ARTICLE 1

GENERAL PROVISIONS

1-100 TITLE

The regulations set forth in this document including the following nine Articles shall be known as the "North Beach Zoning Ordinance."

1-200 PURPOSE

The North Beach Zoning Ordinance is intended to promote the health, safety and general welfare of the public; to facilitate the creation of a convenient, attractive and harmonious Town; to preserve the character of the Town by preventing the harmful effects of prejudicial uses; to conserve properties and their value; to encourage the appropriate use, development and re-development of land; to prevent environmental pollution; to promote the preservation of historic buildings and resources; and to implement the adopted North Beach Comprehensive Plan for the orderly and controlled growth of the Town. In addition, this Ordinance is intended to implement the provisions of Land Use Article of the Maryland Annotated Code and Subtitle 15, Chesapeake Bay Critical Area Commission Criteria for Local Critical Area Program Development, Code of Maryland.

1-300 APPLICABILITY

1-301 Territorial Application

The provisions of this Ordinance shall apply to all land and all improvements in the incorporated boundaries of the Town of North Beach, Maryland.

1-302 Land

Where land is subdivided, the division shall be effected in a manner that will not violate the provisions of this Ordinance.

1-303 Improvements

No building, structure, or premises shall be used, and no building, structure, or part of a building or structure shall be constructed, extended, moved, structurally altered, receive exterior modifications or enlarged except in conformity with this Ordinance.

1-400 INTERPRETATIONS

1-401 Minimum Requirements

In interpreting and applying the provision of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity or general welfare of the Town of North Beach.

1-402 Conflicting Resolutions

Whenever any provision of this Ordinance imposes a greater requirement or a higher standard than is required in any Federal or State statue or other Town ordinance or regulation, the provisions of this Ordinance shall govern. Whenever any provision of any Federal or State statute or other Town ordinance or regulation imposes a greater requirement or high standard than is required by these regulations, the provisions of Federal/State or other Town ordinance or regulation shall govern.

1-500 SEVERABILITY

Should any section or any provision of this Ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so held to be unconstitutional or invalid.

1-600 EFFECTIVE DATE

This Ordinance was adopted by the Mayor and Town Council of the Town of North Beach by Ordinance Number _____ dated _____ ___, ____ and became effective at 12:01 a.m. on _____ __, ____, at which time all previous editions of the North Beach Zoning Ordinance are repealed.

ARTICLE 2

ZONING DISTRICTS AND MAPS

2-100 ESTABLISHMENT OF ZONING DISTRICTS AND BOUNDARIES

2-101 Zoning Districts Established

The incorporated territory of the Town of North Beach shall be divided into the zoning districts defined in Article 3 and the overlay districts defined in Article 4 of this Ordinance.

2-102 Zoning Map

The locations and boundaries of the zoning districts are established as shown on the "Official Zoning Map, North Beach, Maryland". The Official Zoning Map and all explanatory material on the map is incorporated by reference and made a part of this Ordinance. The Official Zoning Map shall be located in the North Beach Town Hall and will be available on the Town website.

2-200 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

The following conditions shall apply to interpretations of the boundaries of the various districts:

A. District boundaries shall be intended to follow street, alley or lot lines, or lines parallel or perpendicular thereto, unless such boundaries are otherwise shown on the Zoning Map.

B. Where a boundary line is shown within a street, it: shall be intended to follow the centerline of such street. Should the actual location of such street, vary from the location as shown on the Zoning Map, then the actual natural location shall control.

C. Where a boundary line is shown as being located a specific distance from a street line or other physical feature, then this distance shall control.

D. In un-subdivided property, unless otherwise indicated, a district boundary line on the Zoning Map shall be determined by the use of the scale on the Zoning Map.

E. In cases of disagreement or uncertainty as to the exact location of the boundary, the Zoning Administrator shall seek a recommendation from the Planning Commission before making a determination as to the exact location of the boundary. Such determination may be appealed to the Board of Appeals, upon an appeal filed in accordance with Article 7, Part 4.

ARTICLE 3

ZONING DISTRICTS

3-100 PURPOSES AND INTENT OF DISTRICTS

3-101 Purpose of District Generally

Zoning districts are established to provide appropriate location for different types of land uses. The appropriate location for a particular land use is determined by:

A. The character of the area and current land use,

B. The suitability of each district for the uses permitted in each,

C. The encouragement of the stability of the district and of land values therein,

D. Environmental considerations including the Chesapeake Bay Critical Area criteria, and

E. Recommendations of the North Beach Comprehensive Plan.

3-102 R-1: Residential - Single-Family

The Residential-Single-Family district is intended to preserve and protect the primarily single-family detached residential character of this district and to keep these areas free from the land uses that are incompatible with and/or might adversely affect these single-family neighborhoods.

3-103 R-2: Residential – Single-Family and Multi-family

The Residential Single-Family and Multi-family district is intended to promote the development of a pleasant living environment with multiple housing types.

3-104 C-M: Commercial- Mixed-Use

The Commercial Town Center district is intended to promote the development of land for a mix of commercial and residential uses that provide a safe and attractive environment for shopping, entertainment, work, residing and community gathering.

3-105 W: Waterfront Districts

W-1: Waterfront Limited District – The Waterfront Limited District is intended for low impact residential and or commercial uses that complement the Town's Bayfront and can be approved through a simplified zoning approval process.

W-2: Waterfront District/Waterfront Renaissance District - The Waterfront District/Waterfront Renaissance District is intended to promote the development of a mix of residential and commercial uses that are respectful of and complement a waterfront location and contribute to recreational and tourism activities for Town residents, visitors and residents living in the Waterfront District. The Waterfront

District (W-2) boundaries are also the boundaries for the Waterfront Renaissance District boundary.

3-106 PR: Park and Recreational District

This district is established to provide and protect locations for parkland, recreational activities, open space and environmentally sensitive areas

3-200 LAND USES BY DISTRICT

Table 1 lists the different uses and the zoning districts in which those uses are permitted. If a use is not listed or does not fall within any of the general categories, it is not a permitted use in any district. If a use is specifically listed in Table 1, it takes precedence over general use listings.

P Permitted Use: Uses designated by the letter "P" shall be permitted subject to all applicable regulations.

C Conditional Use: Uses designated by the letter "C" shall be permitted subject to certain conditions. The conditions are listed in this section.

S Special Exception. The Board of Appeals in accordance with Section 3-400 of this Ordinance may authorize uses designated by the letter "S".

SC Special Exception with Conditions. Uses designated with the letters "SC" may be authorized by the Board of Appeals in accordance with Section 3-44 of this Ordinance, subject to certain conditions listed in Section 3-300.

Table 1: Table of Permitted Land Uses by District

LAND USE CLASSIFICATIONS	P: Permitted C: Permitted, subject to conditions S: Special Exception SC: Special Exception, subject to conditions
	Zoning Districts

Residential	R-1	R-2	C-M	W-1	W-2	PR
Single-Family – Detached	P	P				
Single-Family - Attached, Duplex		P	P	P		
Townhouse		P		P		
Apartment, attached to single family	C	C	C	C	C	
Multi-family		P	C	C	C	
Boarding House, Lodging House	SC	SC	SC	SC	SC	
Boarders in Residence	SC	SC	SC	SC	SC	
Group Home		SC	C			
Vacation Rental	SC	SC	SC	SC	SC	
Apartments, attached to a business	C	C	C	C	C	

LAND USE CLASSIFICATIONS		P: Permitted C: Permitted, subject to conditions S: Special Exception SC: Special Exception, subject to conditions				
		Zoning Districts				
Institutional	R-1	R-2	C-M	W-1	W-2	PR
Churches and Other Buildings for Religious	SC	SC	P	SC	P	
Home Day Care	S	S	S	S		
Day Care Center, Nursery School		SC	P			
Clubs, Fraternal and Service Organizations			P	P		
Convalescent/Nursing Home			P	SC		
Cultural Uses: Library, Museum, Community Center	S	S	P	P	P	P
Parking Facility/Lot			C	C	C	
Post Office			P		P	
Public Park and/or recreational area	P	P	P	P		P
Public or government building or structure	P	P	P	P		P
Utility Building/Facility	S	S	S	S		S

