

## CODE OF ALLEGANY COUNTY MARYLAND

### PART 4 ZONING

[ADDED 12-12-1996]

#### ARTICLE XVII General Provisions

##### **§141-70. Legislative purpose.**

- 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 Article 66B of the Annotated Code of Maryland.
- C. Jurisdiction. This Part 4 shall apply to the unincorporated area of Allegany County, excluding the LaVale Zoning District.

##### **§141-71. Definitions and word usage.** [Amended 5/9/2002 by CHR Bill# 03-02 Amended, effective 6/23/2002] [Amended by Resolution 99-23, Effective January 10, 2000<sup>8</sup>] [Amended 10/10/2002 by CHR Bill 07-02 Amended, Effective 11/24/2002<sup>9</sup>]

- A. Terms defined. As used in this Part 4, the following terms shall have the meanings indicated:

ACCESSORY STRUCTURE, RESIDENTIAL - Includes private garages, private swimming pools, storage buildings, carports and other structures associated with the principal residential structure on a particular parcel of land; also includes on-site communication structures and other essential services.

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 files, 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 Ordinance.

AGRICULTURAL OPERATION - Shall mean and include 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 © 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 of 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, the Allegany County Soil District are permitted along with activities which may produce normal agricultural related noise and odors. Raising, storage and processing of crops, plants, produce, animals, animal products, poultry and poultry products, and forest products. On lots less than two (2) acres in size in the "R" District, animal and poultry husbandry are considered non-conforming uses. Agriculture does not include the location of dwelling units on a parcel unless the requirements of the 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.

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

BUFFER STRIP - A vegetated area designed to separate specified uses. Vegetation may include grasses, flowers, woody perennial plants.<sup>8</sup>

**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.

**BUILDABLE LOT** - (See Development Standards in Article XXVI.)

**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.

**CLUSTER RESIDENTIAL** -- See "planned development."

**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 system, community water or sewer systems, public or major water or sewer systems are to be in conformance with COMAR 26.

**COMMERCIAL:**

- (1) **MAJOR COMMERCIAL** - Includes neighborhood commercial uses, personal services establishments, wholesale and retail stores, offices or office buildings, banks, 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, truck stops, truck terminals, truck repair facilities, plant nurseries, bakeries and similar uses; includes all uses where a product or service is stored or marketed or prepared, stored and marketed.<sup>8</sup>
- (2) **NEIGHBORHOOD COMMERCIAL** - Includes grocery stores, retail stores, automobile service stations, specialty shops, such as 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, billboards and on-site signs, 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 OPERATIONS - The feeding of more than 500 swine or cattle or 10,000 birds per building, feed lot or other facility.<sup>8</sup>

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.

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.

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, multi-family 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<sup>9</sup>, cellular, relay and transmitting towers), water or sewage systems (except sewage treatment plants), solid waste collection landfills, also 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 or G-1 Districts. <sup>8</sup>

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 130, Allegany County floodplain regulations, as adopted and amended.

FLOODWAY - That portion of the one-hundred-year floodplain which is delineated on the Flood Insurance Maps as the area of concentrated water flow. Sites within floodways are not buildable without major hydraulic analysis and mitigation measures approved by FEMA.

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.

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) - Industrialized Dwelling means a building assembly or system of building subassemblies manufactured in its entirety, or in substantial part, offsite 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 onsite.

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 Master Plan for Solid Waste.

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 to 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 § 141-13 of Part 1, Subdivision Regulations).

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 DOUBLEWIDE) - A Manufactured Home means a structure, transportable in one or more sections, which in the traveling mode is 8 body feet (2438 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 paragraph 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 build 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 hand-held mechanical device are conducted by one or more persons on the exposed skin of one or more other persons within private or semi-private 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: i) massages by State-licensed massage therapists

or health care professionals; ii) massages involving persons who are related to each other; iii) massages within a licensed hospital or nursing home; iv) hand massages of the face, hands or feet; or v) therapeutic massages that are clearly incidental to a permitted exercise club or municipal, college or high school athletic program.

MOBILE HOME, DOUBLEWIDE (See Manufactured Home definition)

MOBILE HOME, SINGLEWIDE (See Manufactured Home definition)

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. A residential lot which has a mobile home as its principal structure and a temporary mobile home permitted under §141-103A(2) is not considered a mobile home park for the purpose of these regulations.

MODULAR HOME - Sectional (double-wide) homes or modular homes constructed in more than one section to be assembled on site on a foundation; built without a chassis but on a removable frame and wheels, which are removed when the modular home is placed on its foundation.

MOTEL - 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.

PLANNED DEVELOPMENT - Includes mobile home parks, multifamily housing, condominiums, townhouses, cluster residential developments, industrial parks, shopping centers, convenience centers, campgrounds and resorts, having water and/or sewer systems and an internal road system maintained by the developer or his assigns.

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, second homes, 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 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 or unlicensed automobiles or other unlicensed vehicles not in running condition, machinery or parts thereof.

SEDIMENT AND EROSION CONTROL ORDINANCE- Part 3, Allegany County Sediment and Erosion Control Ordinance, 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 GVW of 10,000 pounds. Service and repair or parking or storage of trucks over 10,000 pounds GVW is not considered a permitted use under this definition. <sup>8</sup>

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.

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 all districts except the R and G-1 Districts.

SEWER SYSTEM - Includes community and major systems as defined by COMAR 2(5-04.03.

SHARED FACILITY - Two dwellings sharing the same well or septic system on the same lot as approved and inspected by the state under Maryland COMAR 26.04.05.

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 Doublewide Mobile Homes 22 feet or greater in width and Industrial Modular Homes intended to house one family. In the "R" District, Manufactured Doublewide Mobile Homes are to be placed on a permanent, fully enclosed foundation (i.e. crawlspace 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.

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.) [Added 10-25-2001 by Bill No. 10-01]

**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.) [Added 10-25-2001 by Bill No. 10-01]

**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 ORDINANCE** - Part 4, Allegany County Stormwater Management Ordinance, 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.

(1) **PRINCIPAL ARTERIALS:**

- (a) Serve interstate and intrastate travel.
- (b) Serve as major truck routes.
- (c) Have fully controlled limited access.
- (d) Connects Allegany County with major population centers (greater than 50,000).

(2) **MAJOR ARTERIALS:**

- (a) Serve interstate travel.
- (b) Serve as truck routes.
- (c) Partially controlled access.
- (d) Connects population centers within Allegany County and smaller population centers (less than 50,000) outside the county.

(3) **MINOR ARTERIALS:**

- (a) Serve intracounty travel.
- (b) Connect principal and major arterials, particularly in urbanized areas.
- (c) Partially controlled access.
- (d) Connect small population centers with major towns inside the county.

