field, even when those property lines are in a different location than shown on the maps.

- F. Where zoning district lines do not follow any of the above-named natural or man-made boundaries, the distance from a nearby man-made or natural boundary will be spelled out on the County Tax Map copies of the Zoning Map.
- G. Where a lot or parcel less than two acres in size is split by a zoning district boundary or a municipal boundary, the use will conform to the district containing more than 50% of the total area. Where buildings are split by a zoning district boundary or a municipal boundary, the same fifty-percent rule shall apply.

**§ 360-62. Exceptions.**

- A. Uses subject to explicit federal or state control are exempt from this Part 4.
- B. This Part 4 shall not apply to public utilities structures or essential services as defined in § 360-59. This does not exempt these services from the provisions of Part 2, Sediment and Erosion Control; Part 3, Stormwater Management; or Chapter 325, Floodplain Management.
- C. No building permit is needed when new construction or enlargement of a building does not exceed 100 square feet, unless the construction involves sanitary facilities or impacts a septic area or well. However, all setbacks must be met for the particular use.

**§ 360-63. Modifications.**

- A. A modification of the zoning regulations is permissible where special physical conditions of the lot or parcel, not the result of actions of the applicant, would make strict enforcement of the regulations unreasonable.
- B. The County may decide the following modification requests after making an on-site investigation and consulting with other appropriate agencies:
  - (1) A modification of 50% or less in lot size or width for lots created prior to March 3, 1972. Lots must meet the minimum size requirements of Maryland COMAR 26.04.03, which is administered by the state.
  - (2) A modification of 75% or less in side yard or rear yard setbacks for lots created prior to March 3, 1972. This includes setbacks from alleys.
  - (3) A modification of 50% or less in front yard setbacks for lots created prior to March 3, 1972. Where lots front on a state highway, the State Highway Administration (SHA) may vary the setback per SHA requirements. The setback building line on a corner lot created prior to March 3, 1972, shall be in accordance with the provisions governing the road or street on which the building faces. If

possible, the side yard clearance on the side street should conform to the setback line for other lots on said road or street, but in no event shall said side yard clearance be less than 25 feet from the center line of the street or 12 1/2 feet from the edge of the right-of-way.

- (4) A modification of 25% or less in building height or sign height.
  - (5) A modification of 75% or less in the setback for residential accessory structures from the principal structure, other accessory structures or from the side or rear lot lines including alleys. Accessory structures less than 100 square feet in size need not meet a setback from other accessory structures. All structures must conform to applicable building code setbacks.
  - (6) A modification of 50% or less in the setback from drainage channel center lines or wetlands with the approval of the Soil Conservation District and the Maryland Department of the Environment, Water Management Administration.
  - (7) A modification of 25% or less to off- street parking standards.
- C. All other modifications must be heard by the Board of Appeals as a zoning variance to the terms of this Part 4. The term "variance" is not intended to be associated with the financial or physical condition of the applicant.

#### **§ 360-64. Planning Commission Established.**

- A. In accordance with the Land Use Article of the Annotated Code of Maryland, there shall be a Planning Commission consisting of five (5) members, all of whom shall be residents of Allegany County and shall be qualified by knowledge and experience in matters pertaining to the development of the County. Members of the Planning Commission shall be appointed by the County Commissioners. Members shall be appointed for terms of five (5) years or until their successors are appointed and qualified. The respective terms of the members shall be on a staggered basis. Vacancies shall be filled by appointment by the County Commissioners for the unexpired term only. Members of the Commission may receive such compensation as deemed appropriate and shall be reimbursed for all necessary and reasonable expenses actually incurred in the performance of their official duties.

#### **§ 360-65. Meetings of the Planning Commission**

- A. The Planning Commission shall establish a regular meeting schedule and shall meet frequently enough so that it can take action on all complete applications in an expeditious manner. This shall entail at least one regular meeting each month.

- B. Meetings of the Planning Commission shall be conducted in accordance with Roberts Rules of Order. Staff from the Department of Community Services shall be present during all deliberations by the Planning Commission and shall answer such questions and render such advice and assistance as may be appropriate to the action being taken, but such staff shall not participate in the decision of the Commission beyond the submitting of a staff recommendation as to the action proposed to be taken in each case. The Commission may establish such other rules of procedure as deemed necessary, consistent with this Code.
- C. Minutes shall be kept of all Planning Commission proceedings.
- D. All Planning Commission meetings shall be open to the public and the tentative agenda for each commission meeting shall be made available in advance of the meeting in accordance with § 3-305 of the General Purposes Article of the Annotated Code of Maryland.

**§ 360-66. Quorum and Voting**

- A. A quorum for the Planning Commission shall consist of a majority of the Commission membership (excluding vacant seats). A quorum is necessary for the Commission to take official action.
- B. All actions of the Planning Commission shall be taken by majority vote, a quorum being present.
- C. A roll call vote shall be taken upon the request of any member.

**§ 360-67. Planning Commission Chairperson**

- A. The Planning Commission shall elect, by the 31st of January each year, a chairperson and vice-chairperson who shall serve for one (1) year. If the Planning Commission fails to elect a chairperson by the 31st of January each year, the County Commissioners will appoint a chairperson.
- B. The chairperson and vice-chairperson may take part in all deliberations and vote on all issues.

**§ 360-68. Powers and Duties of Planning Commission**

- A. The Planning Commission shall have the following powers and duties:
  - (1) Review, evaluate, and approve or disapprove plans for subdivisions and site plans in accordance with this Code and the Allegany County Subdivision Regulations.
  - (2) Review and make recommendations to the County Commissioners regarding:

- (a) Proposed changes or amendments to the County Comprehensive Plan.
  - (b) Proposed amendments to the County Zoning Code and Rezonings.
  - (c) Proposed designation of historic sites or districts.
  - (d) Proposed changes or amendments to the County Subdivision Regulations.
  - (e) Proposed changes in land use or development arising from state or federal programs or policies.
  - (f) Proposed amendments to the County Forest Conservation Regulations.
- (3) Make recommendations to the Board of Appeals regarding applications for Special Exceptions.
- B. The Planning Commission may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this Code.

**§ 360-69. Planning Commission Member Removal**

- A. The County Commissioners may remove a member of the Planning Commission in accordance with § 2-102 of the Land Use Article of the Annotated Code of Maryland.

**§ 360-70. Zoning Administrator**

- A. Except as otherwise specifically provided, primary responsibility for administering and enforcing this Code shall be the County Zoning Administrator as designated by the County Commissioners. The Administrator may assign responsibility to one or more individuals. The person or persons to whom these functions are assigned shall be referred to in this Code as the "Zoning Administrator" or "Administrator". The term "staff" is sometimes used interchangeably with the term "administrator".

**§360-71. Amendments.**

- A. General. This Part 4, in whole or in part, may be amended and changed, supplanted or repealed by the Allegany County Commissioners. Amendments may be of three kinds:
- (1) Amendments to the text of this Part 4.
  - (2) Amendments to the zoning district maps (rezoning).
  - (3) Comprehensive updates or amendments to either Part 4 or to the zoning district maps.

B. Procedure for text amendments and zoning map amendments. The procedure for first two types of amendments is as follows:

- (1) Any person or group, landowner, developer, the Planning Commission or the Board of County Commissioners may initiate the amendment process for text changes.
- (2) Any person may initiate the rezoning process for his own property or provide written permission from another party to initiate the rezoning process for that property.
- (3) The Planning Commission shall hold a public hearing on any proposed amendment. At least 15 days' notice of the time and place of the hearing shall be published in a newspaper of general circulation in the County.
- (4) In the case of a map amendment, at least five days prior to its hearing, the County shall notify all property owners adjoining the property to be rezoned, including the owners of property separated by roads, railroads or other rights-of-ways. Property owners shall be identified from the current Tax Map. The County shall require the applicant to post a county rezoning notice sign on the property to be rezoned at least five days prior to the Planning Commission hearing.
- (5) The Planning Commission shall make its recommendation to the Board of County Commissioners within 30 days after the public hearing.
- (6) The Board of County Commissioners shall hold a public hearing on the proposed amendment within 60 days of receipt of the Planning Commission's recommendation. Prior to the public hearing, a public notice stating the time and place of the public hearing, together with a summary of the proposed regulation or boundary, shall be published in a newspaper of general circulation in the County once each week for two consecutive weeks. The first notice shall be published at least 15 days before the hearing.
- (7) The Board of County Commissioners will confirm, deny or alter the recommendation of the Planning Commission within 30 days after the County Commissioners' public hearing.
- (8) Where the purpose and effect of the proposed amendment classification is to change the zoning classification, the Board of County Commissioners shall make findings of fact in each specific case as required by the Land Use Article of the Annotated Code of Maryland. A complete record of hearing and the votes of all members of the Board of County Commissioners shall be kept.
- (9) Restriction upon acceptance of application for reclassification. An application for a reclassification shall not be accepted for filing by the County if the application is for the reclassification of the whole or any part of land the reclassification of

which has been denied by the Board of County Commissioners within 12 months from the date of the Board of County Commissioners' decision.

C. Procedure for comprehensive updates or amendments.

- (1) The comprehensive update procedure may be initiated by either the County Commissioners or the Planning Commission in the following instances:
  - (a) Following an update to the Comprehensive Plan.
  - (b) Following an annual review of the County Zoning Code and Map at the end of each fiscal year.
- (2) The comprehensive update procedure will follow Subsection B(3), (5), (6) and (7).

**§ 360-72. Fees.**

Fees to partially cover the cost of considering permit applications, examining site plans, conducting inspections, issuing permits and holding Board of Appeals hearings and rezoning hearings shall be collected at the time of application in accordance with such schedule of charges as may be adopted by the County Commissioners and amended from time to time. Permit applications shall not be processed until fees are paid.

**§ 360-73. Violations and Penalties.**

Violations of this Part 4 shall be punishable as provided in § 360-140 Administration and Enforcement.

**§ 360-74. Repealer.**

The Allegany County Zoning Code effective January 13, 1997, and all amendments as well as Ordinance No.1 of LaVale Zoning Board adopted January 1, 1998 and all amendments are repealed as of the effective date of this Part 4.

ARTICLE XIV  
**Permit Procedure**

**§ 360-75. Permit Application and Approval.**

- A. Except as provided in § 360-62 of this Part 4, a permit must be obtained from the County prior to the start of any land development, including clearing, timbering, grading,



construction of any building or other structure, or prior to a change in the use of any land in the unincorporated areas of Allegany County.

B. Permit requirements.

- (1) When applicable, permits will be subject to, but not limited to, the following requirements:
  - (a) The requirements of this code.
  - (b) Habitat of threatened or endangered species requirements.
  - (c) Wetlands requirements.
  - (d) Floodplain requirements.
  - (e) Subdivision requirements.
  - (f) Sediment and erosion control requirements.
  - (g) Stormwater management requirements.
  - (h) Building Code requirements.
  - (i) Site plan review requirements.
  - (j) Development standards as contained in Article XX Development Standards of this code.
  - (k) Board of Appeals requirements.
  - (l) Other County and state agency approvals.
- (2) Any permit that is subject to any of the above requirements will not be approved or issued until each requirement is met and the appropriate site plans are approved and bonding, if required, is submitted as specified in Section E below.
- (3) When a permit is subject to approval by other agencies, the County will not sign or issue the permit until the appropriate agencies have referred their approval to the County. A current list of approving agencies may be obtained in the County permits office.
- (4) Approved permits shall be signed by the Zoning Administrator. Permit placards must be displayed on the approved site within public view within 24 hours of receipt of approval and must be continuously displayed until the project is complete or the permit has expired, whichever comes first.

- C. Expiration and transfer of permit application.
- (1) Expiration of permit application. Any permit application which has not been approved and issued within one year of application will be canceled and the permit fee forfeited automatically unless the applicant or his agent receives written permission for an extension from the County.
  - (2) Permit application transfer. Any application transfer request must be made in writing and must be accompanied by a written consent from the original applicant.
- D. Permit expiration. Following the issuance of a permit for building construction, construction must begin within one year and be completed within two years unless the applicant or his agent submits a written request and receives written permission for an extension from the County. Should a permit be subject to a moratorium, appeal or litigation following its issuance, the time period for start of construction does not begin until the moratorium is lifted or until the appeal or litigation is decided. Permits for occupancy or use are good for an indefinite period until the use ceases.
- (1) Transfer of permits. Permits for uses or occupancy other than building construction are good for an indefinite period and may be transferred to subsequent owners. However, any conditions attached to any use or occupancy permit apply to subsequent owners.
  - (2) Grading permit renewal. An issued permit for any grading project that has not been completed within two years of issuance must be renewed in conjunction with a review and approval of updated grading plans by the Soil Conservation District.
- E. Bonding. The County reserves the right to require a performance bond or other financial surety acceptable to the County for any new construction involving improvements, including a new road entrance, public water or sewer installation, road construction, sediment control and stormwater management. The amount of the bond will be set after consultation with the County Engineer and Land Use & Planning Engineer.
- (1) Issuing permits with bonding. Following submission of bonds for required improvements the County may issue permits, provided that all other involved agencies indicate their written approval.
  - (2) Release of bonds. No bond shall qualify for release until construction is complete and the site is compliant with all County and State codes.
  - (3) Bonding associated with subdivisions shall be as set forth in Chapter 360 Part 1. Subdivision Regulations.