LAND USE CLASSIFICATIONS		P: Permitted C: Permitted, subject to conditions S: Special Exception SC: Special Exception, subject to conditions				
		Zoning Districts				
Commercial	R-1	R-2	C-M	W-1	W-2	PR
Retail Sales Business & Personal Services			P	P	P	
Temporary Concession			C	C	C	C
Personal Services such as beauty salons,			P	P	P	
Massage Therapy			C	C	C	
Bank, Financial Institution			P	P	P	
Finance, Insurance, Real Estate			P	P	P	
Health Spa / Fitness Center			P	P	P	
Hotel /Motel/Inn			P	P	P	
Bed and Breakfast	S	S	P	P	P	
Restaurants:			P	P	P	
Taverns, nightclubs, & lounges			P	P	P	
Professional Office in Residence	C	C				
Offices for Professional, Business, Governmental purposes			P	P	P	
Amusement Est.: Theatres, Bowling Alleys, Arcades			P	P	P	
Indoor Recreational Facilities for swimming, tennis, etc.			P	P	P	
Outdoor Recreational and Amusement Establishments such as swim clubs, miniature golf, and similar facilities			P	P	P	P
Studios for instructions in dance, art, crafts music, vocational instruction, and general instruction.			P	P	P	

LAND USE CLASSIFICATIONS		P: Permitted C: Permitted, subject to conditions S: Special Exception SC: Special Exception, subject to conditions				
		Zoning Districts				
Commercial Continue	R-1	R-2	C-M	W-1	W-2	PR
Motor Vehicle Sales and Rental			SC			
Boat Sales or Rental			P		P	C
Boat Service or repair			SC		SC	
Gasoline Station, service station			SC			
Unclassified Uses						
Garage Sales, Yard Sales, Estate Sales	C	C	C	C	C	C
Temporary Structure incidental to Construction	C	C	C	C	C	
Accessory Building or Use	P	P	P	P	P	P
Home Occupation	C	C	C	C	C	

3-300 CONDITIONS AND STANDARDS FOR CONDITIONAL AND SPECIAL EXCEPTION USES

The following conditions and specific standards apply to land uses designated C (Conditional) S (Special Exception) and SC (Special Exception with Conditions) in Table 1. When applying for a certification of Use and Occupancy, the applicable conditions shall be satisfied during the period of the use and occupancy.

A. Apartments attached to a residence: Conditional in designated Districts and subject to the requirement so that district except as herein provided:

1. The principal dwelling must be located on a lot of at least 5,000 sq. ft. and the granting of a variance cannot alter this requirement. Accessory apartment units will not be allowed on existing non-conforming single-family detached house lots that are less than 5,000 sq. ft.
2. Only one (1) accessory apartment will be allowed on a Single-Family detached lot.
3. At least one (1) off street parking space must be provided for each apartment.
4. If an accessory apartment is located in an accessory structure, it shall contain no more than 800 sq. ft. of gross floor area.
5. An owner of the lot occupies at least one of the dwelling units on the lot, except for bona fide temporary absences as determined by the Planning Commission.
6. Accessory apartments must meet all requirements of the Town Minimum Livability Code and the International Property Maintenance Code.
7. The exterior appearance of the accessory apartment must be compatible with the principal structure.

B. Multi-family: for C-M, W-1 and W-2 (when Mixed Use), multi-family to be located on the second floor and above.

C. Boarding House, Lodging House: A Special Exception with Conditions were designated subject to the requirements of the district where located and the following conditions.

1. An owner or manager lives on the premises.
2. The facility is part of a dwelling unit.
3. No separate kitchens are provided.
4. The maximum number of guests shall be five.
5. Adequate off- street parking is provided to the side or rear of the principal structure.
6. The owner meets all requirements of the adopted North Beach Housing Code.
7. A Certificate of Use and Occupancy for such use is obtained.
8. Fire Marshall approval is obtained.

D. Boarders in Residence: A Special Exception with Conditions was designated and subject to the requirements of the district, where located and the following condition:

1. Provided that no more than three boarders are in residence at any given time

E. Group Home: Use allowed with Special Conditions in R-2 and Conditions in C-M.

1. No more than 16 residents reside on the premises, excluding the owner and/or employees; and
2. No separate kitchen shall be provides; and
3. Health Department approval shall be obtained for the number of bedrooms in use in the residence.

F. Vacation Rentals: Special Exceptions with Conditions in Districts where indicated are subject to the following:

1. Owner must obtain a Town rental license.
2. Maximum number of occupants shall be 3 per bedroom.
3. No sub leasing allowed.
4. Pets must be housed indoor.
5. Owner must maintain a minimum of two Town residential parking permits for each living unit offered for a vacation rental.
6. Zoning Approval will be terminated if any of the following conditions occur:
   a. Any false, inaccurate, incomplete or incorrect statement in any application, registration, renewal or filing relating to a short-term license;
   b. Any repeated infraction, disturbance, nuisance, failure to monitor, or other problem or violation occurring at the premises during a short-term rental period or violation occurring at the premises during a short-term rental period which constitutes a threat to public safety or to an occupant of the premises; or a public disturbance or other condition or activity at the premises which, in the opinion of the Zoning Inspector, adversely affects an occupant of a neighboring property;
   c. Failure to pay the correct amount of the Calvert County Accommodations tax;
   d. Any failure to continue to meet all of the above terms and conditions for qualification as a vacation cottage, or for qualifications for licensure for short-term rental thereof, as determined by the Zoning Inspector, shall be cause of the Zoning Inspector to suspend or revoke a short-term rental license.
   e. Any repeated violation of any Noise Ordinance of the Town.

G. Churches and Other Buildings for Religious Assembly: Special Exception with Conditions use in the R-1, R-2 & W-1, subject to the requirements of the district where located, except as herein provided:

1. No part of any building shall be located within 50 feet of any property line in separate ownership.
2. Screening, per Section 5-504 of this Ordinance, shall be provided where the lot abuts residentially used properties or where the site abuts the R-1 zoning district.

H. Day Care Center, Nursery School: Special Exception with Conditions use in the R-2 District subject to the requirements of that district, except as herein provided:

1. The minimum lot area shall be 10,000 square feet.
2. The minimum lot width shall be 100 feet.
3. The owner or manager shall live on the premises and shall have quarters that are separate and distinct from the facilities used for the operation of the day care center or nursery school.
4. That there is no exterior evidence, other than a permitted sign to indicate that the building is being used for other than residential purposes.
5. Signage shall be limited to one free-standing sign identifying the name and number of the building or premises of no more than four square feet.
6. Any outdoor play activity recreational area shall be located at least 10 feet from any adjoining lot line in separate ownership.
7. Outdoor play areas shall be sufficiently screened and sound insulated so as to protect the neighborhood from noise and other disturbances. To fulfill this requirement, screening may be located anywhere on the lot as needed.
8. Screening, per Section 5-504 of this Ordinance, shall be provided where the lot abuts residentially used properties.
9. Any new buildings shall be designed to be architecturally harmonious with buildings in the neighborhood including but not limited to building façade orientation, building scale and massing, materials, colors, roofs, and rooflines.
10. Off-street parking shall be provided in the side or rear yard and shall be completely screened from view of adjoining residential properties or any adjoining lot in an adjoining R zoning district.