(4) **LOCAL STREETS:**

- (a) Serve intracounty travel in the urban areas of the county.
  - (b) Access controlled by lot width of the permitted use.
  - (c) Includes connector and collector streets.
- (5) OTHER NONURBAN ROUTES:
- (a) Serve intracounty travel outside the urban areas of the county.
  - (b) Serve agricultural uses, forests, parks and isolated residences.
- (6) COAL-HAUL ROADS: connect coal mine preparation plants and other mining uses with arterial state highways.
- (7) INDUSTRIAL PARK ACCESS ROADS:
- (a) Connect county industrial parks with arterial state highways.
  - (b) Generally designed as loop roads.
- (8) INTERNAL STREETS:
- (a) 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.
  - (b) 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, Allegany County Subdivision Regulations, as adopted or amended.

SUBSURFACE MINERAL EXTRACTION - See the definition of EXTRACTIVE INDUSTRY. <sup>8</sup>

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 3, 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 this 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. <sup>8</sup>

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). <sup>8</sup>

TRUCK STOP - A structure or land used or intended to be used primarily for the sale of fuel or trucks and, usually, incidental service or repair or trucks; or a group of facilities consisting of such a use and providing public facilities for eating, sleeping or truck parking. <sup>8</sup>

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. <sup>8</sup>

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

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.

VEHICLE TOWING AND STORAGE FACILITY - 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 un-motorized 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.

WIND ENERGY CONVERSION SYSTEMS (WECS) - 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. <sup>9</sup>

WIND FARM - Area arranged and dedicated to the construction and maintenance of Wind Energy Conversion Systems. <sup>9</sup>

WIND TURBINE - A wind energy conversion device that produces electricity; typically having one, two, or three blades. <sup>9</sup>

B. 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 Zoning Appeals," "Community Development Department," "Health Department," "Planning Commission," "Planning Department," "Public Works Department" and "Soil Conservation District" mean the respective boards, commissions, departments and officers of Allegany County.

**§141-72. Zoning Map.**

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 Permits Division office.

**§141-73. 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.

**§141-74. Exceptions.** [Amended by Resolution 99-23, Effective January 10, 2000<sup>8</sup>]

- 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 § 141-71. This does not exempt these services from the provisions of Part 2, Sediment and Erosion Control; Part 3, Stormwater Management; or Chapter 130, 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. However, all setbacks must be met for the particular use.
- D. Lots of record are exempt from lot size requirements, so long as setback requirements are met, subject to §141-75. Modifications.<sup>8</sup>

**§141-75. 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 (S.H.A.) may vary the setback per S.H.A. 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, whichever is greater.

- (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.
  - (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.
- C. All other modifications must be heard by the Board of Appeals as a 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.

**§141-76. 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 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. 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.

- (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, through the Planning Commission, shall make findings of fact in each specific case as required by Article 66B of the State Code. 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 local legislative body 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 Ordinance and Map at the end of each fiscal year.
- (2) The Comprehensive update procedure will follow §141-76B(3), (5), (6) and (7).

**§141-77. 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.

**§141-78. Violations and penalties**

Any person violating any regulation or provision of this Part 4 or of any amendment or supplement thereto shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined no less than \$10 nor more than \$ 100. Each day the violation continues may be deemed a separate offense. Additionally, the county may pursue civil fines or penalties to ensure compliance with this Part 4.

**§141-79. Severability.**

If any article, section, subsection, sentence, clause or phrase of these regulations is for any reason held to be unconstitutional or contrary to the laws of Maryland, such decision shall not affect the validity of the remaining portions of these regulations.

**§141-80. Repealer.**

The Allegany County Zoning Ordinance adopted September 25, 1981, and all amendments are repealed as of the effective date of this Part 4.

**§141-81. Continuance of permits issued under previous zoning ordinances.**

Permits issued under authority of previous county zoning ordinances remain valid and do not require renewal except as required by the previous ordinance. 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 ordinances remains valid regardless of the zoning district which it is now located in. This includes uses which were approved by the Board and were awaiting final permit issuance at the effective date of this Part 4.

**ARTICLE XVIII**  
**Permit Procedure**

**§141-82. Permit application and approval.**

- A. 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 the following requirements:
    - (a) Zoning:
      - [1] Permitted uses.
      - [2] Permit expiration.
    - (b) Lot size requirements.
    - (c) Setbacks from rights-of-ways, alleys and side and rear yards.
    - (d) Setbacks from streams or drainage channels.
    - (e) Slope requirements.
    - (f) Habitat of threatened or endangered species requirements.
    - (g) Wetlands requirements.
    - (h) Floodplain requirements.
    - (i) Subdivision requirements.

- (j) Sediment and erosion control requirements.
  - (k) Stormwater management requirements.
  - (l) Building Code requirements.
  - (m) Site plan review requirements.
  - (n) Development standards.
  - (o) Board of Appeals requirements.
  - (p) 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/or bonding is submitted.
- (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 Division office.
- (4) Approved permits shall be signed by the appropriate county official. Permit posters 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. Permitted use. The proposed use shall be listed as being allowed in the pertinent district or shall be similar to the listed uses. Questions of interpretation shall be decided by the county and may be appealed to the Board of Zoning Appeals as set forth in § 141-129D.
- D. 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.
- E. 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.
- F. Principal residential structure. One principal residential structure and residential accessory structures are allowed on each single-family residential lot. A residential garage or residential storage structure is allowed on a residential lot which is not occupied by a single-family dwelling.
- G. Bonding. The county reserves the right to require a performance bond 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/or the Soil Conservation District.
- (1) Bonding for improvement plans. For major commercial, industrial or institutional uses or planned developments, the applicant may submit a bond sufficient to cover the cost of the preparation of engineering plans in addition to the estimated cost of improvements for the project. The amount of bonding will be set by the County Engineer.
  - (2) Issuing permits with bonding. Following submission of bonds for required improvements and, where appropriate, for plans, the county may issue permits, provided that all other involved agencies indicate their written approval.
  - (3) Release of bonds. No bond shall qualify for release until the applicant has successfully completed all required plans and construction is complete and the site is compliant with all county and state ordinances.