## **§ 360-76. Site Plans and Development Standards.**

All applicants shall produce a site plan with the permit application, as described in § 360-143 showing conformance to the requirements for setbacks, yards, erosion and sediment control and, where applicable, stormwater management, public road access, water and sewer service, floodplain, parking and other criteria. Permit applications will not be sent for agency review until the site plan is submitted. The development standards in Article XX Development Standards will be used in preparing site plans. In no event shall employees of Allegany County prepare or assist in the preparation of major site plans. A site plan prepared to meet the criteria or standards of another approving agency may be acceptable in lieu of the criteria listed in Article XX Development Standards at the discretion of the County.

- A. Minor site plans. Any application for small-scale development of less than 600 square feet, such as accessory structures, additions and similar uses which disturb less than 5,000 square feet of surface area, or requires the movement of less than 50 cubic yards of earth, which shows no appreciable impact on sediment control, stormwater or other site factors, shall be accompanied by a minor site plan signed by the applicant and prepared according to the criteria listed in § 360-143. The County, with the advice of the Soil Conservation District or other approving agency, may require the preparation of a standard or major site plan where unusual field conditions would be such that a minor plan would not be sufficient to handle sediment control or stormwater runoff.
  
- B. Standard site plan.
  - (1) Any application for a single-family residential structure in an approved major subdivision, approved minor subdivision or on a lot of record; or residential accessory structure larger than 600 square feet; or other permitted use which does not involve the movement of 250 or more cubic yards of earth or the disturbance of 30,000 square feet of surface area shall be accompanied by a standard site plan signed by the applicant and prepared according to criteria listed in § 360-143.
  - (2) This plan may be used to satisfy the requirements of Part 2, Sediment and Erosion Control, and/or Part 3, Stormwater Management, by inclusion of the required information found in these codes. A previously approved subdivision plat or major site plan may be accepted in lieu of a standard plan if all required information is shown on the plan.
  - (3) The County, with the advice of the Soil Conservation District or other approving agency, may require the preparation of a major site plan where unusual field conditions would be such that a standard plan would not provide sufficient sediment or stormwater runoff control.
  
- C. Major site plan.
  - (1) All other applications, including all planned developments, shall be accompanied by a major site plan prepared and sealed by a registered engineer licensed to practice in the State of Maryland and prepared according to the criteria listed in §

360-143. Where permitted by Maryland law, a registered professional surveyor or landscape architect licensed to practice in Maryland may prepare and seal a major plan. Any project involving work in a mapped floodplain must also be accompanied by a major site plan.

- (2) The major site plan must include the measures required by Part 2, Sediment and Erosion Control, and Part 3, Stormwater Management. The County, with the concurrence of the Soil Conservation District, may allow the use of standard site plan criteria in cases where such a plan would be sufficient to control sediment and/or stormwater runoff.

### **§ 360-77. Planned Development Procedure.**

- A. Types of planned developments. Types of planned developments shall be as follows:
  - (1) Mobile home parks.
  - (2) Campgrounds and resorts.
  - (3) Multifamily housing, condominiums and townhouses.
  - (4) Industrial parks.
  - (5) Shopping centers.
  - (6) Neighborhood convenience centers.
  - (7) Mixed-use developments.
  - (8) Planned residential developments.
- B. In preparing for a planned development, the developer or his agent shall comply with principles and standards in Article XX Development Standards which are similar to those set forth in Part 1, Subdivision Regulations. This procedure will typically include the following:
  - (1) A preplanning conference with the County.
  - (2) The preparation of a sketch plan of the entire tract or property which is to be developed.
  - (3) A sketch plan conference which will be a meeting between the developer and regulatory agencies involved in reviewing the proposal.
  - (4) Major site plan preparation. This site plan will follow the general style and form of preliminary plats for major subdivisions. Where appropriate, the principles and

standards of major subdivision design and final plat preparation will be required for the preparation of site plans for planned developments.

- (5) Improvement plans. This will follow the form for improvement plans for major subdivisions and will include road profiles, street cross-sections, plans and profiles for sanitary sewers, location plans for water distribution systems and location plans for stormwater management systems and sediment and erosion control.
- (6) Improvement installation and inspection will follow the same general form as that for major subdivisions. The County Commissioners reserve the right to require a performance bond to ensure the proper construction of roads and utilities.
- (7) Board of Appeals approval. Where required by this Part 4, the permit application and site plan for a planned development will be referred to the Board of Appeals for its approval.

#### **§ 360-78. Major Site Plan Review Committee.**

All major site plans will be reviewed by the Major Site Plan Review Committee composed of the following: the Public Works Director, the County Engineer, the Utilities Division head, the Roads Division head, the Environmental Health Director, the Land Development Services Division Chief, the Planning Coordinator, the Land Use & Planning Engineer, the District Manager of the Soil Conservation District and a member of the Planning Commission or their designees. Major Site Plans shall not be considered approved until they receive approval from the Land Use & Planning Engineer, the County Engineer, and the District Manager of the Soil Conservation District or their designees.

#### **§ 360-79. Permit Moratorium Procedure.**

- A. Moratorium declaration. The County Commissioners reserve the right to declare a moratorium on the issuance of building permits in any major subdivision or planned development or for any use in an area of the County under the following conditions:
  - (1) Whenever the lack of public water or sewer service presents a health problem, at the recommendation of the County Health Officer.
  - (2) Whenever the lack of proper street or road facilities creates a traffic safety problem or impedes traffic flow, at the recommendation of the County Engineer.
  - (3) Whenever the lack of sediment control or stormwater facilities causes drainage or sedimentation damage to downslope lots, at the recommendation of the County Engineer, Land Use & Planning Engineer, and the District Soil Conservationist.
  - (4) Whenever a major disaster, such as flood, landslide, dam failure or related incident, requires a reevaluation of development plans, at the recommendation of

the Emergency Management Director, the County Health Officer and County Engineer.

- B. Prior to the declaration of a moratorium, the County Commissioners shall hold a public hearing.
- C. Moratorium rescission. After a permit moratorium has been declared, the County will rescind the moratorium and begin to issue building permits, only when the appropriate road, water, sewer or other services are extended to the area subject to the moratorium. The bonding procedures described in § 360-75E may be used to ensure the issuance of permits prior to or concurrent with the installation of improvements.
- D. Prior to the rescission of a moratorium, the County Commissioners shall hold a public hearing.

**ARTICLE XV**  
**Permissible Uses**

**§ 360-80. Use of the Designations P, PC, SE and SC in Table 1: Table of Permissible Uses**

- A. When used in connection with a particular use in the Table of Permissible Uses, the following applies:
  - (1) The letter “P” means that the use is permissible in the indicated zone with a zoning permit issued by the County.
  - (2) The letters “PC” means that the use is permissible in the indicated zone with a zoning permit issued by the County provided the conditions stipulated in Article XVI Supplementary Use Regulations are met.
  - (3) The letters “SE” means that the use may be permissible in the indicated zone with approval as a Special Exception by the Board of Appeals and with a zoning permit issued by the County.
  - (4) The letters “SC” means that the use may be permissible in the indicated zone with approval as a Special Exception by the Board of Appeals and with a zoning permit issued by the County provided the conditions stipulated in Article XVI Supplementary Use Regulations are met.
  - (5) The symbol “x” means that the use is prohibited in the indicated zone.
- B. The presumption established by this code is that all legitimate uses of land are permissible within at least one zoning district in the County’s planning jurisdiction. Therefore, because the list of permissible uses set forth in § 360-80, Table of Permissible Uses, 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.

- C. Notwithstanding subsection (B), if the proposed use is not listed in § 360-80, even given a liberal interpretation, the County shall apply the minimum code standards for the use found in the Table of Permissible Uses that is most closely related to the land use impacts of the proposed use and issue the permit. The County may initiate a code amendment addressing such proposed use. If the adoption of such an amendment occurs after the County receives an application for a zoning compliance permit or Special Exception permit, however, the code standards in effect at the time the application is received shall apply.
- D. More specific use controls. Whenever a development could fall within more than one use classification in the Table of Permissible Uses, the classification that most closely and most specifically describes the development controls.
- E. Table of Permissible Uses (see Table 1: Permissible Uses)

**Table 1: Permissible Uses**

Key:								
P	Permitted							
PC	Permitted with Conditions (see Article XVI. Supplementary Use Regulations)							
SE	Special Exception							
SC	Special Exception with Conditions (see Article XVI. Supplementary Use Regulations)							
x	Prohibited							
	Urban Districts						Non-Urban Districts	
	R-1	R-2	B-1	B-2	I	GU	A	C*
<b>Residential</b>								
Single-family dwellings (See §360-81)	P	P	SE	SC	SC	P	P	P
Duplex Units (See §360-82)	P	P	SE	SC	SC	P	P	P
Multifamily housing, condominiums, and townhouses (See § 360-83)	PC	PC	SC	SC	SC	PC	x	x
Conversion of single-family detached units to multifamily units (See § 360-83)	SC	PC	SC	x	x	PC	x	x
Mobile homes on individual lots <sup>1</sup> (See § 360-84)	x	P	SE	SC	SC	P	P	P
Mobile home parks <sup>1</sup> (See § 360-85)	SC	SC	SC	SC	SC	SC	SC	SC
Planned residential developments (See § 360-86)	PC	PC	x	x	x	PC	SC	SC
Accessory apartments	P	P	x	x	x	P	P	P
Accessory dwelling units (See § 360-87)	x	x	PC	PC	PC	x	x	x

Key:								
P	Permitted							
PC	Permitted with Conditions (see Article XVI. Supplementary Use Regulations)							
SE	Special Exception							
SC	Special Exception with Conditions (see Article XVI. Supplementary Use Regulations)							
x	Prohibited							
	Urban Districts						Non-Urban Districts	
	R-1	R-2	B-1	B-2	I	GU	A	C*
Garages/storage buildings, up to 1,200 sf in first floor area, includes additions	P	P	P	P	P	P	P	P
Garages/storage buildings, greater than 1,200 sf in first floor area, includes additions	SE	P	P	P	P	P	P	P
Home occupations (See § 360-88)	PC	PC	P	P	P	PC	PC	PC
<b>Commercial Sales and Services</b>								
Major commercial uses (See § 360-89)	x	x	x	P	PC	x	x	x
Neighborhood commercial uses (See § 360-90)	x	SC	P	P	x	P	x	x
Shopping centers (See § 360-91)	x	x	x	PC	PC	SC	x	x
Neighborhood convenience centers (See § 360-92)	x	x	PC	PC	x	PC	x	x
Mixed-use developments (See § 360-93)	x	x	SC	SC	x	SC	x	x
Warehouses	x	x	x	P	P	x	x	x
Motels and Hotels (See § 360-94)	x	x	x	P	PC	SE	x	x
Bars, taverns, saloons, nightclubs, and dance halls	x	x	x	P	x	x	x	x
Lumberyards	x	x	SE	P	x	SE	x	x
Contractor's storage yards	x	x	SE	x	P	SE	x	x
Commercial kennels and stables	x	x	x	x	x	SE	P	P
Commercial businesses which primarily serve industrial customers	x	x	x	P	P	x	x	x
Storage and rental of equipment commonly used by contractors (See § 360-95)	x	x	x	P	PC	SE	x	x
Solid or liquid fuel storage for wholesale trade	x	x	SE	P	P	x	x	x
Solid fuel storage and sale	x	x	x	P	P	SE	SE	SE
Solid and liquid fuel storage and sale	x	x	x	P	P	x	x	x
Conversions of residential structures to commercial uses (See § 360-96)	x	SC	PC	PC	x	SC	x	x



Key:								
P	Permitted							
PC	Permitted with Conditions (see Article XVI. Supplementary Use Regulations)							
SE	Special Exception							
SC	Special Exception with Conditions (see Article XVI. Supplementary Use Regulations)							
x	Prohibited							
	Urban Districts						Non-Urban Districts	
	R-1	R-2	B-1	B-2	I	GU	A	C*
<b>Motor Vehicle Related Sales and Service</b>								
Car, truck or other vehicle sales (See § 360-97)	x	x	SE	P	PC	SE	x	x
Storage and sale of motor homes, travel trailers and mobile homes	x	x	x	x	P	x	x	x
Storage and sale of transportation equipment, including trucks and buses	x	x	x	x	P	x	x	x
Truck stops, truck terminals and truck repair facilities (See § 360-98)	x	x	x	PC	PC	SC	x	x
Vehicle towing and storage facility (See § 360-99)	x	x	x	x	x	SC	SC	SC
Automobile parts and repair shops (See § 360-100)	x	SC	P	P	PC	P	x	x
Automobile repair as a home occupation (See § 360-88)	SE	SE	P	P	P	PC	PC	PC
<b>Industry/Manufacturing</b>								
Industrial parks (See § 360-101)	x	x	x	x	PC	x	x	x
Light and heavy industry, including research or manufacturing processes	x	x	x	x	P	x	x	x
On-site research or manufacturing in addition to the principal commercial use	x	x	x	SE	P	x	x	x
Industries with wholesale or retail sales	x	x	x	x	P	x	x	x
Small-scale product development and technological innovation enterprises	x	x	x	SE	P	x	SE	SE
<b>Institutional</b>								
Institutional uses	P	P	P	P	P	P	P	P
Veterinarian clinics and animal hospitals	x	x	SE	x	x	SE	P	P
<b>Agricultural Operations</b>								
Agricultural uses (See § 360-102)	PC	P	P	P	P	P	P	P