I. Parking Facility/Lot: Must be a municipal facility or negotiated as part of a developer's agreement within a district

J. Convalescent/Nursing Home: Special Exception with Conditions use in the W-1 District subject to the requirements of that district except as herein provided:

1. The minimum lot area shall be 10,000 square feet.
2. The minimum lot width shall be 100 feet.
3. The owner or manager lives on the premises and shall have quarters that are spate and distinct from the facilities used for the operation of convalescent or nursing home.
4. There shall be no exterior evidence other than permitted sign to indicate that the building is being used for other than residential purposes.
5. Signage shall be limited to one free-standing sign identifying the name and number of the building or premises of no more than four square feet.
6. Total occupancy on the premises shall not exceed four persons, excluding the owner or manager.
7. Any new building shall be designed to be architecturally harmonious with buildings in the neighborhood including but not limited to building façade orientation, building scale and massing, materials, colors, roofs, and rooflines.
8. Screening, per Section 5-504 of this Ordinance, shall be provided where the lot abuts residentially used properties.
9. Off-Street parking shall be provided in the side or rear yard and shall be completely screed from viewing of adjoining residential properties and or any adjoining lot in an adjoining R zoning district.

K. Temporary Concession: Must be licensed by the Town.

L: Massage Therapy: Conditional use in the R-2, C-1, C-2 and W Districts subject to the requirements of the

district where located, except as herein provided:

1. Massage is incidental to a principal medical or spa use.
2. Massage therapy is conducted by professionals who are licensed to practice massage or by professional physical therapists.
3. Massage therapy does not include any manipulation to induce sexual stimulation and in the context of massage therapy and such act is presumptively considered a danger to public health, safety, and welfare and is cause for revocation of a use and occupancy permit.

M. Hotel, Motel, Inn: Conditional use subject to the requirements of that district, except as herein provided:

1. The minimum lot area shall be 10,000 square feet.
2. Screening, per Section 5-404 of this Ordinance, shall be provided where the lot abuts residentially used properties or where the site abuts the R-1 zoning district.

N. Bed and Breakfast Facility: Conditional use in the R-1, R-2, C-M and W Districts and subject to the requirements of the district in which located except as herein provided:

1. An owner or manager lives on the premises
2. The facility is part of a dwelling unit with the exception that existing non-conforming guesthouses may be used.
3. No separate kitchens are provided.
4. Meals shall be served to overnight lodgers only.
5. The facility is operated through a State approved Bed and Breakfast registry.
6. The owner meets all requirements of the adopted North Beach Housing Code.
7. A Certificate of use and Occupancy for such use is obtained, and
8. Fire Marshall approval is obtained.

O. Professional Office in Residence (Physician, Dentist, Architect, Attorney, or Similar): Conditional use subject to the requirements of the District where the structure is located and the following conditions:

1. The professional person must reside in the dwelling.
2. There shall be no exterior evidence, other than a permitted sign not exceeding four square feet, to indicate that the principal building is being used for any purpose other than that of a dwelling.
3. There shall be no show window or display window.
4. Only two persons other than the resident professional shall be employed on site.
5. Sufficient off street parking in the side or rear yard shall be provided with the minimum being two spaces per professional, one space per other employee, plus residential requirements.
6. The total area devoted to the professional office use shall not exceed 50 percent of the square footage of the principal dwelling unit.

P. Motor Vehicle Sales and Rental: Special exception with Conditions use in the C-M district subject to the requirements of that district, except as herein provided:

1. The display of vehicles for sale or rent must be indoors or be completely screened from neighboring properties.
2. Vegetative screening and buffers shall be provided where the lot abuts residentially used properties or where the site abuts the R-1 zoning district.
3. Service, maintenance, repair, or similar activities shall be conducted indoors.
4. All lights shall be diverted toward the facility or downward on the lot.
5. A low wall and/or hedge shall be provided along all rights-of way, except at points of vehicular access to the lot and except where vehicular sign distance might be compromised.
6. The sale or rental of recreational vehicles, motor homes, trucks, and other large vehicles shall not be permitted.

Q. Boat Sales or Rental: in PR, Boat Rental only.

R. Boat Service and Repair: Special Exception with Conditions use in the CM and W-2 Districts subject to the requirements of the district where located, except as herein provided:

1. Service and repair activities are incidental and secondary to the principal use of boat sales and or rental.
2. Service and repair activities are limited to providing fuel service and minor repair and maintenance activities and shall not include the sanding and painting of boats, engine repair or reconstructions or other major repair and servicing activities.

S. Gasoline Stations, Service Stations: Special Exception with Conditions use in the CM District subject to the requirements of that district except as herein provided:

1. No fuel pump, oil draining pit, or other vehicle appliance for servicing automobiles shall be located within 25 feet from the front property line.
2. No storage or stockpiling of tires or any trash is permitted.
3. No car wash facilities shall be permitted.
4. No inoperative vehicle shall be permitted on site for more than 30 days.
5. No more than three inoperative vehicles shall be permitted ay any given time and all shall be completely screened from view of rights-of-way and adjoining properties.
6. An area, enclosed by a wall or fence, screened from view of adjoining properties and rights-of-way shall be established whenever outdoor storage is required.
7. No fuel pumps, structures, or buildings shall be erected within 150 feet of any swelling.
8. All lights shall be diverted toward the station or downward on the lot.
9. A low wall and/or hedge shall be provided along all rights-of-way, except at points of vehicular access to the lot and except where vehicular sight distances might be compromised.

T. Garage Sales, Yard Sales, Estate Sales: Conditional use in the all Districts subject to the requirements of the district where located, except as herein provided:

1. Articles for sale consist of personal possession of the seller.
2. Such sale is not in the same location more than once every six months.

U. Temporary Structure Incidental to Construction (non residential): Conditional use in the all Districts subject to the requirements of the districts where located, and as herein provided:

1. Provided that is removed within 30 days after construction is finished.
2. The temporary structure is permitted for a period of one year. A one-year extension may be permitted upon application to the Zoning Administrator.

V Home Occupation: Conditional use in all Districts subject to the requirements of the districts where located, and as herein provided:

1. The occupation is conducted entirely within the dwelling or accessory building and is clearly secondary to the use of the dwelling for residential purposes
2. The occupation uses no more that 50 percent of the dwelling floor area.
3. All employed are residents, except that one full-time non-resident employee may be on the premises
4. No outside work areas or outside storage of equipment, materials or items to be repaired or sold shall be permitted
5. No article or commodity is offered for sale or is publicly displayed on the premises except those incidental to the services offered.
6. No display of products may be shown as to be visible from outside the dwelling.
7. No exterior alterations, additions, or changes to the structure shall be permitted in order to accommodate or facilitate a home occupation.

8. A nameplate not larger than 2 square feet attached to the building and illuminated only by indirect lighting is permitted.

3-400 SPECIAL EXCEPTIONS

3-401 Purpose and Intent

There are certain uses, which by their nature or design can have an undue impact upon or be incompatible with other uses of land. These uses may be allowed to locate within given designated zoning district under the controls, limitations, and regulations of a special exception.

3-402 Authorization

In consideration of an application filed with the Zoning Administrator, the Board of Appeals may authorize the establishment of those special uses that are expressly listed in a particular district in Table 1 of this Ordinance.

3-403 Status of Special Exception Uses

A. Once a special exception has been approved, any site plan, subdivision plat, building permit, or certificate of use and occupancy hereafter submitted for the development or use of the property in accordance with the special exception shall conform with the approved special exception and no development or use shall be approved by the Zoning Administrator in the absence of such conformance.

B. Once established, the use shall be conducted in strict accordance with any condition or restriction imposed by the Board of Appeals and all other requirements of this Ordinance. No use shall be enlarged, expanded, increased in intensity, or relocated and no condition of the special exception or a new special exception shall be modified unless an application is made and approved for an amendment to the special exceptions or a new special exception is approved.

C. Once a special exception use is approved, the use shall not be considered a nonconforming use, but shall be, without further action, considered a conforming one.