**§141-83. Site plans and development standards.** [Amended 5/9/2002 by CHR Bill# 03-02 Amended, effective 6/23/2002]

All applicants shall produce a site plan with the permit application, as described in Article XXV, showing conformance to the requirements for setbacks, yards, erosion and sediment control and, where applicable, stormwater management, public road access, water and sewer service, parking and other criteria. Permit applications will not be sent for agency review until the site plan is submitted. The development standards in Article XXVI 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 XXVI 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 § 141-113A. 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 construction of a building or other structure larger than 2,500 square feet or the movement of 250 or more cubic yards of earth or the disturbance of 20,000 square feet of surface area shall be accompanied by a standard site plan signed by the applicant and prepared according to criteria listed in § 141-113B and Article XXVI, Development Standards.
- (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 ordinances. 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 condition 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 § 141-114 and Article :XXVI, Development Standards. 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.

**§141-84. Planned developments.**

A. Types of planned developments. Types of planned developments shall be as follows:

- (1) Mobile home parks.
- (2) Campgrounds and resorts.
- (3) Cluster residential.
- (4) Multifamily, condominiums and townhouses.
- (5) Industrial parks.
- (6) Shopping centers.
- (7) Neighborhood convenience centers.

- B. Planned development procedure. In preparing for a planned development, the developer or his agent shall comply with principles and standards in Article XXVI which are similar to those set forth in Part 1 7 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.

**§141-85. Major Site Plan Review Committee.** [Amended 5/9/2002 by CHR Bill# 03-02 Amended, effective 6/23/2002]

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 Community Services Director, the Planning Director, the Environmental Health Director, the District Manager of the Soil Conservation District and a member of the Planning Commission or their designees. In addition to the items normally reviewed by each agency, the Board may advise the applicant as to the aesthetic design of the proposed project.

**§ 141-86. (Reserved)<sup>10</sup>**

**§141-87. 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 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 Civil Defense Director, the County Health Officer and County Engineer.
- B. 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 § 141-82G may be used to ensure the issuance of permits prior to or concurrent with the installation of improvements.

## **ARTICLE XIX** **Zoning Districts**

**§141-88. Zoning districts established.** [Amended 5/9/2002 by CHR Bill# 03-02 Amended, effective 6/23/2002]

The following zoning districts are established:

A. Urban districts:

R	Residential
B-1	Neighborhood Business
B-2	Major Business
I	Industrial
G-1	General Residential District
G-2	General Urban District

B. Nonurban districts:

A	Agriculture, Forestry and Mining
C	Conservation

**§141-89. Urban districts.**

- A. Urban districts are designed to accommodate various forms of urban development, including residential, commercial, industrial, institutional and recreational uses. In addition, major subdivisions, minor subdivisions and planned developments, including mobile home parks, cluster residential developments, industrial parks, shopping centers, neighborhood convenience centers and campgrounds, are to be accommodated in the urban districts.

- B. 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.

**§141-90. Nonurban districts.**

- A. Nonurban districts are designed to accommodate a number of non-urban 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.
- B. Single-family dwellings, mobile homes and second homes in minor subdivisions will also be allowed on individual lots in nonurban districts. Planned residential developments, campgrounds or resorts may be allowed as a special exception, provided that the requirements for major subdivisions are met.

**ARTICLE XX**  
**Permitted Uses**

**§141-91. All districts.**

- A. All permitted uses are subject to the following:
  - (1) Definitions in § 141-71.
  - (2) Site plan criteria in Article XXV.
  - (3) Development standards in Article XXVI.
  - (4) Setback requirements in §§ 141-100, 141-101 and 141-102.
- B. Uses permitted in all districts shall be as follows:
  - (1) Agricultural uses.
  - (2) Timber operations.
  - (3) Subsurface mineral extraction.
  - (4) Institutional uses.
  - (5) Public utility structures.
  - (6) Essential services.
  - (7) Directional signs.
  - (8) Home Occupations.

**§141-92. R Residential District.**

Uses in the R Residential District shall be as follows:

- A. Permitted uses include:

- (1) Single-family detached units or duplex units.
  - (2) Residential accessory structures, including accessory apartments, storage buildings up to 900 square feet in first floor area, private garages up to 900 square feet in first floor area and swimming pools.
  - (3) Multifamily units, condominiums, townhouses or row houses.
  - (4) Planned residential developments, except the following: mobile home parks, campgrounds and resorts.
- B. Special exception uses subject to Board of Appeals approval include: [Amended by Resolution 99-23, Effective January 10, 2000<sup>8</sup>]
- (1) Conversion of single-family detached units to multifamily units.
  - (2) Residential storage buildings, including additions, greater than 900 square feet in first floor area.<sup>8</sup>
  - (3) Private garages, including additions, greater than 900 square feet in first floor area.<sup>8</sup>
  - (4) Mobile home parks.

**§141-93. B-1 Neighborhood Commercial District.**

Uses in the B-1 Neighborhood Commercial District shall be as follows:

- A. Permitted uses include:
- (1) Neighborhood commercial uses.
  - (2) Convenience centers.
  - (3) Billboards and on-site signs.
- B. Special exception uses subject to Board of Appeals approval include:
- (1) Car, truck or other vehicle sales.
  - (2) Contractor's equipment yards.
  - (3) Veterinarian clinics and animal hospitals.
  - (4) Lumber yards.
  - (5) Solid or liquid fuel storage for wholesale trade.
  - (6) Dwelling units.
  - (7) Mobile home parks.
  - (8) Mobile homes on individual lots.
  - (9) One temporary mobile home in accord with §141-103A(2).
- C. Uses not permitted: [Amended by Resolution 99-23, Effective January 10, 2000<sup>8</sup>]

- (1) Bars, taverns, saloons, nightclubs and dance halls.
- (2) Sawmills.
- (3) Truck stops.
- (4) Truck terminals <sup>8</sup>
- (5) Truck repair facilities <sup>8</sup>
- (6) Slaughterhouses or rendering establishments.
- (7) Outdoor Theaters.
- (8) Feed or grain mills.
- (9) Salvage yards.

**§141-94. B-2 Major Commercial District.** [ <sup>1</sup>Added 10-25-2001 by Bill No. 10-01, effective 12-9-2001]  
[Amended 5/9/2002 by CHR Bill# 03-02 Amended, effective 6/23/2002]

Uses in the B-2 Major Commercial District shall be as follows:

A. Permitted uses include:

- (1) Major commercial uses.
- (2) Neighborhood commercial uses.
- (3) Convenience centers.
- (4) Shopping centers.
- (5) Billboards and on-site signs.
- (6) Planned residential developments except mobile home parks, in conformity with §141-18.C. of the Allegany County Subdivision Regulations.<sup>1</sup>

B. Special exception uses subject to Board of Appeals approval include:

- (1) On-site research or manufacturing in addition to the principal use.
- (2) Dwelling units on lots of record less than two acres in size.
- (3) Mobile home parks.
- (4) Mobile homes on individual lots of record less than two acres in size.
- (5) Cellular, relay, repeating and transmitting towers, subject to §141-115E.<sup>1</sup>
- (6) Adult Uses per the requirements in Appendix III.G.