Key:								
P	Permitted							
PC	Permitted with Conditions (see Article XVI. Supplementary Use Regulations)							
SE	Special Exception							
SC	Special Exception with Conditions (see Article XVI. Supplementary Use Regulations)							
x	Prohibited							
	Urban Districts						Non-Urban Districts	
	R-1	R-2	B-1	B-2	I	GU	A	C*
Agricultural buildings or structures (See § 360-102)	PC	P	P	P	P	P	P	P
Timber operations	P	P	P	P	P	P	P	P
Sawmills	x	x	x	x	x	SE	P	P
Feed or grain mills	x	x	x	P	x	SE	P	P
Greenhouses and nurseries	x	SE	x	P	x	P	P	P
Concentrated animal feeding operations (See § 360-103)	x	x	x	x	SC	x	SC	SC
Storage, processing and sale of agricultural products or stock	x	x	x	x	x	x	P	P
<b>Energy</b>								
Subsurface mineral extraction (See § 360-104)	PC	PC	PC	PC	PC	PC	PC	PC
Surface mining, quarrying and related haul roads (See § 360-105)	x	x	x	x	x	SC	SC	SC
Tipples, wash plants and other mineral processing facilities (See § 360-106)	x	x	x	x	SC	SC	SC	SC
Industrial wind energy conversion systems (IWECS) (See § 360-107)	x	x	x	x	x	x	SC	SC
Industrial wind farms (See § 360-108)	x	x	x	x	x	x	SC	SC
Solar energy systems as primary use on “brownfield” land, reclaimed, or abandoned surface mining land (See § 360-109)	x	x	x	x	x	x	PC	PC
Solar energy systems as primary use (See § 360-109)	x	x	x	x	SC	x	SC	SC
Solar energy systems accessory to non-residential use (See § 360-110)	PC	PC	PC	PC	PC	PC	PC	PC
Solar energy systems accessory to residential use (See § 360-111)	PC	PC	PC	PC	PC	PC	PC	PC
Solar energy systems utilizing thermal production of energy (See § 360-112)	x	x	x	x	SC	x	x	x
<b>Recreation/Amusement/Entertainment</b>								

Key:								
P	Permitted							
PC	Permitted with Conditions (see Article XVI. Supplementary Use Regulations)							
SE	Special Exception							
SC	Special Exception with Conditions (see Article XVI. Supplementary Use Regulations)							
x	Prohibited							
	Urban Districts						Non-Urban Districts	
	R-1	R-2	B-1	B-2	I	GU	A	C*
Campgrounds (See § 360-113)	x	SC	x	x	x	SC	SC	SC
Adult uses (See § 360-114)	x	x	x	SC	x	x	x	x
Fairgrounds	x	x	x	x	x	SE	SE	SE
Golf courses	x	x	x	x	x	SE	SE	SE
Gun clubs, hunting lodges and target ranges	x	x	x	x	x	x	P	P
Private noncommercial recreation areas	x	P	x	x	x	P	P	P
Racetracks	x	x	x	x	x	SE	SE	SE
Resorts (See § 360-115)	x	SC	x	x	x	SC	SC	SC
Swimming pools (See § 360-116)	PC	PC	PC	PC	PC	PC	PC	PC
Essential Services/Transportation/Communication								
Essential services	P	P	P	P	P	P	P	P
Public utility structures	P	P	P	P	P	P	P	P
Sewage treatment plants	x	x	x	x	P	SE	SE	SE
Cellular, relay, repeating and transmitting towers <sup>2</sup> (See § 360-117)	x	x	x	SC	PC	SC	PC	PC
Airports and landing fields (See § 360-118)	x	x	x	x	x	x	PC	PC
Rail terminals	x	x	x	x	P	x	x	x
Signs, billboard <sup>1</sup> (See § 360-119)	x	x	PC	PC	PC	PC	x	x
Signs, on-site (See § 360-120)	x	SC	PC	PC	PC	PC	x	x
Signs, Directional (See § 360-121)	PC	PC	PC	PC	PC	PC	PC	PC
Solid Waste								
Landfills	x	x	x	x	P	SE	SE	SE
Salvage yards (See § 360-122)	x	x	x	x	PC	SC	SC	SC
Solid waste processing/resource recovery facilities (See § 360-123)	x	x	x	x	PC	SC	SC	SC
Solid waste transfer stations (See § 360-124)	x	x	x	x	PC	SC	SC	SC

<b>Key:</b>												
P	Permitted											
PC	Permitted with Conditions (see Article XVI. Supplementary Use Regulations)											
SE	Special Exception											
SC	Special Exception with Conditions (see Article XVI. Supplementary Use Regulations)											
x	Prohibited											
					<b>Urban Districts</b>			<b>Non- Urban Districts</b>				
					<b>R-1</b>	<b>R-2</b>	<b>B-1</b>	<b>B-2</b>	<b>I</b>	<b>GU</b>	<b>A</b>	<b>C*</b>

\* Regardless of how the use is listed in the Table of Permissible Uses, all uses within the Conservation District that are located in an area designated on the Zoning Map as public supply watersheds shall be considered as Special Exceptions and require Board of Appeals approval.

<sup>1</sup> Prohibited in the LaVale Overlay District as per Article XVI Supplementary Use Regulations.

<sup>2</sup> Permitted in the LaVale Overlay District as per Article XVI Supplementary Use Regulations.

ARTICLE XVI  
**Supplementary Use Regulations**

This Article contains regulations to specific uses that supplement the requirements found in other articles of this Code including the Development Standards found in Article XX. While most provisions of this code set out standards that apply to all or a board spectrum of uses, the provisions of this Article are intended to provide additional regulations and conditions for certain uses which are unusual in their nature or complexity, or are potentially incompatible with their surroundings unless special protective restrictions are applied. The following specific supplementary use regulations are applicable to both specific uses permitted by right and to uses permitted by Special Exception as indicated in the Table of Permissible Uses. In addition, the following conditions apply to all permitted uses:

- A. Definitions in § 360-59.
- B. Site Plans and Development Standards in § 360-76.
- C. Development standards in Article XX Development Standards.
- D. Setback requirements in § 360-126, 360-127 and 360-128.

**Residential**

**§ 360-81. Single-family Dwellings.**

Single-family dwellings shall be permitted in the R-1, R-2, GU, A and C Districts; may be permitted in the B-1 District as a Special Exception by the Board of Appeals; and may be permitted in the B-2 and I Districts as a Special Exception by the Board of Appeals on individual lots of record less than two acres in size.

**§ 360-82. Duplex Units.**

Duplex units shall be permitted in the R-1, R-2, GU, A and C Districts; may be permitted as a Special Exception by the Board of Appeals in the B-1 District; and may be permitted as a Special Exception by the Board of Appeals in the B-2 and I Districts on individual lots of record less than two acres in size.

**§ 360-83. Multifamily Housing, Condominiums and Townhouses.**

Multifamily housing, condominiums, and townhouses shall be permitted in the R-1, R-2, and GU Districts; may be permitted as a Special Exception by the Board of Appeals in the B-1 District; and may be permitted as a Special Exception by the Board of Appeals in the B-2 and I Districts on individual lots of record less than two acres in size. Conversion of single family dwellings into multifamily housing shall be permitted in the R-2 and GU districts and may be permitted as a Special Exception by the Board of Appeals in the R-1 and B-1 Districts. All uses are subject to

the plan review procedures described in § 360-77 and the planned development standards described in § 360-135D of this code.

**§ 360-84. Mobile Homes on Individual Lots.**

Mobile homes on individual lots shall be permitted in the R-2, GU, A and C Districts; may be permitted as a Special Exception by the Board of Appeals in the B-1 District; may be permitted as a Special Exception by the Board of Appeals in the B-2 and I Districts on individual lots of record less than two acres in size; and are prohibited in the LaVale Overlay District.

**§ 360-85. Mobile Home Parks.**

Mobile home parks may be permitted as a Special Exception in all Districts by the Board of Appeals, subject to the plan review procedures described in § 360-77 and the planned development standards described in § 360-135D of this code; and are prohibited in the LaVale Overlay District.

**§ 360-86. Planned Residential Developments.**

Planned residential developments shall be permitted in the R-1, R-2 and GU Districts and may be permitted as a Special Exception in the A and C Districts by the Board of Appeals. All uses are subject to the plan review procedures described in § 360-77 and the planned development standards described in § 360-135D of this code.

**§ 360-87. Accessory Dwelling Units.**

Accessory dwelling units shall be permitted in the B-1, B-2, and I Districts, subject to conditions set forth in § 360-129.

**§ 360-88. Home Occupations.**

Home occupations shall be permitted in the B-1, B-2 and I Districts and shall be permitted in the R-1, R-2, GU, A and C Districts, subject to the following conditions:

- A. Such use shall not involve any modification of said dwelling or accessory structure to alter its outward appearance as a residential use. Signs are permitted per § 360-137.
- B. The sale of wholesale or retail items not made on the premises is considered a home occupation in the R-1 and R-2 Districts when the items being sold are mail-ordered or otherwise delivered to the buyer at another location.
- C. No outdoor storage of equipment, material or stock is permitted in the R-1 and R-2 Districts. Certain commercial uses, including stables, kennels, veterinarian clinics, tennis

courts or swimming pools, are not considered residential accessory uses or structures for home occupations.

- D. Any proposed use which the County determines may create noise, vibration, glare, fumes, odors, electrical interference or increased traffic which is inappropriate for the neighborhood will not be considered a home occupation.
- E. Parking associated with home occupations. Commercial vehicles may be parked at the residence of the vehicle's owner or operator in any district other than the R-1 District, provided that the vehicles are not parked on a public right-of-way. In the R-1 District, one commercial vehicle may be parked at the residence of the owner or operator, provided that the vehicle is parked outside the public right-of-way. Off-street parking must be provided for any employees, customers and incidental traffic in conformance with § 360-139.
- F. Automobile repair as a home occupation may be permitted as a Special Exception by the Board of Appeals in the R-1 and R-2 Districts.

## Commercial Sales and Services

### **§ 360-89. Major Commercial Uses.**

Major commercial uses shall be permitted in the B-2 District and shall be permitted in the I District where the location is contiguous to an arterial highway. See § 360-97 for car, truck or other vehicle sales and § 360-94 for motels and hotels.

### **§ 360-90. Neighborhood Commercial.**

Neighborhood commercial uses shall be permitted in the B-1, B-2 and GU Districts and may be permitted as a Special Exception in the R-2 District for those uses with total building area less than 2,000 square feet.

### **§ 360-91. Shopping Centers.**

- A. Shopping centers shall be permitted in the B-2 District subject to the plan review procedures described in § 360-77 and the planned development standards described in § 360-135D of this code.
- B. Shopping centers shall be permitted in the I District, subject to the following:
  - (1) The location of a shopping center shall be contiguous to an arterial highway.
  - (2) The plan review procedures described in § 360-77 and the planned development standards described in § 360-135D of this code.

- C. Shopping centers may be permitted in the GU District as a Special Exception by the Board of Appeals, subject to the plan review procedures described in § 360-77 and the planned development standards described in § 360-135D of this code.

**§ 360-92. Neighborhood Convenience Center.**

Neighborhood convenience centers shall be permitted in the B-1, B-2, and GU Districts subject to the plan review procedures described in § 360-77 and the planned development standards described in § 360-135D of this code.