3-404 Standards

The Board of Appeals shall grant a special exception only if it finds, from a preponderance of evidence of record, that any proposed use submitted for a special exception will meet all of the following general standards as well as any specific standards or conditions listed for the proposed use.

A. The establishment, maintenance, and operation of the special exception will not be detrimental to or endanger the public health, safety, or general welfare.

B. The special exception shall be such that it will be harmonious in character as well as appropriate in appearance with and will not be injurious to the use and enjoyment of other property in the neighborhood for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

C. The establishment of the special exception will not impede the normal and orderly development and improvement of surrounding properties for the uses permitted in the district.

D. Adequate utilities, access roads, drainage, and necessary facilities have been or are being provided.

E. The special exception shall be such that pedestrian and vehicle traffic associated with such use will not be hazardous to or unduly conflict with the existing and anticipated traffic in the neighborhood.

F. The special exception shall in all other respects conform to the applicable regulations of the district in which it is located.

3-405 Burden of Proof

The applicant for a special exception shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact that are to be determined by the Board of Appeals.

3-406 Conditions and Restrictions

The Board of Appeals, in approving a special exception, may impose such conditions and restrictions upon the proposed use, as it may deem necessary in the public interest to secure compliance with the provisions of this Ordinance and to protect the viability of the implementation of the adopted North Beach Comprehensive Plan.

3-407 Application Procedure

A. An application for a special exception may be made by a property owner, lessee, or contract purchaser. A lessee or contract purchaser must file with the application, a copy of the contract or some form of written statement, which indicates endorsement of the application by the property owner.

B. Applications for a special exception shall be submitted to the Zoning Administrator on forms supplied to him or her. The application shall be complete and shall be accompanied by information which will be necessary to evaluate a given proposed category or use. The Zoning Administrator, upon receipt of a properly completed and documented application, shall refer the application along with pertinent evaluation material to the Planning Commission and Board of Appeals.

3-408 Processing and Public Hearing Requirement

The Board of Appeals shall process all applications for a special exception in accordance with the provisions in this Part and the provisions of Part 2 of Article 8. The Board, on the application for a special exception, shall make no determination until a public hearing has been held on it in accordance with the provisions of Section 7-106 of this Ordinance.

3-409 Termination or Revocation

A. Unless a time limit in specified for a special exception, the same shall be valid for an indefinite

period, except if the use or activity should cease for any reason for a continuous period of one year, the special exception shall automatically terminate without notice. The approval of a new special exception shall be required prior to any subsequent reinstatement of the use.

B. A special exception shall be revocable on the order of the Zoning Administrator at any time because of the failure of the owner or operator of the use covered by the special exception to observe all requirements of law with respect to the maintenance and conduct of the use and all conditions in connection with the special exception that were designated in issuing the same. Before revoking any special exception, however, the Zoning Administrator shall give the holder thereof at least ten (10) days notice. The special exception holder may appeal the decision to the Board of Appeals and the Board of Appeals shall hold a hearing on the revocation of the exception, giving the applicant advance written notice of the hearing date.

C. The foregoing provisions shall not be deemed to preclude the use of any other remedy prescribed by law or by this Ordinance with respect to violations of the provision of this Ordinance.

ARTICLE 4

OVERLAY DISTRICTS

4-100 INTRODUCTION: OVERLAY DISTRICTS

Overlay Districts are created for imposing special regulations in designated areas of the Town to accomplish the purposes set forth for each overlay district. For all Overlay Districts, the requirements shall be in addition to the Zoning District within which the lands placed in the overlay district lie.

Overlay districts shall be established in the same manner and by the same procedures as set forth in Article 2, Part 1.

4-200 FLOODPLAIN OVERLAY DISTRICT

4-201 Purpose

The Floodplain Overlay District is established to provide for safety from flood and other dangers, and to protect against loss of life, health, or property from flood or other dangers.

4-202 District Boundaries

The boundaries of the Floodplain Overlay District shall be the area within the Town boundaries designated Zones AE (Tidal Flood Plain) and Zone VE (Coastal High Hazard Area) on the current official Flood Insurance Rate Maps (FIRMS), which is maintained by the Federal Emergency Management Agency (FEMA).

4-203 Application

Within the District, the provisions of the adopted Floodplain Management Ordinance shall apply.

4-204 Administration

This article will be administered and enforced through the procedures for Site Plan Review described in Article 6 and the application and approval of a Building Permit and a Use and Occupancy Permit described in Article 7.

4-205 Permitted Use

All uses permitted in the underlying zoning district shall be permitted in this Overlay District.

4-206 Special Exception Uses

All uses allowed as a special exception in the underlying zoning district are allowed in this

Overlay District.

4-207 Variances

Any variances allowed shall meet the variance requirements specified in of the adopted Floodplain Ordinance.

4-300 CRITICAL AREA OVERLAY DISTRICT

4-301 Purpose

The purpose of the Critical Area Overlay District is to implement zoning regulations and measures designed to protect and enhance water quality and other natural resources located within the Town's Critical Area. The geographic area for which the critical area overlay district regulations apply, shall be those lands and waters located within one thousand feet of the landward boundaries of all tidal waters and tidal wetlands in the Critical Area as designated on the Town of North Beach Critical Area Overlay Map. The intent of this district is to provide special regulatory protection for the natural resources located within the Town Critical Area by requiring more sensitive development activity and compliance with State Critical Area Laws.

4-302 District Boundary

The boundary of the Critical Area Overlay District is identified on the official Critical Area Overlay District Maps.

4-303 Critical Area District Requirements

All Critical Area Overlay District Requirements are included in Article 10.

ARTICLE 5

DEVELOPMENT REQUIREMENTS

5-100 LOT SIZE & BULK REQUIREMENTS

The purpose of lot size & bulk requirements are to ensure that the use of the property does not infringe on the rights of adjacent property owners. These requirements also ensure that there is adequate light and air for the health and safety of residents, business operators, and patrons. In addition, open space is required to make the entire area an attractive and pleasant place to live and work. Finally, certain setbacks are required to ensure that fire and rescue personnel and equipment will have sufficient access to the side and rear of the structures in an emergency.

The lot size and building requirements which follow shall apply to new construction. The Zoning Administrator may approve, in accordance with Article 6 and Article 7-102 of this Ordinance, exterior additions to structures existing at the date of adoption of this Ordinance which do not meet the minimum side yard setbacks as indicated in Article 5-102 below, as long as the structural additions do not further reduce a side yard setback that is less than the minimum required.

	R-1	R-2	CM	W-1	W-2
5-101 LOT SIZE & WIDTH					
Minimum lot size SFD	3,500	3,500			
Minimum Lot area/unit for MF		2,500			
Minimum lot width SFD	37.5	37.5			
5-102 SETBACKS & HEIGHT					
Residential					
Minimum front yard SFD	15	15			
Minimum front yard MF & SFA		15			
Side yard all types	8	8			
Rear yard SFD	20	20			
Rear yard MF & SFA		15			

Max Building height	40	40	40	40	
Commercial & Mixed Use					
front yard			10	10	10
side yard			5	5	5
Building height			50	45	50

5-103 OPEN SPACE & FLOOR AREA RATIOS

open space	40%	30%	15%	15%	15%
maximum FAR			2	1.5	1.5

5-104 <u>Exceptions to Lot Size and Bulk Requirements</u>

A. Minimum Front Yard Setbacks

1. Adjustment of Front Yard Setbacks in the R-1, R-2, C-M Districts. Where the majority of existing lots fronting onto a street block in the R-1, R-2, and C-M districts have front yard setbacks equal to or less than 15 feet, the required front yard setback shall be reduced to the average of those existing setbacks as approved by the Planning Commission.

2. Adjustment of Front Yard Setbacks in the CM & W Districts. Where a majority of lots fronting on that street block have front yard setbacks that are less than 10 feet, the front yard setback may be reduced to zero as approved by the Planning Commission.