**§141-95. I Industrial District.** [Added 10-25-2001 by Bill No. 10-01]

Uses in the I Industrial District shall be as follows:

A. Permitted uses include:

- (1) Light and heavy industry, including research or manufacturing processes.

- (2) Commercial businesses which primarily serve industrial customers.
  - (3) Industries with wholesale or retail sales.
  - (4) Industrial parks.
  - (5) Major commercial uses when contiguous to an arterial highway.
  - (6) Shopping centers when contiguous to an arterial highway.
  - (7) Truck and rail terminals.
  - (8) Construction equipment yards.
  - (9) Warehouses.
  - (10) Solid and liquid fuel storage and sales.
  - (11) Solid waste transfer stations.
  - (12) Solid waste processing/resource recovery facilities.
  - (13) Storage and sale of transportation equipment, including trucks and buses.
  - (14) Storage and sale of motor homes, travel trailers and mobile homes.
  - (15) Salvage yards, subject to Chapter 176, Salvage Yards.
  - (16) Sewage treatment plants.
  - (17) Landfills.
  - (18) Billboards and on-site signs.
  - (19) Cellular, relay, repeating and transmitting towers, subject to § 141-115E.
- B. Special exception uses subject to Board of Appeals approval include: [Amended by Resolution 99-23, Effective January 10, 2000<sup>6</sup>]
- (1) Dwelling units on lots of record less than two acres in size.
  - (2) Mobile home parks.
  - (3) Mobile homes on individual lots of record less than two acres in size.
  - (4) One temporary mobile home in accord with § 141-103A(2).
  - (5) Concentrated Animal Feeding Operation.<sup>8</sup>

**§141-96. General urban development districts.** [Amended 10-25-2001 by Bill No. 10-01] [Amended 5/9/2002 by CHR Bill# 03-02 Amended, effective 6/23/2002]

- A. G-1 District. Uses in the G-1 District shall be as follows:
- (1) Permitted uses include:
    - (a) Single-family detached units or duplex units.
    - (b) Mobile homes on individual lots.
    - (c) Residential accessory structures, including:
      - [1] Swimming pools.
      - [2] Storage buildings.

- [3] Private garages.
  - [4] Accessory apartments.
  - (d) One temporary mobile home in accord with § 141-103A(2).
  - (e) Multifamily units, condominiums, townhouses or row houses.
  - (f) Private noncommercial recreation areas.
  - (g) Planned residential developments except the following:
    - [1] Mobile home parks.
    - [2] Campgrounds and resorts.
  - (2) Special exception uses subject to Board of Appeals approval include
    - (a) Mobile home parks.
    - (b) Campgrounds and resorts.
- B. G-2 District. Uses in the G-2 District shall be as follows:
- (1) Permitted uses include:
    - (a) Single family detached units or duplex units.
    - (b) Mobile homes on individual lots.
    - (c) Residential accessory structures as provided in § 141-96A(l)(c).
    - (d) One temporary mobile home as noted in § 141-103A(2).
    - (e) Multi-family units, condominiums, townhouses or row houses.
    - (f) Private noncommercial recreation areas.
    - (g) Planned residential developments except:
      - [1] Mobile home parks.
      - [2] Campgrounds and resorts.
    - (h) Neighborhood commercial uses.
    - (i) Convenience centers.
    - (j) Nonresidential accessory structures on lots where nonresidential uses have been previously approved.
    - (k) Greenhouses and nurseries.
    - (l) Billboards and on-site signs.
  - (2) Special exception uses subject to Board of Appeals approval include: [Amended by Resolution 99-23, Effective January 10, 2000\*]
    - (a) Mobile home parks.
    - (b) Campgrounds and resorts.
    - (c) Conversion of a parcel used for residential purposes at the time of the adoption of this Ordinance to a commercial use. <sup>8</sup>
    - (d) Veterinarian clinics or animal hospitals.

- (e) Commercial kennels or stables.
  - (f) Shopping centers.
  - (g) Lumberyards, sawmills, feed or grain mills.
  - (h) Car and truck sales.
  - (i) Salvage yards, subject to Chapter 176, Salvage Yards.
  - (j) Contractor's equipment storage yards.
  - (k) Storage and rental of equipment commonly used by contractors.
  - (l) Solid waste transfer stations, subject to § 141-102.
  - (m) Solid waste processing/resource recovery facility, subject to § 141-1.02.
  - (n) Surface mining, quarrying and related haul roads.
  - (o) Storage and sale of solid fuel.
  - (p) Tipples, wash plants and other mineral processing facilities.
  - (q) Vacation campgrounds and resorts.
  - (r) Privately owned commercial recreation areas, including:
    - [1] Fairgrounds.
    - [2] Racetracks.
    - [3] Golf courses.
  - (s) Motels.
  - (t) Truck stops.
  - (u) Truck terminals <sup>8</sup>
  - (v) Truck repair facilities <sup>8</sup>
  - (w) Sewage treatment plants.
  - (x) Landfills.
  - (y) Cellular, relay, repeating and transmitting towers, subject to §141-115E.
  - (z) Vehicle Towing and Storage Facility subject to the Setback, Screening and Buffer Requirements set forth in the Salvage Yard Regulations of Allegany County.
- (3) Uses not permitted. The following commercial uses are not allowed in this District.  
[Amended by Resolution 99-23, Effective January 10, 2000<sup>8</sup>]
- (a) Bars, taverns, saloons, nightclubs and dance halls.
  - (b) Slaughterhouses or rendering establishments.
  - (c) Concentrated Animal Feeding Operation. <sup>8</sup>

**§141-97. A Agriculture, Forestry and Mining District.** [Added 10-25-2001 by Bill No. 10-01][Amended 10/10/2002 by CHR Bill 07-02 Amended, Effective 11/24/2002<sup>9</sup>]

Uses in the A Agriculture, Forestry and Mining District shall be as follows:

- A. Permitted uses include:
- (1) Agricultural buildings or structures.
  - (2) Single-family dwellings, duplex units, mobile homes and second homes.
  - (3) Publicly owned recreation areas, including:
    - (a) State parks.
    - (b) State forests.
    - (c) Wildlife management areas.
  - (4) Residential accessory structures as provided in §141-95A(1)(c).
  - (5) One temporary mobile home in accord with §141-103A(2).
  - (6) Storage, processing and sale of agricultural products or stock.
  - (7) Greenhouses and nurseries.
  - (8) Commercial kennels and stables.
  - (9) Veterinarian clinics and animal hospitals.
  - (10) Gun clubs, hunting lodges and target ranges.
  - (11) Private noncommercial recreation areas.
  - (12) Airports and landing fields.
  - (13) Sawmills.
  - (14) Cellular, relay, repeating and transmitting towers, subject to §141-115E.
  - (15) Wind Energy Conversion Systems (WECS)<sup>9</sup>.
- B. Special exception uses subject to Board of Appeals approval include: [Amended by Resolution 99-23, Effective January 10, 2000<sup>8</sup>]
- (1) Planned residential developments.
  - (2) Campgrounds and resorts.
  - (3) Privately owned commercial recreation areas and structures, including:
    - (a) Fairgrounds.
    - (b) Racetracks.
    - (c) Golf courses.
  - (4) Surface mining, quarrying and related haul roads.
  - (5) Storage and sale of solid fuel.
  - (6) Tipples, wash plants and other mineral processing facilities.
  - (7) Salvage yards, subject to Chapter 176, Salvage Yards.
  - (8) Sewage treatment plants.
  - (9) Landfills.
  - (10) Solid waste transfer stations, subject to §141-102.
  - (11) Solid waste processing/resource recovery facilities, subject to §141-102.

- (12) Vehicle Towing and Storage Facility subject to the Setback, Screening and Buffer Requirements set forth in the Salvage Yard Regulations of Allegany County.
- (13) Concentrated Animal Feeding Operation.<sup>8</sup>

**§141-98. C Conservation District.**

- A. The C Conservation District is designed to protect large areas having steep slopes (twenty-five-percent grade or steeper), ridgetops, stream buffers, floodplain areas, wetlands, habitat for threatened or endangered species, caverns, public supply watersheds and other unique natural features from intense urban development by alerting the applicant to the existence of the above features. Site plan approval will require avoidance of or mitigation to these features as set forth by the responsible reviewing agency.
- B. Permitted uses and special exceptions follow A District guidelines except: in those C Districts which are designated on the Zoning Map as public supply watersheds, all of the permitted uses and special exception uses listed under the A District will require Board of Appeals approval.

**ARTICLE XXI**  
**Lot Size and Setback**

**§141-99. General.**

The lot size requirements and setbacks listed in §§ 141-100, 141-101 and 141-102 are to be used in association with the Zoning District uses set forth in Article XX.

- 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 normally vary by district but are related to highway and street types and to other features, including lot lines, rights-of-way, stream channels, floodplains and steep slopes.

**§141-100. Lot size and yard requirements.** [Amended 5/9/2002 by CHR Bill# 03-02 Amended, effective 6/23/2002]

Standard lot size and yard requirements shall be as follows. (See §141-100 for front yard setbacks.)

	<b>Minimum Lot Area</b> (square feet)	<b>Minimum Lot Width</b> (feet)	<b>Minimum Side Yard<sup>a</sup></b> (feet)	<b>Minimum Rear Yard<sup>a</sup></b> (feet)	<b>Maximum Height</b> (feet)
<b>PRINCIPAL STRUCTURES</b>					
Single family dwellings and mobile homes					
with public water and sewerage	6,000	50	8	25	30
with public sewerage only	10,000	75	8	25	30
with public water only	15,000	100	8	25	30
with well and septic system	-b-	-b-	8	25	30
Mobile home parks	80,000	n/a	50	50	n/a
Mobile home units	4,000/unit	n/a	n/a	n/a	n/a
Multi-family dwellings, duplexes and town houses					
two families	3,000/unit	25/unit	8	25	30
three or more families	2,000/unit	150	8 <sup>d</sup>	25 <sup>d</sup>	40
town houses	2,000/unit	20/unit	8 <sup>c,d</sup>	25 <sup>d</sup>	30
Commercial					
* Major Commercial	12,000	100	30 <sup>d</sup>	30 <sup>d</sup>	40 <sup>e</sup>
* Neighborhood Commercial	6,000	50	30 <sup>d</sup>	30 <sup>d</sup>	40 <sup>e</sup>
* Commercial uses in the G-2 District	10,000	75	30 <sup>d</sup>	30 <sup>d</sup>	40 <sup>e</sup>
Industrial*	40,000	200	30 <sup>d</sup>	30 <sup>d</sup>	n/a <sup>e</sup>
Institutional	6,000	50	30 <sup>d</sup>	30 <sup>d</sup>	50 <sup>e</sup>
<b>ACCESSORY BUILDINGS</b>					
Residential - one & two family, town house	-	-	8	8	30
Residential - three or more families	-	-	8	8	40
Non Residential*	-	-	30 <sup>d</sup>	30 <sup>d</sup>	n/a <sup>e</sup>
<b>ACCESSORY STRUCTURES</b>					
Residential - one & two family, town house	-	-	8	8	n/a <sup>e</sup>
Residential - three or more families	-	-	8	8	n/a <sup>e</sup>
Non Residential*	-	-	30 <sup>d</sup>	30 <sup>d</sup>	n/a <sup>e</sup>

**NOTES:**

- (a) All yard distances, except height, are measured from the side or rear property lines.
  - (b) When wells and/or septic systems are utilized, the lot size and width will be set according to State standards.
  - (c) Side yards are only applicable on the end units of a set of town houses.
  - (d) Or fire separation distance as defined by the Building Code of Allegany County.
  - (e) Height and area limitations are further controlled by the Building Code of Allegany County.
- \* For Commercial and Industrial uses, see also §141-102 for additional requirements.

**§141-101. Setback requirements for structures** <sup>8</sup>. [Amended by Resolution 99-23, Effective January 10, 2000<sup>8</sup>]

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

<b>Functional Class - Highways</b>			<b>All Other Roads and Streets in Urban Districts</b>	<b>All Other Roads and Streets in Non-Urban Districts</b>
<b>Principal Arterials</b>	<b>Major Arterials</b>	<b>Minor Arterials</b>		
(feet)	(feet)	(feet)	(feet)	(feet)
50 from right-of-way	50 from right-of-way or 75 from centerline	40 from right-of-way or 65 from centerline	25 from right-of-way or 50 from centerline	40 from right-of-way or 65 from centerline

(1) For arterials, collectors and connectors, the greater of the two distances applies. <sup>8</sup>

(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 yard requirements shown in § 141-100.

B. Minimum distance from railroad tracks (excluding sidings). All structures must be set back 50 feet from the center line of tracks or 25 feet from the right-of-way.

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 setback at least 50% of the distance noted for other structures.