**§ 360-93. Mixed-use Developments.**

- A. Mixed-use developments may be permitted as a Special Exception by the Board of Appeals in the B-1, B-2 and GU Districts subject to the following conditions:
  - (1) The mixed-use development should promote a compact, pedestrian-oriented district consisting of an employment center, vibrant and dynamic mixed-use areas, and should promote a diverse mix of residential, business, commercial, office, institutional, education, and cultural and entertainment activities for workers, visitors, and residents. Mixed-use developments differentiate themselves from multi-use projects such as shopping malls by integrating different uses within the same structure including retailers on the ground floor and residential uses, as well as offices, on top of the retail tenants. Mixed-use developments must attract a critical mass of people during the day and night.
  - (2) Primary uses include those uses permitted in the B-2 District, with the exception of mobile home parks and mobile homes on individual lots. Additional permitted development includes apartments and apartments above permitted or Special Exception uses.
  - (3) The development will be served by public water and sewer systems.
  - (4) A 50 ft. screening buffer is required where mixed-use development adjoins residential use or the R-1 District.
  - (5) Consideration should be given to pedestrian and bicycle connections between residential areas and neighborhood uses. Connection standards and requirements shall be determined by the Major Site Plan Review Committee. Vehicular access will be provided between developments through connections to neighboring parking areas and streets.
  - (6) Provisions for off-street parking and loading shall conform to the requirements of § 360-139.
  - (7) Maximum building height is dictated by § 360-126.



- (8) A mixed-use development shall be designed as a planned development and shall follow the procedures outlined in § 360-77 and development standards outlined in § 360-135D of this code.

**§ 360-94. Motels and Hotels.**

Motels and hotels shall be permitted in the B-2 District; shall be permitted in the I District where the location is contiguous to an arterial highway; and may be permitted as a Special Exception in the GU District by the Board of Appeals.

**§ 360-95. Storage and Rental of Equipment Commonly Used by Contractors.**

Storage and rental of equipment commonly used by contractors shall be permitted in the B-2 District; shall be permitted in the I District where the location is contiguous to an arterial highway; and may be permitted as a Special Exception by the Board of Appeals in the GU District.

**§ 360-96. Conversions of Residential Structures to Commercial Uses.**

Conversion of residential structures to commercial uses shall be permitted in the B-1 and B-2 Districts; may be permitted as a Special Exception by the Board of Appeals in the GU District; and may be permitted as a Special Exception by the Board of Appeals in the R-2 District for those uses with total building area less than 2,000 square feet. All uses are also subject to the plan review procedures described in § 360-77.

**Motor Vehicle Related Sales and Service**

**§ 360-97. Car, Truck or Other Vehicle Sales.**

Car, truck or other vehicle sales shall be permitted in the B-2 District; shall be permitted in the I District where the location is contiguous to an arterial highway; and may be permitted as a Special Exception in the B-1 and GU Districts by the Board of Appeals.

**§ 360-98. Truck Stops, Truck Terminals and Truck Repair Facilities.**

Truck stops and truck terminals shall be permitted in the B-2 District; shall be permitted in the I District where the location is contiguous to an arterial highway; and may be permitted as a Special Exception by the Board of Appeals in the GU District. All uses are subject to requirements set forth in § 360-128 of this code.

**§ 360-99. Vehicle Towing and Storage Facility.**

Vehicle towing and storage facilities may be permitted as a Special Exception by the Board of Appeals in the GU, A, and C Districts, subject to the setback, screening and buffer requirements set forth in the Allegany County Code of Codes, Chapter 446, Salvage Yards.

**§ 360-100. Automobile Parts and Repair Shops.**

Automobile parts and repair shops shall be permitted in the B-1, B-2 and GU Districts; shall be permitted in the I District where the location is contiguous to an arterial highway; and may be permitted as a Special Exception in the R-2 District for those uses with total building area less than 2,000 square feet.

**Industry/Manufacturing**

**§ 360-101. Industrial Parks.**

Industrial parks shall be permitted in the I District, subject to the plan review procedures described in § 360-77 and the planned development standards described in § 360-135D of this code.

**Agricultural Operations**

**§ 360-102. Agriculture.**

Agriculture uses and structures shall be permitted in all districts. Animal and poultry husbandry shall be permitted in the R-1 District subject to the following condition:

- A. Lots must be minimum two (2) acres in size.

**§ 360-103. Concentrated Animal Feeding Operations.**

Concentrated animal feeding operations may be permitted as a Special Exception by the Board of Appeals in the I, A and C Districts subject to the Special Setback and Height Requirements described in § 360-128. Sewerage treatment facilities for Concentrated Animal Feeding Operations must be approved by the appropriate State agencies and the Allegany County Health Department prior to issuance of a permit for the operation.

**Energy**

**§ 360-104. Subsurface Mineral Extraction.**

Subsurface mineral extraction shall be permitted in all Districts, subject to the conditions set forth in § 360-138 of this code.

**§ 360-105. Surface Mining, Quarrying and Related Haul Roads.**

Surface mining, quarrying, and related haul roads may be permitted as a Special Exception by the Board of Appeals in the GU, A, and C Districts, subject to the conditions set forth in § 360-138 of this code.

**§ 360-106. Tipples, Wash Plants and Other Mineral Processing Facilities.**

Tipples, wash plants, and other mineral processing facilities may be permitted as a Special Exception by the Board of Appeals in the I, GU, A, and C Districts, subject to the conditions set forth in § 360-138 of this code.

**§ 360-107. Industrial Wind Energy Conversion Systems (IWECS).**

Industrial wind energy conversion systems (IWECS) may be permitted as a Special Exception by the Board of Appeals in the A and C Districts, subject to the following conditions:

- A. Minimum separation distances. The following separation distances shall be maintained for industrial wind energy conversion systems:
- (1) One thousand feet from any structure not the property of the applicant, provided that the structure includes no less than 600 square feet of occupiable space.
  - (2) Two thousand feet from any residential structure.
  - (3) Five thousand feet from all schools.
  - (4) Five thousand feet from any site listed on the National Register of Historic Places.
  - (5) One thousand feet from the habitats of rare, threatened, or endangered (RTE) species as delineated on the Department of Natural Resources (DNR), Heritage Division Environmentally Significant Areas (ESAs) maps.
  - (6) Special Exception applications for industrial WECS within 5,000 feet of the habitats of documented federally endangered species shall include review and compliance documents from the U.S. Fish and Wildlife Services. Acceptable documents include: finding of no significant impact (FONSI), environmental assessment (EA), or environmental impact statement (EIS).
  - (7) Applicants opting to participate and abide by the recommendations of a DNR environmental review shall be exempt from the provisions of Subsection A(5).
  - (8) Pursuant to the provisions of § 360-63C and 360-141, and with written authorization of all property owners within the prescribed separation area, applicants may seek a variance in the required minimum separation distance prescribed in Subsection A(1) and (2) herein. At the discretion of the Board of Appeals, variance applications may be heard in conjunction with the Special Exception hearing.
  - (9) If the Board of Appeals finds that concerns regarding health, safety and welfare warrant additional separation, the Board may, at its discretion, increase prescribed separation distances by up to 50%.

B. Setback requirements. The following setback requirements shall be required for all industrial wind energy conversion systems:

- (1) Each individual IWECS with a height less than 200 feet shall observe a minimum setback distance equal to no less than 1.0 times the height of the unit. Setback distances shall be measured from the base of the unit to property boundaries in all directions. Unit height shall be determined by measuring the unit from ground level at the base of the structure to the top of the nacelle.
- (2) Each individual IWECS with a height greater than 200 feet but less than 300 feet shall observe a minimum setback distance equal to no less than 2.0 times the height of the unit. Setback distances shall be measured from the base of the unit to property boundaries in all directions. Unit height shall be determined by measuring the unit from ground level at the base of the structure to the top of the nacelle.
- (3) Each individual IWECS with a height greater than 300 feet shall observe a minimum setback distance equal to no less than 3.0 times the height of the unit. Setback distances shall be measured from the base of the unit to property boundaries in all directions. Unit height shall be determined by measuring the unit from ground level at the base of the structure to the top of the nacelle.
- (4) Pursuant to the provisions of § 360-63C and 360-141, and with written authorization of all affected property owners, applicants may seek a variance of up to 50% of the required minimum setback prescribed herein.
  - (a) Affected property owners shall be defined as owners of land adjoining parcels whose boundaries are the subject of the variance application.
  - (b) At the discretion of the Board of Appeals, variance applications may be heard in conjunction with the Special Exception hearing.
  - (c) If the Board's findings determine that a variance is warranted, any setback reduction which is authorized shall be instead of, not in addition to, any reductions which were authorized under the administrative adjustment provisions of Subsection F herein.
- (5) If the Board of Appeals finds that concerns regarding health, safety and welfare warrant additional setbacks, the Board may, at its discretion, increase prescribed setback distances by up to 50%.

C. Electromagnetic interference.

- (1) All applicants for industrial wind energy conversion systems shall be required to prepare and submit an electromagnetic interference analysis (EIA), which shall be

performed at the applicant's expense and in accordance with guidelines established by the Zoning Administrator.

- (2) Copies of the completed EIA shall be submitted to the following for comment:
  - (a) Allegany County Office of Emergency Management.
  - (b) Allegany County Department of Public Safety.
  - (c) All municipalities within a five-mile radius.
  - (d) All emergency responders within a one-mile radius, including police, fire, and rescue.
  - (e) Maryland State Police.
  - (f) Allegany County Sheriff's Office.
  - (g) Owners of all telecommunications towers within a five-mile radius.
  - (h) All radio stations operating within Allegany County or within a five-mile radius if located outside of Allegany County.
  - (i) All radio, television, or satellite transmission entities with on-the-ground facilities, including transmissions towers, within Allegany County.
  - (j) All television stations operating within Allegany County or within a five-mile radius if located outside of Allegany County.
  - (k) Federal Communications Commission.
  - (l) Federal Aviation Administration.
- (3) A copy of the EIA shall be placed in all branches of the Allegany County Public Library and shall be posted on the Allegany County Government website.
- (4) The applicant shall be required to abide by the recommendations and conditions of the EIA, and shall be required to satisfactorily address any concerns identified in the EIA.
- (5) All entities identified in Subsection C(2) shall have 90 calendar days from the date of filing of the EIA to provide comments to the Allegany County Office of Land Development Services.
- (6) The Zoning Administrator may impose additional conditions, including the elimination or reconfiguration of all or any part of the proposed project on the

basis of the EIA and the responses received from the interested agencies identified in Subsection C(2).

- (7) Prior to receiving authorization for the construction of IWECS devices, the applicant shall post bond in the amount of \$100,000 to cover the costs of preparation of subsequent EIAs. Such subsequent EIAs shall be prepared under the direction and management of the Zoning Administrator in the event that there are reasonable complaints of electromagnetic interference after construction of the project. The applicant shall conform to all recommendations from such supplemental EIAs in order to reduce or eliminate any electromagnetic interference identified by the EIAs. Failure to do so within a reasonable time to be established by Allegany County shall result in forfeiture of the project bond and suspension of the authorization to operate the device.
- (8) Any interference with public safety or emergency management communication shall constitute just cause for a temporary shutdown of the project until such time as a supplemental EIA can be completed.
- (9) Repeated and substantiated claims of interference by those entities identified in Subsection C(2) shall constitute just cause for a temporary shutdown of the project until such time as a supplemental EIA can be completed.
- (10) All wind energy systems shall be required to comply with Federal Communications Commission interference regulations in accordance with Title 47, Chapter 1, of the Code of Federal Regulations.

D. Decommissioning bond.

- (1) Decommissioning provisions in this subsection shall apply to industrial wind farms, or portions thereof.
- (2) The IWECS facility owner or operator shall, at its expense, complete decommissioning of the IWECS facility within 180 days of the cessation of facility operations. In the case of individual turbine units, the unit will presume to have ceased operations if no electricity is generated for a continuous period of 180 days. For wind farms, the farm will presume to have ceased operations if no electricity is generated for a continuous period of 180 days.
- (3) Decommissioning shall include the removal and appropriate legal disposal or recycling of all IWECS components, including, but not limited to: turbines, support facilities, buildings, cables, electrical components, roads, concrete, fencing, gravel, stone and foundations to a depth of 36 inches.
- (4) Disturbed earth in all areas shall be stabilized, graded and seeded. Restoration of the pad sites shall include replacing the excavated foundation areas with topsoil that is free of noxious weeds, with no rocks, root mat or foreign objects larger

than two inches in size, with proper soil nutrients (fertilizer, lime and other amendments) to provide and sustain growth.

- (5) Prior to permitting, an independent and certified professional engineer shall be retained by the County to prepare a cost estimate for decommissioning, without regard to salvage value. All costs associated with this task shall be borne by of the applicant.
- (6) A bond equal to 100% of the above-referenced cost estimate shall be posted by the applicant for each wind energy device to be erected, and no permit shall be issued until such bond is posted. Additionally, construction pricing indexing (CPI) shall be applied to the cost estimate to ensure that cost increases during the five-year interval will not decrease the value of the bond.
- (7) The bond shall be held by the Allegany County Finance Department to be used as surety in the event of noncompliance on the part of the applicant or in the event that the unit ceases operation for a period of time greater than 180 days. In the event that the unit is sold, the bond shall be released if the new owner shall post a bond in an equal amount with the Allegany County Finance Department.
- (8) In the event that the operator ceases to operate the unit or has abandoned the unit for a period in excess of 180 days, the County at its sole discretion may request that the unit be decommissioned and removed. In the event that the applicant does not comply with the request, the bond shall be utilized by Allegany County to cover the costs of decommissioning. The bond may further be utilized by the County for the costs of correcting any other acts of noncompliance with these regulations or directives of the County.
- (9) In the event of a transfer of unit ownership, the County reserves the right to reassess the amount of the bond and request an additional amount to be posted in order to provide adequate surety. Any costs to the County associated with these activities shall be reimbursed by the current project owner or operator.
- (10) Immediately following construction completion and every five years thereafter, the County shall retain an independent and certified professional engineer to prepare a cost estimate for decommissioning, without regard to salvage value. All costs associated with this task shall be borne by the applicant or operator. The most recently prepared cost estimate shall be compared to the amount currently under bond, and the County, at its sole discretion, may alter the bond amount to stay current with decommissioning cost estimates.