B. Side or Rear Yard Setbacks

1. Where a side or rear yard lot line of a non-residential use coincides with the side or rear yard lot line of a residential use, a side or rear yard setback shall be provided along such lot line not less than that which would be required under this Article for a residential use on the adjacent lot.

2. Where a side or rear lot line of a non-residential use coincides with a side or rear lot of another non-residential use, the side or rear lots line may be reduced to zero provided the following conditions are met.

a. Emergency vehicle access and maintenance are addressed.
The adjoining property has a compatible use.
c. Reduction is approved by the Planning Commission.

C. Structures Exempt from Maximum Building Height

The following structures are exempt from the maximum building height restriction:

1. Roof structure for housing stairways, air conditioning, or similar equipment required to operate and maintain the building.
2. Roof ornamentation such as cupolas, widow's walks, and steeples.
3. Television aerials and masts and satellite receiver stations.
4. Flag poles, transmission line poles, monument, and similar structures.
5. Theater Fly Tower

D. Open Space Requirement Reduction for Non-Residential Uses

For Non-Residential uses in the CM & W Districts, the open space requirement may be reduced to ten (10%) percent if approved by the Planning Commission if the lot size is 10,000 sq ft or less.

5-105 Accessory Buildings in Side and Rear Yards

A. Detached uninhabitable accessory buildings may occupy required side and rear yards, but shall not be located closer than five (5) feet from any side or rear property line.

B. Accessory apartments shall meet the dimension requirements of the principle structure, except that habitable accessory buildings may be a minimum of 15 feet from the rear lot line when the lot abuts an alley with a right-of-way width of 15 feet or greater.

5-107 Extensions into Yard Areas

The following features may extend into required minimum yards, but only as qualified below:

A. Cornices, canopies, awnings, eaves, or other such similar features, all of which are at least eight (8) feet above grade, may extend three feet into any required yard in any R-1 and R-2 districts but not nearer than any lot line.

C. Front Yard Extensions into C-M District. In the C-M district, cornices, canopies, awnings, eaves, or other such similar features, all of which are at least eight feet above grade, with setbacks to be determined at site plan.

D. Any uncovered and completely unenclosed patio, terrace, or deck with its floor no higher than that of the first floor level of the building may extend:

1. Six (6) feet into any required side yard, but not nearer to any side yard lot line than a distance of two feet, or

2. Six (6) feet into any required front yard, but not nearer to any front yard lot line than a distance of nine feet, or

3. Fifteen (15) feet into any required rear yard, but not nearer to any rear yard lot line than a distance of five (5) feet.

E. An outside stairway that only services the lowest living level, unenclosed above and below the steps, may extend four (4) feet into any required yard, but not nearer to any side lot line than a distance of four feet.

5-200 PARKING AND LOADING REQUIREMENTS

5-201 Applicability

The parking and loading requirements that follow shall apply to all new construction, to additions, to existing buildings and structures, and to buildings for which the use is being changed. Structures and uses in existence at the date of adoption of this Ordinance shall not be subject to the requirements of this Part so long as the kind or extent of use is not changed, provided that any parking or loading facility now serving such structures or uses shall not in the future be reduced below such requirements.

5-202 Parking and Loading Space Requirements

In all districts, space for parking, loading and storage of vehicles off-street shall be provided as follows:

- In R-1 and R-2,(when developed as residential), 2 spaces per dwelling unit.
- All others subject to site plan review and approval.
- Article 6 requires a preliminary site plan for all districts and development other than R-1 and R-2 and will require the applicant to propose concepts for parking and loading which will be reviewed by the Planning Commission and recommendations will be made to the applicant. At the time of final site plan review and approval a determination will be made of parking and loading requirements.

5-203 Size of Parking Spaces

A required automobile parking space shall not be less than one hundred sixty-two (162) square feet in area and a minimum of nine (9) feet in width and 18 feet in length.

Parking spaces within residential driveways shall measure 9 feet by 23 feet at a minimum for a single driveway space and 9 feet by 18 feet for each additional tandem space.

If more than twenty (20) parking spaces are required, a maximum of forty percent (40%) of the required parking spaces may be designated as compact car spaces. A compact car parking space shall be not less than one hundred twenty-eight (128) square feet in area and a minimum of eight (8) feet in width and sixteen (16) feet in length. Such parking spaces shall be visibly marked as "compact car" parking spaces.

Parallel parking spaces shall measure 23 feet by 7 feet, at a minimum.

5-204 Location of Parking Spaces

A. Accessory Parking Location. Under provisions of Article 6, the Planning Commission or the Zoning Administrator may approve a parking plan that permits the required parking to be located elsewhere, under the following conditions:

1. Such required parking space shall be located on land in the same ownership as the proposed use, or there shall be a binding covenant in the deed to assure future availability of the parking space,
2. If the proposed use is in a CM, W-1 and W-2 district then such parking spaces shall be in one of the following districts: CM, or W-1 or W-2. Otherwise, the parking spaces shall be in the same zoning district as the proposed use.
3. Such required space shall be located to furnish reasonable and convenient parking facilities for the occupants or guests of the building or structures that they are designed to serve.
    a. The parking shall not be located at an unreasonable walking distance from the proposed use for its employees and customers/visitors with 500 feet being a

preferred maximum distance.

b. A convenient pedestrian connection between the properties exists.

B. Shared parking is permitted within or among multiple adjoining parcels for uses shown on a site plan:

1. For multiple use development, the following shared parking reduction factor shall be used. The number of parking spaces required is calculated by adding the total number of spaces required by each separate use and dividing the total by the appropriate factor from the Shared Parking Reduction Factor matrix. When more than two of the uses below share parking the lowest factor shall be used.

2. For multiple uses involving uses not listed in the matrix above, the Planning Commission shall determine the appropriate reduction factor based on the specific characteristics of such uses. Such characteristics shall include whether the individual establishments sharing parking spaces are not normally opened or used during the same operating hours.

3. A written irrevocable agreement between the owners of the establishments which are to have shared parking spaces shall be provided to the Planning Commission. To implement such a reduction, the following information shall be provided as determined appropriate by the Planning Commission.

   a. the number of hotel/motel rooms,
   b. the number of residential units and the number of bedrooms,
   c. the square footage of each use,
   d. the business hours of each establishment,
   e. the seating capacity of each establishment (if applicable),
   f. the number of parking spaces reserved for employees,
   g. provisions for maintenance,
   h. provisions for change in use,
   i. capacity,
   j. number of employees, and
   k. any other provision which, the Planning Commission requires to review and approve the agreement.

   The Town Attorney shall review the agreement for legal sufficiency. The agreement shall transfer with the land and be recorded in the Land Records and a recorded copy shall be submitted to the Planning Commission.

4. Each shared parking space will fulfill the requirement for one off-street customer parking space required for each establishment bound by the agreement.

C. Transfer of Parking Requirement to Public Parking Facility. This provision shall not become effective until a Public Parking Management Program is implemented by the Town Council. Some or all of the parking requirements for a non-residential use located in Zoning Districts, C-M, W-1 and W-2 may be transferred to a public parking facility located nearby. The following conditions apply:

Up to one hundred percent (100%) of the parking may be transferred to a public parking facility located nearby after application and approval by the Planning Commission or Zoning Administrator under the provisions of Article 6, and upon payment of the first installments of an annual parking fee to the Town. In making its determination, the Planning Commission or Zoning Administrator will consider:

a. The consistency of the project with Town adopted plans,
b. The impact of the project on vehicular and pedestrian circulation in the Town, and
c. The overall project parking plan; to be sure it furnishes reasonable and convenient parking facilities for the occupants or guests of the building or structures that they are

designed to serve.

5-204 Electric Vehicles

Any electric vehicle charging station parking space that meets the standards of the ordinance for a parking space will count as a parking space in all respects. Electric vehicle charging devices may be located adjacent to designated parking spaces in a parking lot as long as the devices do not encroach into the required dimensions of the parking space. (length/width/height). Devices must be mounted on the wall or on a structure at the end of the space at least 4.5 feet above the parking surface of the space. No charging devices may be placed within the dimensions of a space on the side or entrances to a space.