E. Setbacks for corner lots of record are subject to §141-75B(3).

F. See § 141-131 for an index of arterial roads and streets.

**§141-102. Special setback and height requirements.** [Amended 5/9/2002 by CHR Bill# 03-02 Amended, effective 6/23/2002] [Amended by Resolution 99-23, Effective January 10, 2000<sup>8</sup>] [Amended 10/10/2002 by CHR Bill 07-02 Amended, Effective 11/24/2002<sup>9</sup>]

Special setback and height requirements shall be as follows:

USE	REQUIREMENT
Communication towers and other free standing non-industrial structures[, excluding WECS <sup>9</sup> ]	A distance equal to the height of the structure from buildings on adjacent lots
Residential accessory structures	8' from other structures on the same lot
Neighborhood commercial structure	25' buffer when adjacent to R or G-1 District
Major commercial structure	50' buffer when adjacent to R or G-1 District
Industrial structure	50' buffer when adjacent to R or G-1 District, also a distance equal to the height of the structure when adjacent to the R or G-1 Districts.
Special Exceptions, non-residential	50' buffer when adjacent to residential unit or R District
*Special Exceptions, large scale uses	500' buffer when adjacent to residential unit or R District
Drive-through facilities	50% of required building setback
Vehicles on sales lot	50% of required building setback
Swimming pools	25' measured horizontally from nearest overhead electric line
Fences	
Swimming pool	4' minimum height for in-ground pools
Privacy	8' maximum height for residential lots; 12' maximum height for other uses
Surface mines and quarries <sup>8</sup>	300' setback from residential unit unless owner gives a written waiver <sup>8</sup>
Airport	1,000' from nearest residence or "R" District boundary
Solid waste transfer stations and solid waste processing/resource recovery facility. [Added 10-25-2001 by CHR Bill# 10-01]	In the G-2, A or C Districts, 300-foot buffer when adjacent to R District or when adjacent to a residential unit. The Board of Appeals may alter this setback to increase the distance to residential units after site review.
Concentrated Animal Feeding Operations <sup>8</sup>	500 feet from nearest neighboring residential unit or R District boundary

Landing Field <sup>8</sup>	1,000 feet beyond end of landing strip to nearest residential unit or R District boundary; 200 feet from C/L of landing strip to nearest residential unit or R District boundary
Truck Stops Truck Terminals Truck Repair Facilities <sup>8</sup>	In the B-2 and G-2 Districts, 200 feet from the nearest residential unit or R District boundary
Wind Energy Conversion System(WECS) <sup>9</sup>	(1) Buffer <sup>†</sup> - A distance equal to two (2) times the height <sup>1</sup> of the structure from occupied buildings on adjacent lots. (2) Setback - A distance equal to the height <sup>1</sup> of the structure from property lines of adjacent lots

NOTES:

- \* Includes outdoor theatres, coal preparation or handling facilities, sawmills, fairgrounds, racetracks, stadiums, truck stops, sewage treatment plants, and landfills.
- † 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>9</sup>
- <sup>1</sup> The *height* of the structure is determined by the vertical distance from grade to nacelle..<sup>9</sup>

**ARTICLE XXII**  
**Accessory Structures and Fences**

**§141-103. General regulations.** [Amended 5/9/2002 by CHR Bill# 03-02 Amended, effective 6/23/2002]  
 [Amended by Resolution 99-23, Effective January 10, 2000\*]

A. Residential accessory structures:

- (1) Residential accessory structures may be located within side or rear yards per § 141-100. No residential accessory structure may be located within the required front yard setback.
- (2) A temporary mobile home for members of the immediate family for residential purposes on a lot with a principal residential structure is considered an accessory structure and is a permitted use in the G-1, G-2, A and C Districts and is a special exception use in the B-1, B-2 and I Districts. This mobile home must be located at least 50 feet from any dwelling and must meet the setback and parking requirements for residential uses. The permit for this temporary mobile home is limited to five years and may be renewed for a second five-year term by the county upon written request by the applicant. There is no fee for this renewal. <sup>8</sup>
- (3) The use of Mobile Homes, Travel Trailers, Motor Homes, Motor Vehicle Bodies, or similar devices for storage is not permitted as an accessory use.
- (4) A residential storage building or garage may be built on a residential lot prior to construction of a residential structure, provided that it meets size and setback and Use requirements. <sup>8</sup>

- B. Nonresidential 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 XXIII**  
**Home Occupations**

**§141-104. General regulations.** [Amended by Resolution 99-23, Effective January 10, 2000<sup>8</sup>]

- A. Procedure and definitions. Any person may maintain or carry on a home occupation in a dwelling used as a private residence or in an accessory structure in any zoning district. 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 § 141-125.
- B. Home occupations include day care centers, professional services, repair shops, 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. The sale of wholesale or retail items not made on the premises is considered a home occupation in the R and G-1 Districts when the items being sold are mail-ordered or otherwise delivered to the buyer at another location. Automobile repair will require Board of Appeals approval in the R and G-1 Districts.<sup>8</sup>
- C. No outdoor storage of equipment, material or stock is permitted in the R or G-1 Districts. Certain commercial uses, including stables, kennels, veterinarian clinics, tennis courts or swimming pools, are not considered residential accessory uses or structures or home occupations in the R or G-1 Districts.

- 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.

**§141-105. 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 District, provided that the vehicles are not parked on a public right-of-way. In the R 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 §141-127.

**§141-106. (Reserved)**

**ARTICLE XXIV**  
**Nonconforming Uses**

**§141-107. Determination.**

For the purpose of this Part 4, a nonconforming use 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.

**§141-108. Continuance of existing nonconforming uses.** [Amended by Resolution 99-23, Effective January 10, 2000<sup>8</sup>]

- A. A non-conforming use or structure 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. <sup>8</sup>
- B. Non-residential 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 and G1 District on lots less than two acres in size. <sup>8</sup>
- D. Existing permits. Any building arranged, intended or designed for a nonconforming use at the time of the passage of this Part 4, for which a permit has been issued, or any application, the approval of which is pending, that could be approved under the existing 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 not 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.<sup>8</sup>

**§141-109. 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.

**§141-110. Reversions.**

In the R, G-1, G-2, 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.

**§141-111. Existing dwellings.**

Existing dwelling units in the B-1, B-2 and I Districts are not considered nonconforming uses.

**ARTICLE XXV**  
**Site Plan Criteria**

**§141-112. General regulations.**

All applications must be accompanied by a minor, standard or major site plan. All site plans are to show previously designated sewage disposal areas which are not to be graded or disturbed unless the system is being upgraded through an approved permit issued by the state. A subdivision plat, sediment control plan or other similar plan may be used as a site plan, provided that it adheres to the following design criteria.