E. Groundwater protection bond.

- (1) A bond in an amount to be recommended by the Allegany County Health Department shall be posted by the applicant for each wind energy device to be erected, and no permit shall be issued until such bond is posted.

- (2) The bond shall be held by the Allegany County Finance Department to be used as surety in the event of damage, disruption or loss of groundwater resources, specifically damage or disruption to groundwater resources or associated infrastructure utilized to provide potable water supply to occupied structures within one mile of any portion of a IWECS project.
- (3) Prior to construction authorization, the County Health Department shall take all necessary steps to verify that each structure utilizing on-site groundwater resources within a radius of one mile of any portion of any IWECS project has received a certificate of potability.
- (4) Prior to construction authorization, the County Health Department shall take all necessary steps to verify that each structure utilizing on-site groundwater resources within a radius of one mile of any portion of any IWECS project is supplied with sufficient quantity as determined by recharge rates, pressure and other appropriate standards as typically utilized by the Health Department.
- (5) Within 12 months of IWECS construction completion, the County Health Department shall conduct sampling of each groundwater-supplied structure within one mile of any portion of any IWECS project.
- (6) If sampling indicates a change in quality or quantity, the Health Department shall engage well drillers and other experts, as necessary, to determine if the well has been compromised.
- (7) If, in the opinion of the Health Department, the compromised well cannot be satisfactorily rehabilitated, a new well shall be drilled.
- (8) Any new well must satisfy Health Department standards and receive a certificate of potability.
- (9) In the event that these protocols fail to remedy the situation, the Health Department shall exercise other remedies as necessary.
- (10) Costs associated with Subsection E(3) through (5) shall be supported through permit fees.
- (11) Costs associated with Subsection E(6) through (8) shall be supported through the bond referenced in Subsection E(1).
- (12) The bond shall be released upon satisfaction of the County Health Department or the expiration of five years, whichever comes first.



- (13) Prior to the expiration of the above-referenced five-year time period, the County Health Department may, at its discretion, order additional bonding or extend the bonding period.

F. Supplemental safety provisions.

- (1) Applicants submitting for review a certificate by a qualified engineer attesting to the structural integrity of each IWECS and a winds load analysis prepared by a qualified engineer may be eligible for an administrative adjustment of up to 25% of the required setbacks as specified in Subsection B herein.
- (2) No IWECS shall incorporate any artificial exterior lighting except what is specifically required by the Federal Aviation Administration (FAA).
- (3) In the event that the FAA requires daytime high-intensity strobe lighting, a set of red or amber marker lights shall be installed for nighttime use. The red or amber lights shall replace daytime strobe lights from dusk until dawn. All high-intensity strobe lights shall be turned off at twilight, subject to FAA requirements.
- (4) Each turbine and all equipment and storage structures, facilities or enclosures shall be equipped with at least two access prevention locks. These devices shall be designed to prevent unauthorized access and personal injury. Applicants shall present as part of their permit application a detailed plan displaying the necessary hardware to defeat access.
- (5) Each turbine and all equipment and storage structures, facilities or enclosures shall incorporate no fewer than two warning signs. Each sign shall include the words: "Danger High Voltage" and shall include symbols or pictographs representing same. Any such signage shall be legibly discernible at a distance of 50 feet.

- G. Removal of IWECS. The structure shall be utilized continuously for electrical power generation. In the event the structure ceases to be used for a period of six months, the approval will terminate. The landowner/structure owner/operator shall remove the structure within 90 days after termination of use. The County shall not be responsible for removal of the structure.

**§ 360-108. Industrial Wind Farms.**

Industrial wind farms may be permitted as a Special Exception by the Board of Appeals in the A and C Districts, subject to the conditions of § 360-107 Industrial wind energy conversion systems (IWECS).

**§ 360-109. Solar Energy Systems (SES) as Primary Use.**

Solar energy systems (SES) as a primary use shall be permitted in A and C Districts if located on EPA-certified “brownfield” land or Maryland Bureau of Mines documented reclaimed or abandoned surface mined land and may be permitted as a Special Exception by the Board of Appeals in all other areas of the A and C Districts and in the I District, subject to the following conditions:

- A. All solar panels shall utilize glare mitigating technology.
- B. Any solar energy system which the County determines to be a source of noise, vibration, glare, fumes, odors, electrical interference or increased traffic inappropriate for the neighborhood will be required to prepare a plan demonstrating mitigation of said problems.
- C. The minimum all-around setback for the solar energy system is 30’ or the fire separation distance, whichever is greater.
- D. A screening buffer shall be provided from rights-of-way of County or State- maintained roads.
- E. Secure fencing surrounding the solar energy system shall be required.
- F. Interconnections and power lines running to/from the solar energy system shall be placed underground.
- G. The solar energy system shall be subject to the special setback and height requirements for industrial uses found in § 360-128 of this code.
- H. As part of the site plan approval, a description of the decommissioning and final land reclamation plan to be put into effect after anticipated useful life or abandonment or termination of the project shall be required. This will include evidence of an agreement with the property owner that ensures proper final removal of power-generating equipment.

**§ 360-110. Solar Energy Systems (SES) Accessory to Non-Residential Use.**

Solar energy systems (SES) accessory to non-residential uses shall be permitted in all Districts, subject to the following conditions:

- A. All solar panels shall utilize glare mitigating technology.
- B. Any solar energy system which the County determines to be a source of noise, vibration, glare, fumes, odors, electrical interference or increased traffic inappropriate for the neighborhood will be required to prepare a plan demonstrating mitigation of said problems.

- C. The solar energy system shall be exempt from permitting if mounted on an existing building. A Land Use permit will not be required; however, the solar energy system must comply with applicable building setbacks and building code requirements.
- D. A ground mounted solar energy system shall be a permitted use following site plan review.
- E. A ground mounted solar energy system may be located in side or rear yards only, subject to applicable setback and height requirements listed in § 360-126, § 360-127, and § 360-128 of this code.
- F. Freestanding solar panels shall not exceed 20 feet in height.

**§ 360-111. Solar Energy Systems (SES) Accessory to Residential Use.**

Solar energy systems (SES) accessory to residential uses shall be permitted in all Districts, subject to the following conditions:

- A. All solar panels shall utilize glare mitigating technology.
- B. Any solar energy system which the County determines to be a source of noise, vibration, glare, fumes, odors, electrical interference or increased traffic inappropriate for the neighborhood will be required to prepare a plan demonstrating mitigation of said problems.
- C. The solar energy system shall be exempt from permitting if mounted on an existing building. A Land Use permit will not be required, however, the solar energy system must comply with applicable building setbacks and building code requirements.
- D. A ground mounted solar energy system shall be a permitted use, subject to applicable setback and height requirements listed in § 360-126 and § 360-127 of this code.
- E. Freestanding solar panels shall not exceed 20 feet in height.

**§ 360-112. Solar Energy Systems (SES) Utilizing Thermal Production of Energy.**

Solar energy systems (SES) utilizing thermal production of energy may be permitted as a Special Exception by the Board of Appeals in the I District, subject to the following conditions:

- A. All solar panels shall utilize glare mitigating technology.
- B. Any solar energy system which the County determines to be a source of noise, vibration, glare, fumes, odors, electrical interference or increased traffic inappropriate for the neighborhood will be required to prepare a plan demonstrating mitigation of said problems.

**§ 360-113. Campgrounds.**

Campgrounds may be permitted as a Special Exception in the R-2, GU, A, and C Districts by the Board of Appeals, subject to the plan review procedures described in § 360-77, the Special Setback and Height Requirements described in § 360-128, and the planned development standards described in § 360-135D of this code.

**§ 360-114. Adult Uses.**

Adult uses may be permitted as a Special Exception by the Board of Appeals in the B-2 District, subject to the following conditions:

- A. No adult use shall be located within any of the following:
  - (1) One thousand lineal feet of the lot line of any library, public park, or other public recreational area, or residential district, regardless of municipal borders;
  - (2) One thousand five hundred lineal feet of the lot line of any primary or secondary school, child day-care center, church or similar place of worship, or existing dwelling unit, regardless of municipal borders;
  - (3) Any district other than the B-2 Major Commercial District.
- B. A thirty-foot wide evergreen screening buffer or a fence or wall of a height and consistency to block the view of the use from adjacent property shall be provided along the side and rear lot lines.
- C. No pornographic material, display or words shall be visible from outside of the establishment. No activities shall violate federal, state or county criminal law.
- D. For public safety reasons, an adult use shall not be combined with the sale or consumption of alcoholic beverages.
- E. For public health reasons, private viewing booths are prohibited.
- F. Any application for an adult use shall include the full legal name and home addresses of all persons who will have any ownership interest in the use or any corporation that controls the use; and an on-site manager who shall be personally responsible, in addition, to the owners, to ensure that this section is complied with on a daily basis. Any changes to such information shall be reported to the Zoning Administrator in writing within seven days.
- G. No adult use shall operate between the hours of 11:00 p.m. and 8:00 a.m.

**§ 360-115. Resorts.**

Resorts may be permitted as a Special Exception in the R-2, GU, A, and C Districts by the Board of Appeals, subject to the plan review procedures described in § 360-77 and the planned development standards described in § 360-135D of this code.

**§ 360-116. Swimming Pools.**

Swimming pools shall be permitted in all districts subject to requirements set forth in § 360-126, § 360-127 and § 360-128 of this code.

**Essential Services/Transportation/Communication**

**§ 360-117. Cellular, Relay, Repeating and Transmitting Towers.**

Cellular, relay, repeating and transmitting towers shall be permitted in the I, A, and C Districts; shall be permitted within the LaVale Overlay District in the R-2 District; and may be permitted as a Special Exception by the Board of Appeals in the B-2 and GU Districts. All uses are subject to §360-128 Special Setback and Height Requirements and to the following condition:

- A. The structure shall be utilized continuously for wireless communications. In the event the structure ceases to be used for a period of six months, the approval will terminate. The landowner/structure owner/operator shall remove the structure within 90 days after termination of use. The County shall not be responsible for removal of the structure.

**§ 360-118. Airports and Landing Fields.**

Airports and Landing Fields shall be permitted in the A and C Districts subject to the Special Setback and Height Requirements described in § 360-128.

**§ 360-119. Signs, Billboards.**

Billboard signs shall be permitted in the B-1, B-2, I and GU Districts subject to § 360-137, Lighting, Signs and Billboards. Billboard signs are prohibited in the LaVale Overlay District.

**§ 360-120. Signs, On-site.**

On-site signs shall be permitted in the B-1, B-2, I and GU Districts subject to § 360-137, Lighting, Signs and Billboards; and may be permitted as a Special Exception by the Board of Appeals in the R-2 District subject to § 360-137, Lighting, Signs and Billboards.

**§ 360-121. Signs, Directional**

Directional signs shall be permitted in all districts subject to § 360-137 Lighting, Signs and Billboards.

## Solid Waste

### **§ 360-122. Salvage Yards.**

Salvage yards shall be permitted in the I District and may be permitted by Special Exception by the Board of Appeals in the GU, A, and C Districts, subject to the Allegany County Code, Chapter 446, Salvage Yards.

### **§ 360-123. Solid Waste Processing/Resource Recovery Facilities.**

Solid waste processing/resource recovery facilities shall be permitted in the I District subject to the setback and height requirements of § 360-128; and may be permitted as a Special Exception by the Board of Appeals in the GU, A, and C Districts subject to the setback and height requirements of § 360-128.

### **§ 360-124. Solid Waste Transfer Stations.**

Solid waste transfer stations shall be permitted in the I District subject to the setback and height requirements of § 360-128; and may be permitted as a Special Exception by the Board of Appeals in the GU, A, and C Districts subject to the setback and height requirements of § 360-128.

## ARTICLE XVII

### **Lot Size, Setback and Height Requirements**

### **§ 360-125. General.**

The lot size requirements and setbacks listed in § 360-126, 360-127, and 360-128 are to be used in association with the Zoning District uses set forth in Article XV Permissible Uses.

- A. Lot size requirements. Lot size requirements do not vary by district, except in special cases, but are related to land use.
- B. Setback requirements. Setback requirements do not vary by district but are related to highway and street types and to other features, including lot lines, rights-of-way, railroads, stream channels, floodplains and steep slopes.