An incentive to reduce the required number of parking spaces by 2 spaces is available for parking areas requiring 20 or more spaces, when an electric vehicle charging device is provided to serve a minimum of two vehicles.

5-205 Parking Facility Access and Circulation

Each parking space shall have access to a street or alley open to use by the public via adequate interior aisles and entrance and exit driveways. Parking facilities shall be designed so that each vehicle may proceed to and from the parking spaces provided for it without requiring the moving of any other vehicle except for R-1 driveways.

A. Driveways. Driveways for one-way movements shall be at least ten feet in width to allow safe and expeditious movement of vehicles. If entrance and exit driveways are combined, the combined driveway shall be not less than twenty feet in width.

B. Aisles. Aisles shall have the following minimum widths based on the configuration of the adjacent parking spaces:

1.	Perpendicular	22 feet
2.	60-75 Degrees	18 feet
3.	45-59 Degrees	16 feet
4.	Parallel 10 feet	

C. Drainage. All off-street parking facilities shall be drained so as to prevent damage to abutting properties and public streets, and shall be constructed of material which will assure a surface resistant to erosion.

D. Lighting. Adequate lighting shall be provided for surface parking facilities used at night and for structure parking as required by the Standard Building Code. Lighting shall be installed and maintained in a manner not to cause glare or reflection into abutting or facing residential premises, not to interfere with safe operation of vehicles moving on or near the premises.

E. Minimum landscaping and screening requirements for parking facilities are given in Section 5-404.

5-209 Off-Street Loading and Unloading Facility Access and Circulation

Each off-street loading and unloading space shall have access to a street or alley open to use by the public via adequate entrance and exit driveways.

A. Driveways. Driveways for one-way movements shall be at least ten feet in width to allow safe and expeditious movement of vehicles.

B. Aisles. Access aisles leading to an off-street loading and unloading space shall have a minimum width of twelve (12) feet.

C. Drainage. All off-street loading and unloading spaces shall be drained so as to prevent damage to abutting properties and public streets, and shall be constructed of material which will assure a surface resistant to erosion.

D. Lighting. Adequate lighting shall be provided for surface parking facilities used at night and for structure parking as required by the Standard Building Code. Lighting shall be installed and maintained in a manner not to cause glare or reflection into abutting or facing residential premises, nor to interfere with safe operation of vehicles moving on or near the premises.

E. Landscaping. Minimum landscaping and screening requirements for off-street loading and unloading facilities are given in Part 4 of this Article.

5-210 General Provisions for Parking and Loading/Unloading Spaces

A. Maintenance of Parking and Loading/ Unloading Spaces. All required parking and loading/unloading spaces shall be provided and maintained so long as the use exists which the facilities were designed to serve. Off-street parking and loading/unloading facilities shall not be reduced after their provision, except when such reduction is in conformance with the requirements of this Part.

E. Alteration of Structure or Use. Whenever there is an alteration of a structure or use, which increases the parking and loading/unloading The total additional parking and loading and unloading requirements will be determined by the Planning Commission.

F. Other Uses Prohibited. All off-street parking and loading/unloading facilities shall be used solely for the parking and loading/unloading of vehicles in operating condition by patrons, occupants, or employees for the use to which such parking is accessory. No motor vehicle repair work except any required off-street parking or loading/unloading facilities.

5-211 Bicycle Parking

The Planning Commission shall address the adequacy and convenience of use of on-site bicycle parking during site plan review as provided in Section 6-202 M of this Ordinance.

5-300 SIGNS

5-301 Purpose and Intent

The purpose of this Part is to regulate all exterior signs and interior signs placed for exterior observance to protect property values, to protect the unique character of North Beach, and to improve and protect the public health, safety, convenience, and general welfare.

Any sign erected on a lot or building for the purposes of identification or for advertising a use conducted thereon or therein shall be deemed to be accessory and incidental to such land, building or use, and shall be regulated in accordance with the provisions in this Part.

It is further intended that all signs in the Town of North Beach be coordinated with the architecture of the principal use in such a manner that the overall appearance is harmonious in color, form and proportion and the signs shall be structurally sound so as to ensure the safety of the general public. Signs in the Design

Standards Overlay District (see Article 4, Part 2) shall also comply with the "Town of North Beach Design Standards".

5-302 Permit Required

All signs are deemed accessory uses, and, unless specifically qualified, shall be located on the same lot with the principal use. No sign, except for those signs listed in Section 5-303 below, shall be painted, constructed, erected, remodeled, relocated, or expanded until a sign permit for such sign has been obtained in accordance with the provisions of Section 5-309 below. No permit for any sign shall be issued unless the sign complies with the following regulations: Part 3 of this Article; the Standard Building Code; and the Town of North Beach Design Standards, if applicable.

5-303 Sign Permit Not Required

A. Not Creating a Sign. The following operations shall not be considered as creating a sign and therefore shall not require a sign permit.

1. The changing of the advertising copy or message on an approved painted or printed sign, which are specifically designed for the use of replaceable copy.
2. Painting, repainting, cleaning and other normal maintenance and repair of an approved sign or sign structure, unless a structural alteration is made.

B. Permanent Signs. No sign permit shall be required for any of the following signs, except that all other applicable regulations of this Zoning Ordinance and those set forth in the Standard Building Code and the Town of North Beach Design Standards shall apply to such signs.

1. Official traffic signs or sign structures, when erected by a governmental agency.
2. Directional or informational signs of a public or quasi-public nature, such as: those which identify the location of restrooms or parking areas; those which contain the meeting date of a community or civic association; or those that advertise seasonal events of public interest.
3. Seasonal displays and decorations not advertising a product, service, or entertainment.
4. Small signs which display address numbers. In addition, small signs which identify the name and/or address of the occupant of a single family dwelling unit, provided such sign is limited to one (1) per dwelling unit and does not exceed two (2) sq. ft. in area.

C. Temporary Signs. A sign permit and sticker is required for any of the following temporary signs, except that all other applicable regulations of this Zoning Ordinance and those set forth in the Standard Building Code and the Town of North Beach Design Standards shall apply to such signs.

1. Official notices or advertisements posted by or under the direction of any public or court officer in the performance of his official duties, provided that all such signs shall be removed not later than ten (10) days after the end of the period for which the same are required to be displayed in order to accomplish their purpose.
2. Temporary real estate signs located on and advertising subject property for sale, lease, or rental, provided such signs do not exceed six (6) sq ft in size. Such signs shall be removed within seven (7) days of the settlement, lease, or rental.
3. Temporary signs advertising a subdivision or development. Such sign shall be limited to one (1) in number and shall be limited to a maximum sign area of six (6) sq ft. on site only.
4. Temporary construction signs identifying the general contractor, subcontractor, architect, engineer and other individuals or firms involved with the construction, alteration or remodeling of any building. Such sign shall be limited to one (1) per project and shall be limited to a maximum sign area of six (6) sq ft. The sign shall be located on the site of construction or remodeling and shall be removed within fourteen (14) days following completion of construction or remodeling.

5-304 Sign Regulations

The following regulations shall apply to all signs, which require a sign permit by the provisions of this Part. The regulations are based on the use for which the sign is an accessory.

A. Commercial and Institutional Uses

1. A total sign area of one (1) sq. ft. for each one (1) linear foot of building frontage shall be permitted.
2. Signs that do not exceed two (2) sq. ft. in area are permitted for Home Occupation uses in Zoning Districts R-2, C-1, CM, and W. Signs are not permitted for Home Occupation uses in Zoning District R-1.
3. No single face sign shall exceed thirty two (32) sq. ft.