**§141-113. Minor and standard site plans.** [Amended by Resolution 99-23, Effective January 10, 2000<sup>8</sup>]

- A. Minor site plan design criteria. Minor site plan design criteria shall:
  - (1) Be drawn at an appropriate scale to show the proposed land use layout on a sheet of white paper measuring at least 8½ by 11 inches.
  - (2) Contain a vicinity map.
  - (3) Show a vehicular access point from a street or alley.

- (4) Show the date prepared.
  - (5) Show the general slope of the property and includes shading for areas over twenty-five-percent slope.
  - (6) Show the proposed land use in relation to the principal structure,
  - (7) Show property boundaries and setbacks.
  - (8) Show the zoning district.
  - (9) Show drainways, wetlands and setbacks with hash marks.
  - (10) Show water and sewer lines or well and septic locations.
  - (11) Show location of walls or fences.
- B. Standard site plan design criteria. Standard site plan design criteria shall:
- (1) Be drawn at an appropriate scale to show proposed land use layout on a sheet of white paper measuring 8½ by 11 inches or larger size, if appropriate.
  - (2) Contain a vicinity map.
  - (3) Show liber/folio, parcel number, Tax Map, size of lot and owner of property.
  - (4) Show existing roads, streets, alleys and vehicular access points; also show acceleration and deceleration lanes, if applicable.
  - (5) Identify the name of the applicant or designer.
  - (6) Show the date prepared.
  - (7) Show the general slope of the site and includes shading for areas over twenty-five-percent slope.
  - (8) Show property boundaries and setbacks.
  - (9) Show the zoning district(s).
  - (10) Show drainageways, wetlands and setbacks with hash marks.
  - (11) Show water and sewer lines or well and septic system location, if applicable.
  - (12) Show location and arrangement of parking for autos and trucks, if applicable.
  - (13) Show stormwater management system, if applicable.
  - (14) Show sediment and erosion control plan, if applicable.
  - (15) Show location of walls and fences, if applicable.
  - (16) Show location and dimension of proposed principal buildings and/or accessory structures or other uses and signs, lighting, where applicable. <sup>8</sup>
  - (17) Show buffer strips with a vegetation plan approved by the Allegany County Soil Conservation District. No parking, drainage ponds or other structures other than required fences are to be located within buffer strips. Drainways, utilities and entrances/exits may cross buffer strips. Where buffers are adjacent to residential lots or the "R" zoning district, plantings must consist of an adequate number of woody perennial plants as specified by the Allegany Soil Conservation District. Any grading in the buffer strip is to be approved by the Allegany Soil Conservation District. In lieu of vegetation, fences or walls up to 8 feet in height may be required as part of the site plan review.<sup>8</sup>

**§141-114. Major site plan design criteria.** [Amended by Resolution 99-23, Effective January 10, 2000<sup>8</sup>]

Major site plan design criteria shall:

- A. Be drawn at an appropriate scale to show the entire proposed land use layout on a sheet or sheets of tracing paper or Mylar measuring 24 by 24 inches.
- B. Contain a vicinity map and scale,
- C. Show the liber/folio, parcel number, Tax Map, size of lot and owner of the property.
- D. Show existing or platted roads and streets abutting or crossing the property and any proposed roads, streets or interior streets with rights-of-way and access points.
- E. Contain the name of the applicant and designer of plan, if different from the applicant.
- F. Be signed, sealed and dated by registered engineer, landscape architect or professional surveyor licensed to practice in the State of Maryland.
- G. Show five-foot contour intervals on the entire site to be developed and includes shading for any areas over 25% in grade.
- H. Delineate any drainageways, floodplains, wetlands and habitat for threatened and endangered species and show the appropriate setbacks with hash marks.
- I. Show the property boundaries to scale with deed descriptions of lot lines; also show walls or fences.
- J. Show the zoning district(s).
- K. Show any rights-of-way, easements, municipal boundaries or special taxing area boundaries.
- L. Show existing or proposed roads or streets, sewer lines, water mains, noting both location and size. Profiles of streets, water and sewer lines also are required.
- M. Show setbacks from rights-of-way, lot lines and other structures.
- N. Show location and arrangement of parking space for automobiles or trucks, if applicable.
- O. Show location and dimension of access points, acceleration and deceleration lanes, if applicable.
- P. Show proposed stormwater management system.
- Q. Show proposed sediment and erosion control plan.
- R. Show the location and exterior dimensions of principal buildings and accessory structures.
- S. Show the location and size of freestanding signs.
- T. Show the location, size and mounting of lights, their intensity and direction of focus. <sup>8</sup>
- U. Show buffer strips with a vegetation plan approved by the Allegany County Soil Conservation District. No parking, drainage ponds or other structures other than required fences are to be located within buffer strips. Drainways, utilities and entrances/exits may cross buffer strips. Where buffers are adjacent to residential lots or the "R" zoning district, plantings must consist of an adequate number of woody perennial plants as specified by the Allegany Soil Conservation District. Any grading in the buffer strip is to be approved by the Allegany Soil Conservation District. In lieu of

vegetation, fences or walls up to 8 feet in height may be required as part of the site plan review. <sup>8</sup>

## **ARTICLE XXVI**

### **Development Standards**

**§141-115. General development standards.** [Amended 10/10/2002 by CHR Bill 07-02 Amended, Effective 11/24/2002<sup>9</sup>]

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 §§ 141-100, 141-101 and 141-102.
  - (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 streambank.
  - (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 in one parcel. This includes parcels which have been added to adjacent property under the lot-split process as set forth in § 141-13 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.
  - (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 are 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 buffer on the side and rear lot lines except for commercial or industrial uses on interior lots within the B-2 or I Districts.
  - (5) In residential planned developments, a percentage of the total development area is to be set aside for open space as noted in the Subdivision Regulations. This may include stream buffer areas, floodplain areas, wetlands and steep slopes, but not the fifty foot side and rear buffer area.
  - (6) In mobile home parks, mobile homes must be mounted on a chassis per State of Maryland regulations and not be attached to a permanent foundation.
- E. Removal of WECS, cellular, relay, repeating and transmitting tower. The structure shall be utilized continuously for electrical power generation or wireless communications, respectively. 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.<sup>9</sup>

**§§ 141-116. through 141-122. (Reserved)**

**§141-123. Adult Use Requirements:** [Added 5/9/2002 by CHR Bill# 03-02 Amended, effective 6/23/2002]

- A. See definition of ADULT USES under Article XVII, General Provisions, §141-71.A., Definitions and word usage.
- B. No adult use shall be located within any of the following:
  - (1) 1,000 lineal feet of the lot line of any library, public park, or other Public Recreational Area, or Residential District, regardless of municipal borders;
  - (2) 1,500 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 "B-2" Major Commercial District.
- C. A 30 feet wide buffer yard shall be provided along the side and rear lot lines, with a full evergreen screen of evergreen trees or a fence or wall of a height and consistency to block the view of the use from adjacent property.