### **§ 360-126. Lot Size, Setback, and Height Requirements.**

Standard lot size, setback, and height requirements shall be as follows. (See § 360-127 for front yard setbacks.)

**Table 2: Lot Size, Setback and Height Requirements**

Use	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Minimum Side Setback <sup>a</sup> (feet)	Minimum Rear Setback <sup>a</sup> (feet)
<b>PRINCIPAL STRUCTURES</b>				
<b>Single-family dwellings and mobile homes</b>				
With public water and sewerage	6,000	50	8	25
With public sewerage only	10,000	75	8	25
With public water only	15,000	100	8	25
With well and septic system	<sup>b</sup>	<sup>b</sup>	8	25
<b>Mobile home parks</b>	80,000	N/A	50	50
Mobile home units	4,000/unit	N/A	N/A	N/A
<b>Multifamily housing, duplexes and townhouses</b>				
Two families	3,000/unit	25/unit	8	25
Three or more families	2,000/unit	150	8 <sup>d</sup>	25 <sup>d</sup>
Townhouses	2,000/unit	20/unit	8 <sup>d</sup>	25 <sup>d</sup>
<b>Commercial*</b>				
Major commercial	12,000	100	30 <sup>d</sup>	30 <sup>d</sup>
Neighborhood commercial	6,000	50	30 <sup>d</sup>	30 <sup>d</sup>
Commercial uses in the GU District	10,000	75	30 <sup>d</sup>	30 <sup>d</sup>
<b>Industrial*</b>	40,000	200	30 <sup>d</sup>	30 <sup>d</sup>
<b>Institutional</b>	6,000	50	30 <sup>d</sup>	30 <sup>d</sup>
<b>ACCESSORY STRUCTURES</b>				
<b>Residential</b>	—	—	8	8
<b>Nonresidential*</b>	—	—	30 <sup>d</sup>	30 <sup>d</sup>

**NOTES:**

- <sup>a</sup> All setback distances, except height, are measured from the side or rear property lines.
- <sup>b</sup> When wells and/or septic systems are utilized, the lot size and width will be set according to the County Health Department Standards.
- <sup>c</sup> Side setbacks are only applicable on the end units of a set of townhouses.
- <sup>d</sup> Or fire separation distance as defined by the Building Code of Allegany County, whichever is greater.
- <sup>e</sup> Height and area limitations are further controlled by the Building Code of Allegany County.
- <sup>\*</sup> For commercial and industrial use, see also § 360-128 for additional requirements.

**§ 360-127. Setback Requirements for Structures.**

- A. All structures regardless of use or district shall have a minimum distance from highways, roads and streets as follows:

**Table 3: Setback Requirements for Structures**

Functional Class — Highways				
Principal Arterials (feet)	Major Arterials (feet)	Minor Arterials (feet)	All Other Roads and Streets in Urban Districts (feet)	All Other Roads and Streets in Nonurban Districts (feet)
50 from right-of-way	50 from right-of-way or 75 from center line	40 from right-of-way or 65 from center line	25 from right-of-way or 50 from center line	40 from right-of-way or 65 from center line

- (1) For all roads the greater of the two distances applies.
  - (2) Minimum setback distance from alleys is 15 feet from right-of-way or 20 feet from the center line for all structures, including accessory structures. This supersedes the side and rear setback requirements shown in § 360-126.
  - (3) See § 360-142 for road classifications.
- B. Minimum distance from railroad tracks (excluding sidings). Principal structures must be set back 50 feet from the center line of tracks or 25 feet from the right-of-way, whichever is greater.
- C. Minimum distance from airport runways and landing strips (public or private). All structures and utility lines, poles or towers must be:
- (1) One thousand feet from the end markers of the runway or landing strip.
  - (2) Two hundred feet from the center line of the runway or landing strip.
- D. Signs and billboards are to be set back at least 50% of the distance noted for other structures.
- E. Setbacks for corner lots of record are subject to § 360-63B(3).
- F. See § 360-142 for an index of arterial roads and streets.

**§ 360-128. Special Setback and Height Requirements.**

- A. Special setback and height requirements shall be as follows:



**Table 4: Special Setback and Height Requirements**

Use	Requirement
<b>Communication towers and other freestanding nonindustrial structures, excluding WECS</b>	A distance equal to the height of the structure from buildings on adjacent lots
<b>Residential accessory structures</b>	8-foot setback from other structures on the same lot
<b>Neighborhood commercial structure</b>	25-foot setback from property line when adjacent to R-1 or R-2 District
<b>Major commercial structure</b>	50-foot setback from property line when adjacent to R-1 or R-2 District
<b>Industrial structure</b>	50-foot setback from property line when adjacent to R-1 or R-2 District, also a distance equal to the height of the structure when adjacent to the R-1 or R-2 Districts
<b>Special Exceptions, nonresidential uses</b>	50-foot setback from property line when adjacent to residential unit or R-1 District
<b>Special Exceptions, large-scale uses<sup>1</sup></b>	50-foot setback from property line when adjacent to residential unit or R-1 District
<b>Drive-through facilities</b>	50% of required building setback
<b>Vehicles, modular homes, boats and mobile homes on sales lot</b>	50% of required building setback
<b>Swimming pools</b>	25-foot setback measured horizontally from nearest overhead electric line
<b>Fences</b>	
Swimming pools	4-foot minimum height for in-ground pools
Privacy	8-foot maximum height for residential lots; 12-foot maximum height for other uses
<b>Surface mines and quarries</b>	300-foot setback from residential unit unless owner gives written waiver
<b>Airport</b>	1,000-foot setback from nearest residence or R-1 District boundary
<b>Landing field</b>	1,000-foot setback beyond end of landing strip to nearest residential unit or R-1 district boundary 200-foot setback from the C/L of landing strip to nearest residential unit or R-1 district boundary
<b>Solid waste transfer stations and solid waste processing/resource recovery facility</b>	300-foot setback from property line with screening buffer when adjacent to an R-1 District boundary or when adjacent to a residential unit. In the GU, A or C districts, the Board of Appeals may alter this setback to increase the distance to residential units after site review.
<b>Canopies/Gas Pumps/Other Fixed Equipment</b>	50% of required building setback
<b>Wind energy conversion system</b>	(1) Buffer <sup>2</sup> : a distance equal to two times the height <sup>3</sup> of the structure from occupied

<b>(WECS) – both agricultural and domestic</b>	buildings on adjacent lots. (2) Setback: a distance equal to the height <sup>3</sup> of the structure from property lines of adjacent lots.
<b>Concentrated animal feeding operations</b>	500-foot setback from nearest neighboring residential unit or R-1 district boundary
<b>Truck stops, truck terminals and truck repair facilities</b>	In the B-2 and GU districts, 200-foot setback from the nearest residential unit or R-1 district boundary
<b>On-site and directional signs</b>	10-foot setback from the road right-of-way line and 5-foot setback from side and rear property lines

**NOTES:**

- <sup>1</sup> Includes outdoor theaters, coal preparation or handling facilities, sawmills, fairgrounds, racetracks, stadiums, sewage treatment plants and landfills.
- <sup>2</sup> The established buffer requirement may be reduced to a horizontal distance equal to the structure's height upon presentation of written waiver by the respective property owner(s).
- <sup>3</sup> The height of the structure is determined by the vertical distance from grade to nacelle.

ARTICLE XVIII  
**Accessory Structures and Fences**

**§ 360-129. General Regulations.**

A. Residential accessory structures:

- (1) Residential accessory structures may be located within side or rear yards per § 360-126. No residential accessory structure may be located within the front yard in urban districts.
- (2) The use of mobile homes, travel trailers, motor homes, motor vehicle bodies, cargo boxes, or similar devices for storage is not permitted as an accessory use.

B. Nonresidential accessory structures:

- (1) Nonresidential structures may be located on the same lot as other approved nonresidential structures, provided that setback and size requirements are met.
- (2) Nonresidential structures associated with previously approved Board of Appeals Special Exceptions do not require Board of Appeals approval on the same parcel.

C. Dwelling units as accessory uses in the B-1, B-2, and I Districts

- (1) New dwelling units associated with commercial or industrial uses may be permitted as accessory uses in the B-1, B-2, and I Districts where the dwelling units are clearly subordinate in size to the commercial or industrial use. The owner of the dwelling units must also own the associated commercial or industrial use.

D. Fences:

- (1) No new fence, wall, structure, plant or other barrier to vision or sight distance shall be permitted within a radius of 20 feet from the right-of-way line of the intersection of any road, street or driveway with a County- or state-maintained road or street or within a radius of 55 feet from the intersection of the center lines of these roads, streets or driveways.
- (2) No fence, wall or other obstruction may be placed in stream channels which impedes the flow of the stream or causes backwater flooding of properties upstream.

ARTICLE XIX  
Nonconforming Uses

**§ 360-130. Determination.**

For the purpose of this Part 4, a nonconforming use or structure shall be deemed a building, structure, lot or premises, legally devoted or occupied at the effective date of this Part 4 by or for a use that does not conform to the provisions of this Part 4 or the amendments thereto for the district in which located.

**§ 360-131. Continuance of Existing Nonconforming Uses.**

- A. A nonconforming use existing at the time this Part 4 takes effect may be continued, except that, if it is voluntarily discontinued for one year or more, it shall then be deemed abandoned and any further use must be in conformity with the uses permitted in such district and with the current setback requirements.
- B. Nonresidential buildings larger than 2,000 square feet in first floor area or an occupied area larger than 10,000 square feet which were constructed or in use prior to the effective date of this Part 4 and used for a nonconforming or permitted use may be used for a new or similar, nonconforming use following site plan review.
- C. Agricultural uses, including residences and outbuildings, existing at the time of passage of this Part 4 are considered conforming uses in all zoning districts except for animal and poultry husbandry in the R-1 District on lots less than two acres in size and concentrated animal feeding operations.
- D. Permits issued under authority of previous County zoning codes remain valid and do not require renewal except as required by the previous code. This includes permits for buildings, various land uses, occupancy and special permits or conditional uses, variances or other permits approved through the Board of Appeals cases. Any conditional use or special permit approved by the Board of Appeals under previous zoning codes remains valid regardless of the zoning district in which it is now located. This includes uses which were approved by the Board and were awaiting final permit issuance at the effective date of this Part 4. Any use for which a permit application has been duly filed and is pending approval and could be approved under the existing zoning regulations may be completed and put to such use, provided it is done within one year after this Part 4 takes effect.
- E. Destroyed buildings. Any building or structure existing as a nonconforming use or which does meet current setbacks at the time this Part 4 takes effect, which is destroyed by fire or the elements, may be reconstructed or restored, provided that the same is done within two years of said destruction and provided that the use and size are not altered except as otherwise permitted by this Part 4 or another County regulation. Any reconstructed or

restored building is subject to the water and sewer requirements of Maryland COMAR 26.04.03-26.04.04 which is administered by the State.

**§ 360-132. Alteration or Enlargement.**

- A. A building or parcel of land devoted to a nonconforming use at the time this Part 4 takes effect may not be altered or enlarged so as to extend such nonconforming building or use more than 50% in area. Enlargement is cumulative over time.
- B. Any alteration or enlargement to extend such a nonconforming use more than 50% in area will be referred to the Board of Appeals as a Special Exception to this Part 4.

**§ 360-133. Reversions.**

In the R-1, R-2, GU, A or C Districts, any proposed change in use in any nonconforming structure or site will require Board of Appeals approval as a Special Exception at the County's discretion.

**§ 360-134. Existing Dwellings.**

Existing dwelling units in the B-1, B-2 and I Districts are considered conforming uses.

**ARTICLE XX  
Development Standards**

**§ 360-135. General Development Standards.**

The following requirements apply to all permitted uses:

- A. Buildable lots:
  - (1) Setback and size requirements. All lots must have a site which meets yard and setback requirements from property lines as shown in § 360-125, 360-126 and 360-127.
  - (2) Frontage and access. All lots must have frontage on a publicly dedicated right-of-way for a distance equal to the minimum lot width for a particular use. The lot must also have direct vehicular access to the right-of-way.
  - (3) Slope requirements. All lots must have a buildable site in an area with a slope having a grade less than 25%. Any cuts or fills must meet the slope requirements set forth in Part 3, Sediment and Erosion Control.
  - (4) Stream setback. All lots must have a buildable site which is at least 25 feet from the center line of any stream or drainageway, including wet-weather streams. In

the event that the stream basin is greater than 400 acres in size above the proposed site, the setback is 50 feet from the top of the streambank. A vegetative buffer is to be maintained within the setback distance.