B. Residential Uses

1. Freestanding signs, which identify the name of a residential subdivision or development, shall be permitted at each major entrance thereto. Such signs shall not exceed thirty (30) sq. ft. in area or eight (8) feet in height.
2. Building-mounted signs identifying the name and the address of a multifamily residential building shall be permitted. Such signs shall be flush against the building and shall not exceed twelve (12) square feet in area per building nor be located at a height exceeding 30 feet above grade.
3. Signs that do not exceed four (4) ft. in area are permitted for Bed & Breakfast Facility and Boarding House uses.

5-305 Size Measurements and Location

A. Sign Area Calculation

1. The area of a sign shall be considered to include all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself.
2. For a sign painted upon or applied to a building, the area shall be considered to include all lettering, wording and accompanying designs or symbols together with any backing of a different color than the finish material of the building face.
3. Where the sign consists of individual letters or symbols attached to or painted on a surface, building, wall, or window, the area shall be considered that of the smallest rectangle or other geometric shape, which encompasses all of the letters and symbols.
4. Every face of a projecting or freestanding sign shall be considered as a separate sign for purposes of calculating the allowable sign area. Double faced sign, where the lettering on each side is identical, will only count the sq. ft. of one side on same surface. Double faced signs are signs, which are back to back. V-shaped signs are not double signs.

B. Location of Signs

1. Flat Wall Signs. Flat wall signs may be located anywhere on any wall of a building; except that above the first floor, no window or part of a window shall be situated within the sign area or its supporting structure, nor shall any such sign or part of such sign or its supporting structure cover any window or part of a window.
2. Projecting Signs, Projecting signs may project over the public right-of-way only where there is no building setback, and then may project no more than forty-two (42) inches beyond the right-of-way line, and must have a minimum clearance of ten (10) feet above

the finished grade of a sidewalk and no sign shall project above any road, driveway or alley. Above the first floor, no window or part of a window shall be situated within the sign area to its supporting structure, nor shall any such sign or part of such sign or its supporting structure cover any window or part of a window or obstruct the light and vision of a window.

3. Freestanding Signs. Signs may be freestanding or ground supported and may be located anywhere on the subject lot. No part of the sign shall extend beyond a property line or right-of-way line.
4. Roof Signs. Roof signs shall not be permitted nor shall any sign extend above the roof line.

5-306 Sign Structural Requirements- Maintenance and Removal

A. Structural. No sign shall be erected unless it complies with the structural requirements as specified in the Standard Building Code and the standards in this Part.

B. Maintenance. All signs and components thereof shall be maintained in good repair and in a safe, neat, and clean condition.

C. Removal or Repair Requirements, The Building Inspector may cause to have removed or repaired immediately without written notice any sign which, in his opinion, has become insecure, in danger of falling, or otherwise unsafe, and, as such, presents an immediate threat to the safety of the public. If such action is necessary to render a sign safe, the cost of such action shall be borne by the owner of the sign.

5-307 Prohibited Signs

The following signs are prohibited in any zoning district. Where applicable, these prohibitions shall apply to those signs permitted by the provisions of Section 5-303.

A. Any sign which by reason of its location, position, size, shape or color may obstruct, impair, obscure, interfere with the view of, or be confused with, any traffic control signal or device erected by a public agency.

B. Any sign displaying flashing or intermittent lights, or lights or changing degrees of intensity of color or moving copy. This prohibition shall not apply to signs, which display time, temperature, or environmental conditions.

C. Any sign of which all or any part is in motion by any means. This prohibition shall not apply to the hands of a clock, a weathervane, or those seasonal signs approved by the Zoning Administrator as provided in Paragraph B2 and B3 of Section 5-303 above.

D. Any sign which advertises an activity, business, product, or service no longer produced or conducted on the premises upon which the sign is located. Where the owner or lessor of the premises is seeking a new tenant, such signs may remain in place for not more than thirty (30) days from the date of vacancy.

E. Any sign which is pasted or attached to utility poles, trees, fences, or other signs.

F. Any sign containing statements, words, or pictures of an obscene, indecent, or immoral character, such as will offend public morals or decency.

G. Any sign or illumination that causes any direct glare into or upon any building other than the building to which the sign may be related.

H. Any sign painted on or permanently affixed to a window that covers an area in excess of twenty (20) percent of the window.

I. Any portable sign except such signs that are permitted by the provisions of Section 5-303 above.

J. Any outdoor advertising sign, commonly referred to as bill-boards or poster panels, which advertise products or businesses not connected with the site or building on which they are located.

5-308 Nonconforming Signs

Signs lawfully existing on the effective date of this Ordinance which do not conform to the provisions of this Ordinance, and signs which are necessary to a nonconforming use shall be deemed to be nonconforming signs, such signs shall not be enlarged, extended or structurally reconstructed or altered in any manner.

5-309 Sign Permit Procedure

A. Permit Requirements. Except as otherwise provided herein, no sign shall be erected, altered, or refaced unless a sign permit has been approved by the Zoning Administrator.

B. Permit Application. The permit application shall contain the identification and address of the property on which the sign is to be erected; the name and address of the sign owner and the sign erector; drawings showing the design, dimensions, and location on the building/site of the sign and such other pertinent information as the Zoning Administrator may require to ensure compliance with the provisions of this Ordinance and other applicable regulations.

C. Fees. Fees for sign permits shall be determined by resolution of the Town Council.

D. Expiration of a Sign Permit. A sign permit shall expire and become null and void if the sign is not erected within a period of 12 months from the date of the permit. A permit may be renewed and an additional fee shall be collected for the renewal.

5-400 LANDSCAPING AND SCREENING REQUIREMENTS

5-401 Purpose and Intent

The purpose and intent of this Part is to preserve and promote the health, safety, and general welfare of the public; to facilitate the creation of an attractive Town; to conserve natural resources including adequate air and water; to conserve properties and their values; and to encourage the appropriate use of land. More specifically this Part is intended to make incompatible uses compatible by requiring a screen or buffer between the uses in order to minimize the harmful impact of noise, dust and other debris, artificial light intrusion, and other objectionable activities or impact conducted or created by adjoining or nearby use. Additionally, this Part is intended to require the landscaping of certain parking lots in order to reduce the harmful effect of heat and noise, and the glare of motor vehicle lights; to preserve underground water reservoirs and to permit the return of precipitation to the ground water strata; to act as a natural drainage system and improve storm water drainage problems; to prevent soil erosion; to provide shade and to enhance the blighted appearance to parking lots.

5-402 Applicability

The provisions of this Article shall apply to all development where Category 1 site plans are filed in accordance with the provisions of Article 6 and to all public and private parking facilities.

5-403 Landscaping Requirements

A. A landscaping scheme shall be submitted as part of every Category 1 site plan required by the provisions of Article 6.

B. Such landscaping schemes shall include dimensions and distances and clearly delineate all existing and proposed parking spaces or other vehicle areas, access aisles, driveways, and the location, size and description of all landscaping materials to be used.

C. The landscaping measures shall be completed according to specifications prior to approval of any zoning and occupancy permit.

5-404 Screening Requirements

In all districts except for the CM District, all developments for which Category 1 site plans are filed in accordance with the provisions of Article 6 shall be effectively screened on each side that adjoins a residential use. Required screening shall consist of plant material at the minimum height of six feet at time of installation and where the plantings are capable of creating a continuous screen within three to five years. Evergreens may be planted in a close single row, staggered or offset rows or in clumps or groupings. Solid/opaque wood fencing or other alternatives such as a masonry wall may be substituted for plant material screening with the approval of the Planning Commission, provided the fencing reaches a minimum height of six feet. Chain link and picket fences are unacceptable. Berms may be utilized in conjunction with any of the above or combinations of the above, with Planning Commission approval.

5-405 Perimeter Parking Lot Landscaping

All off-street parking facilities, whether or not located on the same lot as the use to which it is accessory, containing six (6) or more parking spaces shall meet the following perimeter landscaping requirements.