- D. No pornographic material, display or words shall be visible from outside of the establishment. No use shall be used for any purpose that violates Federal, State or County criminal law.
- E. For public safety reasons, an adult use shall not be combined with the sale or consumption of alcoholic beverages.
- F. For public health reasons, private viewing booths are prohibited.
- G. Any application for an Adult Use shall include the full legal name and home addresses of: (a) all persons who will have any ownership interest in the use or any corporation that controls the use; and (b) an on-site manager who shall be personally responsible, in addition to the owners, to ensure that this Ordinance is complied with on a daily basis. Any changes to such information shall be reported to the Community Services Department in writing within seven days.
- H. No adult use shall operate between the hours of 11 p.m. and 8 a.m.

**§141-124. Commercial, industrial and institutional development standards.** [Amended by Resolution 99-23, Effective January 10, 2000<sup>8</sup>]

The following additional requirements are to be applied to commercial, industrial or institutional uses permitted on individual lots or in shopping centers, 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 § 141-127.
- 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 G-2 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.
- F. Sewage 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. <sup>8</sup>

**§141-125. Lighting, Signs and Billboards.**<sup>8</sup> [Amended by Resolution 99-23, Effective January 10, 2000<sup>8</sup>]

- 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 the setback, height and other requirements outlined below.
- B. All on-site signs for commercial, industrial, institutional, farming or other purposes shall have a setback of at least 50% of the required building setbacks from the road or street fronting on the property and must meet all side and rear yard setbacks.
  - C. 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.
  - D. No flashing lighted signs shall be permitted.
  - E. All lighting shall be shielded and focused on the site with which it is associated to prevent nuisance to neighbors or passing motorists.<sup>8</sup>
  - F. Planned developments, including shopping centers, industrial parks, mobile home parks, multifamily or other residential areas, may have an identification sign at each entrance. Identification signs shall be set back at least 50% of the required building setback for front, side and rear yards.
  - G. Billboards may be allowed in the I, B-1, B-2 or G-2 Districts along arterial highways and must meet State Highway Administration standards.
  - H. Commercial directional signs may be allowed in any district except the R 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.
  - I. Electioneering signs are not subject to this Part 4.

**§141-126. Extractive industry standards.** [Amended by Resolution 99-23, Effective January 10, 2000<sup>8</sup>]

- 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 District boundaries, G-1 District boundaries and from any residence in any other district.
- C. Tipples, storage areas, wash plants and other preparation areas are permitted in any district except the R and G-1 District but must be referred to the Board of Appeals if they are within 500 feet of any residence, unless the property owner has provided written waiver.<sup>8</sup>
- 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. 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.

- F. 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.

**§141-127. Off-street parking standards.**

- A. General requirements.
  - (1) Each parking space is to contain 200 square feet and be accessible to an aisleway, alley or street.
  - (2) Aisleways 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 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 commercial buildings shall have a minimum of one parking space (of 200 square 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 parking spaces equal to 50% of the number of employees at the peak shift, plus one space for each vehicle used in the business and adequate visitor parking.
  - (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.
- D. Bicycle parking.
  - (1) Multifamily, commercial, industrial and institutional buildings shall provide bicycle parking facilities when adjacent to designated bicycle trails, greenways or connecting routes to such facilities.

**ARTICLE XXVII**  
**Administration and Enforcement; Appeals**

**§141-128. 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 may issue cease and desist orders to assure that the provisions of this Part 4 are carried out.
  - 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.

**§141-129. Board of Appeals.**

- A. The county shall accept appeal applications for variances, special exceptions and claims of administrative error for referral to the Board of Appeals.
- 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, or in his absence the Acting Chairman, selected by the members in attendance, may administer oaths and compel the attendance of witnesses. 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 hear and decide:
  - (1) Appeals where it is alleged by a permit applicant that there is an error in any order, requirement, decision, determination or permit denial made by an administrative official in regard to the enforcement of this Part 4 or of any regulation adopted pursuant thereto. Any such appeal must be made within 15 days of such written decision by an administrative official.
  - (2) Appeals for variances, per § 141-75.
  - (3) Applications for special exceptions listed in Article XX.

- E. The Board of Appeals shall hear all appeals for variances within 45 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 E(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. 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.

## ARTICLE XXVIII Appendices

### §141-130. (Reserved)

**§141-131. Index of Arterial Highways.** [Amended 5/9/2002 by CHR Bill# 03-02 Amended, effective 6/23/2002]

The index of Arterial Highways shall be as follows:

<b>Functional Class</b>	<b>Route Name or Number</b>	<b>Location in Allegany County</b>
<b>Principal Arterial</b>		
	I-68 (National Freeway)	Garret County line to Washington County Line
	Route 220 North	Pennsylvania State Line to I-68
<b>Major Arterial</b>		
	Route 220 South	I-68 to West Virginia State line
	Route 36	Alternate Route 40 in LaVale to Route 135 at Westernport

Alternate Route 40	Garrett County line to Willow Brook Road
Route 47	Route 36 at Barrellville to Pennsylvania State line
Route 35	Route 36 at Corriganville to Pennsylvania State Line
Route 135	Garrett County line to Route 220 in McCoole
Route 956	Route 220 at Pinto to West Virginia State line
Route 51	I-68 in Cumberland to West Virginia State line

**Minor Arterial**

Route 936	Route 36 at Midland to Alternate Route 40 in Frostburg
Route 55	Route 36 at Vale Summit to Alternate Route 40 in Clarysville
Midlothian Road	I-68 to Alternate Route 40 in Frostburg
Rt. 53 (Winchester Road)	Alternate Route 40 in LaVale to Rt. 220 in Cresaptown
Rt. 658 (Vocke Road - Campground Road)	Alternate Route 40 in LaVale to Rt. 53 in LaVale
Rt. 636 (Warrior Drive)	Route 53 to Route 220 in Cresaptown
Route 144	I-68 at Naves Crossroads to I-68 at Fifteen Mile Creek
Scenic Rt. 40	I-68 at Fifteen Mile Creek to Washington Co. Line
Route 639 (Willowbrook) Williams-Messick Roads	I-68 at Cumberland to Route 51
Town Creek-Bear Hill Roads	Route 144 at Flintstone to Route 51 at Oldtown
Old Route 220	Route 220 North at Smouses Mill Road to Route 144 at Naves Crossroad

<<END DOCUMENT>>

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