- (5) Designated wetlands and designated habitats for threatened and endangered species. In those instances where the State of Maryland has designated wetland or habitat areas for protection, the lot must have a buildable site at least 25 feet beyond the designated area. In lieu of this setback, the applicant may develop mitigation measures as approved by the state.
- B. Building across lot lines. Where several adjacent lots are under common ownership, a building may not be placed across lot lines unless the deed(s) for the property are modified to indicate that the lots are combined into one parcel. This includes parcels which have been added to adjacent property under the lot-split process as set forth in § 360-12 of Part 1, Subdivision Regulations.
- C. Construction sites. Any foundation, borrow pit, sediment pond or other construction site must be adequately protected from access by the general public. The County may require fencing or other measures to gain this protection.
- D. Standards for planned developments.
- (1) In addition to site plan and general development standards, any planned development must have at least a fifty-foot frontage on a publicly maintained road or street with access via a commercial entrance. Industrial parks must have at least a sixty-foot frontage on a publicly maintained road or street with access via a commercial entrance.
  - (2) Interior roads must provide access to each unit or parcel and are the responsibility of the developer or his assigns for maintenance.
  - (3) Water and sewer service must be provided to each unit or parcel from a common system. If one or the other is not available, the state may allow either individual wells or septic systems, provided that each unit within the planned development is attached to the available system and provided that lot sizes are adequate to support individual systems. The state may require testing of nearby existing wells or springs in an aquifer to decide the adequacy of proposed wells in a planned development.
  - (4) Each planned development must have a fifty-foot screening buffer on the side and rear lot lines except for commercial or industrial uses adjoining same use on interior lots within the B-2 or I Districts.
  - (5) In planned residential developments, a percentage of the total development area is to be set aside for recreational use as noted in § 360-25 of Part 1, Subdivision Regulations.

- (6) In planned residential developments in A and C Districts, commercial uses shall comprise no less than twenty (20) percent and no more than fifty (50) percent of the total development area.

**§ 360-136. Commercial, Industrial and Institutional Development Standards.**

The following additional requirements are to be applied to commercial, industrial or institutional uses permitted on individual lots or in shopping centers, neighborhood convenience centers or industrial parks or other planned developments.

- A. All permitted uses must be on a lot which fronts on a County- or state-maintained road or street or on an internal street maintained by the developer. Any internal street must have direct access to a County- or state-maintained road or street.
- B. Access to any County- or state-maintained road or street must be constructed to commercial entrance standards.
- C. Parking space must be provided in conformance with § 360-139.
- D. Water and sewer service must meet State of Maryland standards under COMAR 26.04.03 and 26.04.04.
- E. Although bars, taverns, saloons, nightclubs and dance halls are not permitted in the B-1 or GU District, this Part 4 does not preclude the sale of alcoholic beverages in commercial establishments permitted in those districts nor does it preclude the sale of alcoholic beverages at public or private recreational areas so long as such sale is regulated by the County Liquor Control Board.

**§ 360-137. Lighting, Signs and Billboards.**

- A. All signs except billboards and directional signs shall be located on the lot where the business or other function is operated. Noncommercial welcoming signs placed at the entrance to communities may be located in any zoning district but must meet setback requirements for on-site signs according to § 360-128.
- B. All on-site and directional signs for commercial, industrial, institutional, farming or other purposes shall meet setbacks as shown in § 360-128 and shall meet maximum height requirements according to the use as shown in § 360-126 except as provided in § 360-137C.
- C. Commercial on-site signs may be constructed up to 72.5 feet in height in the B-1, B-2, GU and I Districts provided they are located within 2000' of the centerlines of the eastbound and westbound drive lanes of Interstate 68. A modification per § 360-63B4 is not applicable to this 72.5-foot sign height.

- D. Residences may have temporary "for sale" or "for rent" signs no larger than six square feet in area. Home occupation signs of the same size are allowed only on the lot where a particular home occupation has been permitted.
- E. No flashing lighted signs shall be permitted.
- F. All lighting shall be shielded and focused on the site with which it is associated to prevent nuisance to neighbors or passing motorists.
- G. Planned developments, including shopping centers, industrial parks, mobile home parks, multifamily housing or other residential areas, may have an identification sign at each entrance.
- H. Billboard signs shall meet setback and height requirements for major commercial use according to § 360-126 and shall meet State Highway Administration standards and be subject to a certified plan of survey.
- I. Commercial directional signs may be allowed in any district except the R-1 District. Such signs are to be no more than 25 square feet in surface area and must specify directions from the site location to the business location and meet State Highway Administration standards, if applicable.
- J. Electioneering signs are not subject to this Part 4.
- K. All electronic variable message signs must maintain a static display for a duration no less than eight (8) seconds. Transitions between static messages may not last more than two (2) seconds.

**§ 360-138. Extractive Industry Standards.**

- A. The disturbed surface area of any surface extractive industry must be at least 300 feet from any residence, unless the owner of the residence provides written permission for surface mining within that distance.
- B. Any subsurface extraction entrance and associated structures must be at least 300 feet from R-1 District boundaries, R-2 District boundaries and from any residence in any other district.
- C. Tipples, storage areas, wash plants and other preparation areas may not be within 500 feet of any residence, unless the property owner has provided written permission.
- D. All extractive industry uses or associated storage or preparatory sites must meet commercial entrance standards for County road entrances. Responsibility for maintaining such entrances will remain with the operator or his successor.



- E. Surface structures related to subsurface mining are prohibited in the R-1 and R-2 Districts.
- F. During Board of Appeals hearings for extractive industries, the Chairman shall make a statement at the beginning of each case that additional criteria and standards are administered by the State of Maryland and that citizens are encouraged to attend the State hearings, particularly with respect to water quantity and quality, blasting and other related items which are beyond the County's and the Board of Appeals' technical expertise. Following the Board of Appeals hearing, the Board shall relay all concerns on any particular extractive industry case to the State, in writing.
- G. Criteria and standards for quarries are also administered by the State of Maryland and any concerns related to groundwater, watersheds, blasting, surface water runoff, noise pollution and other items as related to quarries are to be referred to that agency.

**§ 360-139. Off-street Parking Standards.**

- A. General requirements.
  - (1) Each parking space shall be no smaller than 9 feet by 18 feet and be accessible to an aisle way, alley or street.
  - (2) Aisle ways between parking spaces are to be at least 20 feet in width.
  - (3) All parking spaces are to be separated from streets, alleys or other rights-of-way by a five-foot wide vegetative buffer area.
- B. Residential parking. All new dwelling units shall have a minimum of two parking spaces, except for multifamily units, which shall have a minimum of one parking space per unit and 1/2 space for each bedroom.
- C. Nonresidential parking.
  - (1) All single-lot developed commercial buildings shall have a minimum of one parking space (no smaller than 9 feet by 18 feet) for each 200 square feet of usable floor space (excluding storage and equipment areas) and one loading space for every 10,000 square feet of gross floor space. Restaurants, food shops, bars and nightclubs and other service enterprises shall have one space for every 50 square feet of customer floor space. Motels and hotels shall have one space per room plus one for every employee.
  - (2) Industrial, professional and institutional office buildings shall have 3 parking spaces per 1000 square feet gross floor area.

- (3) Theaters, auditoriums, arenas, outdoor festivals, clubs, churches and other recreation or institutional buildings, except schools, shall have one space per three persons' total capacity.

**Table 5: Parking Requirements**

Use	Number of Spaces	Metric
<b>Residential</b>		
Single-family dwelling unit	2 spaces	Per unit
Multifamily dwelling unit	1 space	Per unit
	plus ½ space	Per bedroom
<b>Non-Residential</b>		
Single-lot developed commercial buildings	1 space	Per 200 sq ft usable floor space (excluding storage and equipment areas)
	plus 1 loading space	Per 10,000 square feet of gross floor space
Service enterprises (including restaurants, food shops, bars and nightclubs)	1 space	Per 50 square feet of customer floor space
Motels and hotels	1 space	Per room
	plus 1 space	Per employee on maximum work shift
Industrial, professional and institutional office buildings	3 spaces	Per 1000 square feet gross floor area
Theaters, auditoriums, arenas, outdoor festivals, clubs, churches and other recreation or institutional buildings (except schools)	1 space	Per 3 persons total capacity

- D. Bicycle parking. Multifamily, commercial, industrial and institutional buildings shall provide bicycle parking facilities when adjacent to designated bicycle trails, greenways or connecting routes to such facilities as determined by County staff.

## ARTICLE XXI

### **Administration and Enforcement; Appeals**

#### **§ 360-140. Administration and Enforcement.**

- A. It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any building or structure or land in violation of any regulation or provision of this Part 4 or any amendment or supplement thereto lawfully adopted by the County Commissioners of Allegany County or fail to comply with any reasonable requirement imposed by the Board of Appeals.
- B. It shall be the duty of the County to enforce the provisions of this Part 4 and keep records of all permits, amendments and Board of Appeals cases.
- C. The County shall have the authority to enter upon and inspect any property other than enclosed structures when the County has probable cause to believe a violation of this code has occurred. This authority includes the right to make a pictorial record of any violation and to measure the extent of any violation. The County Sheriff shall assist with this inspection upon request. The Code Official may commence abatement action or issue a civil citation in lieu of sending a thirty-day notice in cases where previous violations for the same owner and property were subject to similar enforcement action.
- D. Additionally, the County may pursue civil fines or penalties to ensure compliance with this Part 4 and may institute injunction, mandamus or other appropriate action or proceedings at law or equity for the enforcement of violations or to correct violations, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions or mandamus or other appropriate forms of remedy or relief. Any responsible party given proper notice who does not comply within the thirty-day period given shall be subject to the County abating, at the owner's cost, by court order or by administrative hearing provided by the County, the violation and/or be issued a civil citation, and/or criminal summons subject to the County abating, at the owner's cost, pursuant to authority granted by Local Government Article Section 11-201, et seq, and Local Government Article 13-501, et seq. The following violations are deemed to be civil infractions:
  - (1) Building or grading without a permit.
  - (2) Change in use without a permit.
  - (3) Commercial occupancies without a permit.

- E. All civil citations shall be processed in accordance with Local Government Article 11-201, et seq. Each day that a violation exists is considered a separate offense. Repeat violations for the same offense can result in a fine of up to \$1,000.
- F. A schedule of fines for civil infractions shall be established by the Allegany County Commissioners from time to time by resolution. All such fines when paid shall become the property of Allegany County.
- G. Abatement:
  - (1) In addition to any other remedy provided for herein, the County may seek abatement of any violation of this chapter or may contract for said abatement. Prior to said abatement, the following shall occur:
    - (a) Notices provided for in Subsection D shall have been provided to the responsible party, including a notice that abatement may be pursued.
    - (b) More than 30 days have transpired since notice was given and the violations have not been corrected.
    - (c) The responsible party has received an additional notice sent not sooner than 30 days after the original notice advising that abatement will be pursued and said second notice shall advise that an administrative hearing may be requested within 10 days of receipt of the second notice.
    - (d) More than 10 days have elapsed since receipt of the second notice and no administrative hearing has been held, or an administrative hearing has been held and the hearing officer has determined that abatement is appropriate.
  - (2) In the event that abatement is undertaken, the cost of the abatement shall be at the responsible party's expense. Notice of the expense shall be provided to the responsible party in writing. If the expense is not paid to the County within 30 days of the receipt of the notice, then the amount owed shall be a lien upon the property after filing of notice in the land records of the Clerk of the Circuit Court for Allegany County, Maryland.
  - (3) The Board of County Commissioners of Allegany County may adopt policies and procedures for an administrative hearing process prior to ordering the abatement of a violation of the Code.
- H. The County or any citizen may institute an injunction, mandamus, or other appropriate actions, or proceedings at law or equity for the enforcement of violations or to correct violations; and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus, or other appropriate forms of remedy or relief.

**§ 360-141. Board of Appeals.**

- A. Pursuant to § 4-301 of the Land Use Article of the Annotated Code of Maryland, a Board of Appeals is hereby established by the County Commissioners.
- B. The County Commissioners shall appoint a Board of Appeals, consisting of three members and two alternates, each with a term of three years. Terms are to be staggered so that no more than two terms expire in any year. Vacancies shall be filled for the unexpired terms of any member whose term becomes vacant. Members of the Board may receive such compensation as the County Commissioners deem appropriate. A Chairman shall be selected annually upon a majority vote of the three regular members. The County may procure the services of an attorney to assist the Board of Appeals in its deliberations.
- C. Meetings of the Board of Appeals shall be held at the call of the Chairman. Such Chairman, Acting Chairman, or Attorney appointed by the Board, may administer oaths and compel the attendance of witness. All meetings of the Board shall be open to the public. The County shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and findings of fact; all of which shall be immediately filed with the County and shall be a public record.
- D. The Board of Appeals shall have the following powers and duties:
  - (1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by the Zoning Administrator or any other administrative official in the enforcement of this code.
  - (2) To hear and decide Special Exceptions as provided in Article XV. Permissible Uses.
  - (3) To authorize upon application a variance from the provisions of this Code, as provided in §360-141 herein.

In exercising the above powers, the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination which has been appealed from, to the extent that such action is consistent with the provisions of this Code. The applicant for a Special Exception or variance and the appellant in an appeal shall have the burden of proof (including the burden of going forward with the evidence and the burden of persuasion) of all questions of fact.

- E. The Board of Appeals shall hear all appeals for variance within 45 days. All other appeals shall be heard within 60 days of the date of the appeal application. The Board shall publish notice of the time and place of the hearing in a newspaper of general circulation in the County at least 15 days prior to the hearing. The Board will require the applicant to post the property in question at least five days prior to the hearing date. The Board will notify in writing all known property owners adjacent to the property in question at least

five days prior to the hearing. Adjacent property owners include those separated from the property in question by roads, railroads and other rights-of-way. Property owners are to be identified by use of the most current Tax Map information.

F. Board of Appeals hearing procedure:

- (1) Prior to the hearing date, the Board of Appeals members shall make an inspection of any site where an appeal is pending. This inspection will include a review of access to the site, setbacks from rights-of-way and adjacent property lines, setbacks from neighboring residences, compliance with development standards and related site criteria. This inspection shall be done in a manner that allows public participation.
- (2) The Board may request information from and consultation with the County staff about any pending appeal at any site. The Board may also request information in writing from the County Health Department, County Public Works Department, Soil Conservation District or any other local or state agency prior to making a decision on any appeal.
- (3) Each appeal will be heard in the following order:
  - (a) Witnesses will be sworn in.
  - (b) The County will present the appeal case and all pertinent documents.
  - (c) The applicant or his agent will present his case.
  - (d) Proponents may speak.
  - (e) Opponents may speak.
  - (f) Rebuttal testimony may be made by the applicant or his agent following Subsection F(3)(e).
  - (g) Board members may question any applicant or witness during their testimony.

G. Board of Appeals decisions.

- (1) The Board shall meet in executive session following the conclusion of the meeting agenda to decide the appeals heard during that meeting. The public may attend this executive session but may offer no further testimony or comment during the executive session.
- (2) When making decisions on each case, the Board shall consider and set forth its findings of fact, in writing, based on:

- (a) Its findings made during field inspections.
  - (b) Information gathered by the County.
  - (c) Information provided by other agencies.
  - (d) Information provided by the applicant or his agent. In all cases, it is the applicant's responsibility to show that the project meets:
    - [1] The requirements of this Part 4.
    - [2] Other agency requirements.
  - (e) Information provided by witnesses present at the hearing.
  - (f) The standards and criteria set forth in this Part 4.
- (3) When hearing appeals for Special Exceptions for extractive industry permits, the Board shall refer its decision and recommendations to the appropriate state agency charged with regulating mining activity.
  - (4) The Board shall make its decision on any case known in writing to the applicant and adjacent property owners within 30 days after the hearing date.
  - (5) Any condition which the Board of Appeals attaches to an approved application will remain in force for the applicant and any successor.
- H. An appeal from any final order or decision of the Zoning Administrator may be taken to the Board of Appeals by any person aggrieved. An appeal is taken by filing with the Zoning Administrator a written notice of appeal specifying the grounds therefore. A notice of appeal shall be considered filed with the Zoning Administrator when delivered to the Office of Land Development Services and when the application fee is paid. The date and time of filing shall be entered on the notice by the Zoning Administrator or other staff members.
  - I. An appeal must be filed within fifteen (15) days after the date of the Zoning Administrator's decision or action.
  - J. Whenever an appeal is filed, the Zoning Administrator shall forthwith transmit to the Board of Appeals all the papers constituting the record relating to the action appealed from.
  - K. Any person or persons or any taxpayer or any officer, department, board, bureau or commission jointly or severally aggrieved by a decision of the Board of Appeals may appeal the same to the Circuit Court of Allegany County within 30 days of the notification of the decision.

- L. The Board of Appeals shall have the power to participate as a party in any appeal of its decision before the Circuit Court of Allegany County.

**ARTICLE XXII  
APPENDICES**

**§ 360-142. Index of Arterial Highways.**

The Index of Arterial Highways shall be as follows:

**Table 6: Index of Arterial Highways**

Route Name or Number	Location in Allegany County
<b>PRINCIPAL ARTERIAL</b>	
<b>National Freeway I-68</b>	Garrett County line to Washington County line
<b>US 220 North</b>	Pennsylvania State line to I-68
<b>MAJOR ARTERIAL</b>	
<b>New Georges Creek Road MD 36</b>	Alternate Route 40 in LaVale to Route 135 at Westempot
<b>Alternate US 40</b>	Garrett County line to Willow Brook Road
<b>Barrelville Road MD 47</b>	Route 36 at Barrellville to Pennsylvania State line
<b>Ellersile Road MD 35</b>	Route 36 at Corriganville to Pennsylvania State line
<b>MD 135</b>	Garrett County line to Route 220 in McCoolle
<b>MD 956</b>	Route 220 at Pinto to West Virginia State line
<b>MD 51</b>	I-68 in Cumberland to West Virginia State line
<b>US 220 South</b>	I-68 to West Virginia State line
<b>MINOR ARTERIAL</b>	
<b>MD 936</b>	Route 36 at Midland to Alternate Route 40 in Frostburg
<b>Vale Summit Road MD 55</b>	Route 36 at Vale Summit to Alternate Route 40 in Clarysville
<b>Midlothian Road MD 736</b>	Shaft Road to Park Avenue
<b>Winchester Road MD 53</b>	Alternate Route 40 in LaVale to Route 220 in Cresaptown
<b>MD 658</b>	Alternate Route 40 in LaVale to Route 53 in LaVale
<b>Warrior Drive MD 636</b>	Route 53 to Route 220 in Cresaptown
<b>MD 144</b>	I-68 at Naves Crossroads to I-68 at 15 Mile Creek
<b>Scenic US 40</b>	I-68 at 15 Mile Creek to Washington County line
<b>MD 639</b>	I-68 at Cumberland to Route 51
<b>Town Creek — Bear Hill Roads</b>	Route 144 at Flintstone to Route 51 at Oldtown
<b>Old US 220</b>	Route 220 North at Smouses Mill Road to Route 144 at Naves Crossroad
<b>Braddock Road MD 49</b>	Cumberland Boundary to Vocke Road



<b>Parkersburg Road MD 638</b>	Alternate US 40 to MD 36
<b>Long Drive / Cash Valley Rd</b>	Alternate US 40 to MD 36
<b>Uhl Highway MD 51E</b>	MD 51 to Pittsburgh Plate Glass Road

**§ 360-143. Information Required with Applications for Minor Site Plans, Standard Plans, and Major Site Plans.**

**Table 7: Site Plan Checklist**

<b>Item # and Description</b>	<b>Minor Site Plan</b>	<b>Standard Plan</b>	<b>Major Site Plan</b>
<b>I. PROJECT-PLAT INFORMATION</b>			
<b>1. Name, address of owner, applicant</b>	X	X	X
<b>2. Name, signature, license number, seal, and address of engineer, land surveyor, architect, planner, and/or landscape architect, as applicable, involved in document preparation</b>			X
<b>3. Title block denoting name and type of application, tax map sheet, election district, block and lot, parcel, street location, and sheet number (if plan exceeds one sheet)</b>	X	X	X
<b>4. A key map at a specified scale showing location of tract with reference to surrounding properties, streets, landmarks, streams, etc.</b>	X	X	X
<b>5. Existing and proposed zoning of tract and adjacent property</b>	X	X	X
<b>6. North arrow and scale</b>		X	X

7. Appropriate signature block for zoning administrator			X
8. Monumentation			X
9. 24" x 36" standardized sheets			X
10. 8.5" x 11" standardized sheets	X	X	
<b>Item # and Description</b>	<b>Minor Site Plan</b>	<b>Standard Plan</b>	<b>Major Site Plan</b>
11. Metes and bounds description showing dimensions, bearings, curve data, length of tangents, radii, arcs, chords, and central angles for all centerlines and rights-of-way, and centerline curves on streets			X
12. Acreage of tract	X	X	X
13. Date of original and all revisions	X		X
14. Size, location, and height of any existing or proposed structures with all setbacks dimensioned	X	X	X
15. Location and dimensions of any existing or proposed roads or streets (for standard plans general location)	X	X (approx.)	X
16. Location of walls or fences	X	X	X
17. All existing or proposed lot lines and area of lots in square feet or lot dimensions	X	X	X

18. Copy and/or delineation of any existing or proposed deed restrictions or covenants	X		X
19. Any existing or proposed easement or land reserved for or dedicated to public use	X		X
20. Development stages or staging plans			X
21. List of required regulatory approvals or permits			X
<b>Item # and Description</b>	<b>Minor Site Plan</b>	<b>Standard Plan</b>	<b>Major Site Plan</b>
22. List of variances required or requested	X	X	X
23. Requested or obtained design waivers or exceptions			X
24. Specific uses proposed	X	X	X
25. Any conditions or design standards required by the table of permissible uses (PC, SE, and SC)	X	X	X
26. Type of wastes or by-products to be produced and method of disposal of such waste	X	X	X
27. Payment of application fees	X	X	X
<b>II. SETTING-ENVIRONMENTAL INFORMATION</b>			
28. Adjacent property owners		X	X

<b>29. All existing water courses, perennial streams, floodplain, wetlands, or other environmentally sensitive area on and within 200' of site</b>	X	X	X
<b>30. Existing rights-of-way and/or easements on and within 100' of tract</b>	X	X	X
<b>31. Topographical features of subject property</b>		X	X
<b>32. Existing and proposed contour intervals based on County data. Contours shall extend at least 100' beyond subject property.</b>			X
<b>Item # and Description</b>	<b>Minor Site Plan</b>	<b>Standard Plan</b>	<b>Major Site Plan</b>
<b>33. Slope analysis areas &gt;25% shall be shaded and identified as steep slopes</b>			X
<b>34. Soils based on current Soil Survey</b>			X
<b>35. Boundary, limits, nature, and extent of wooded areas, specimen trees, and other significant physical features (details may vary)</b>			X
<b>36. Buffer strips with a vegetation plan approved by Allegany Soil Conservation District</b>		X	X
<b>37. A 100 Year Floodplain based on FEMA maps</b>	X	X	X
<b>38. Non-tidal wetlands delineation based on</b>	X	X	X

<b>NWI maps or County maps</b>			
<b>39. Non-tidal wetlands identification based on field analysis</b>	Disturbed area only	Disturbed area only	Disturbed area only
<b>40. Location of areas to be disturbed by construction and location of trees measuring greater than 12" in diameter at 4.5'</b>			X
<b>41. Location of all contiguous forested areas on the site and adjacent to the site</b>			X
<b>Item # and Description</b>	<b>Minor Site Plan</b>	<b>Standard Plan</b>	<b>Major Site Plan</b>
<b>III. IMPROVEMENTS AND CONSTRUCTION INFORMATION</b>			
<b>42. Construction details as required by code</b>		X	X
<b>43. Description, method and location of water supply and sewerage disposal facilities</b>		X	X
<b>44. Stormwater management system, if applicable</b>		X	X
<b>45. Sediment and erosion control plan, if applicable</b>		X	X
<b>46. Lighting plan and details</b>			X
<b>47. Landscape plan and details</b>			X
<b>48. Landscape agreement and financial surety</b>			X
<b>49. Location, size, and type of all signs (site</b>	X	X	X

identification signs, traffic control signs, and directional signs)				
50. Vehicular and pedestrian circulation patterns		X		
51. Parking plan showing number of spaces, size, and type; aisle width, curb cuts, drives, driveways, and all ingress and egress areas and dimensions		X		
52. Designated open space and/or planned recreational facilities		X		
53. Areas of outdoor storage		X		
Item # and Description	Minor Site Plan	Standard Plan	Major Site Plan	
54. Other information as may be necessary to ensure compliance with applicable regulations	X	X	X	
55. Other information as may be necessary to obtain the approval of other regulatory agencies (e.g., Health, DPW, SHA, SCD)	X	X	X	

**SECTION II.**

All provisions of the *Code of Public Local Laws of Allegany County, Maryland (2011 edition)*, ordinances, regulations, and orders, or parts thereof, inconsistent with the terms of the provisions of this Bill, are hereby repealed.

**SECTION III.**

AND BE IT FURTHER ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF ALLEGANY COUNTY, MARYLAND, that this Act shall become effective 45 days from the date of its passage.

**PASSED** this \_\_\_\_ day of \_\_\_\_\_, 2017.

**BOARD OF COUNTY COMMISSIONERS  
OF ALLEGANY COUNTY, MARYLAND**

\_\_\_\_\_  
Jacob C. Shade, President

\_\_\_\_\_  
Creade V. Brodie, Jr., Commissioner

\_\_\_\_\_  
William R. Valentine, Commissioner

ATTEST:

\_\_\_\_\_  
David A. Eberly  
County Administrator

**CERTIFICATION**

I, David A. Eberly, County Administrator and Clerk to the Commissioners of Allegany County, Maryland, hereby certify that the above action of the Commissioners is a part of the formal, written record of the public meeting on the \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
David A. Eberly, County Administrator

**S E A L**