A. A landscaping strip four (4) feet in width shall be located between the parking facility and the adjoining lot lines.

B. A minimum of one shade tree for every forty (40) feet of lot perimeter shall be planted in the landscaping strip. Deciduous shade trees with ground cover or low shrubs shall be used as the primary landscape material.

C. On the landscaping strip adjacent to a street right-of-way, or to a R-1 or R-2 district, a compact evergreen hedge, an ornamental wall, or a wooden fence of not less than forty-two (42) inches high is required to reduce the visual impact of the parking facility.

5-406 Internal Landscaping of Surface Parking Facility

Any surface parking facility of twenty-five (25) or more spaces shall be landscaped with shade trees of not less than five (5) percent of the internal area of the surface parking facility. The internal area of a parking facility is defined by the perimeter of the curbs or edge of paving. Planting area should be wide enough to protect the trees from a vehicle's swinging doors and bumper overhang.

5-407 Lighting in Parking Lots

Any lighting used to illuminate any parking area shall be so arranged as to direct the light away from adjoining premises located in a R-1 or R-2 zoning district, and from public roads.

5-408 Maintenance

A. All plant material shall be tended and maintained in a healthy growing condition, replaced when necessary and kept free of refuse and debris. Fences and walls shall be maintained in good repair.

B. The owner, or his agent, shall be responsible for the maintenance, repair and replacement of all landscaping and screening materials as may be required by the provisions of this Part.

5-409 Waiver or Modification

The Planning Commission or Zoning Administrator, under the provisions of Article 6, may approve a waiver or modification of the requirements of this Part. Such waiver or modification may be approved:

A. For an interim use of a specified duration, and/or where deemed appropriate due to the location, size, surrounding area or configuration of the lot; and

B. When such waiver or modification will not have any deleterious effect on the existing or planned development of adjacent properties.

5-410 Design Guidelines and Standards

All development building and reconstruction within the Town of North Beach must be in accordance with the requirements in the Architectural Design Guidelines & Standards adopted by the Town in 2012 and as amended.

A. For all single family detached residential construction in R-1 and R-2 Zoning the requirements are guidelines at the discretion of the Planning Commission when approving a project.

B. For all multi-family, mixed use and commercial developments in R-2, C-M. W-1, W-2 as well as within the Waterfront Renaissance Overlay District (except as modified by a Developer's agreement) compliance with the requirements must be shown on the Category I site plan and be approved by the Planning Commission.

Mixed Use in C-M, W-1 and W-2

Where a given use or building contains a mix of commercial and residential uses, the development requirements in Article 5 for mixed uses apply.

A. Intent
The primary purpose of mixed use in C-M, W-1 and W-2 is to create walkable, livable, and attractive development while increasing commercial, retail and residential density within the business district of North Beach. Specifically, the mixed use zoning within these areas is intended to:
1. Allow market-driven growth in places that are most conducive to accommodating additional activity.
2. Encourage economic development through the creation of a mix of uses adjacent to existing commercial centers.
3. Provide diverse hosing development for households with a range of incomes and lifestyles.

4. Promote a walkable community with pedestrian-oriented buildings and open space that connects to nearby destinations.
5. Create and support lively, human-scaled activity areas and gathering places for the community by encouraging civic uses, plazas, and a mix of uses.
6. Ensure that new development is consistent with and enhances the nearby streetscape.
7. Promote development that accommodate the automobile but also emphasizes alternative travel means such as buses, biking, and walking.
8. Promote the adaptive reuse of existing historic buildings.
9. Encourage the redevelopment of underutilized or obsolete commercial property.

B. Permitted Uses: A lot and/or building may be used for one or more of the uses found for that zone in Article 3.

C. Prohibited Uses: The following uses, as well as any use not specifically permitted are prohibited (except on C-M properties being developed as commercial, not as mixed, where such uses might be allowed):
   1. Drive-through window or facilities
   2. Automobile or other vehicle sales, service, or repair establishments.
   3. Gasoline service station and filing station.
   4. Self-service storage facilities.

D. Building Design Standards – In addition to the Architectural Design Guidelines & Standards adopted in 2012, and amended as needed, which apply to all development within North Beach, the Design Standards below also apply to mixed use development:
   1 Building Orientation and Entrances
      a. Front facades of buildings shall be oriented towards existing and proposed streets, with an everyday entrance in the front facade. Buildings with multiple front facades shall have entrances in each front façade, corner entrances, or may have entrances in only some of the front facades.
      b. All primary building entrances shall be accentuated. Permitted entrance accents may include: recessed, protruding, canopy, portico, or overhang.
      c. Loading doors, service doors, and loading docks shall not be located in any façade facing a street or any portion of a façade within 35 feet of a street.

   2. Walls and Windows
      a. Blank walls shall not be permitted along any exterior wall facing a street. Walls in these locations shall comprise a minimum of 35 percent window area and a maximum of 75 percent window area, with windows interspersed across the façade.
      b. Ground floor facades of retail, restaurant, and related uses facing a street shall compromise a minimum of 50 percent clear window area, with windows providing views of display areas or the inside of the building. These ground floor windows shall begin between 12 to 24 inches above ground level and shall end above 86 inches above ground level.
      c. Smoked, reflective, or black glass in windows in prohibited.
      d. Walls or portions of walls where windows are not provided shall have architectural treatments designed to break up the bulk of the wall, including at least four of the following treatments; Masonry but not flat concrete block; concrete or masonry plinth at the base of the wall; belt courses of a different texture or color; projecting cornice; projecting metal canopy; decorative tilework; trellis containing planting; medallions; opaque or translucent glass; artwork; vertical/horizontal articulation; lighting fixtures; or a similar architectural element not listed above, as approved by the Planning Commission.
      e. Rear and side facades shall have colors and materials that are similar to the front façade and shall blend with structures within the development. Any development with more than one building on the site shall have a common and coherent architectural theme throughout the development.

ARTICLE 6

PROJECT PLAN REVIEW AND APPROVAL

6-100 GENERAL REQUIREMENTS

Plans for Site Development Projects shall be prepared and approved in accordance with the provisions of this Article.

6-101 Developments and Uses Requiring a Site Plan & Development Plans

Site Developments are arranged in the following categories:

A. New Single Family Detached Dwellings and Additions in the R-1 & R-2 Districts:

These Developments require a Category 1 Site Plan.

B. New Mixed Use Development in the CM, W-1 and W-2 Districts:

These developments require approval of a Development Plan and Developer Agreement followed by approval of a Category 2 Site Plan.

C. New non Single Family Detached Dwelling Developments in the R-2 & W-1 Districts:

These Developments requires approval of a Category 2 Site Plan

D. New Developments without a Mixed Use or Residential component in the R-1 & W-1 Districts:

These Developments require the approval of a Development Plan followed by the approval of a Category 2 Site Plan.

6-200 SITE PLAN PREPARATION

Required Information on Category 1 Site plans for Single Family Detached Dwelling and Additions

All Category 1 Site plans shall be submitted to the Zoning Administrator in two (2) paper and one (1) digital copy. Category 1 Site Plans shall contain the following information:

A. The project name and the name, address and telephone number of the landowner and builder/developer.

B. A drawing showing the location, height, ground coverage and use of all structures.

C. If applicable, front, side and rear yard setbacks, as well as street access and easements.

D. Renderings or visuals to show compliance with the North Beach Design Standards.

E. Provisions for the adequate disposition of natural and storm water, indicating the location, size, type and grade of ditches, catch basins and pipes and connections to existing drainage system, and storm water management as required by County and State regulations.

F. Provision for the adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading and construction.

G. Show existing vegetation, proposed removal of vegetation, and proposed replacement of vegetation.

H. Other information that may be required by the Planning Commission to assure compliance with all applicable regulations.

6-201 Procedure for Preparation of Category 2 Site Plans

A. Site plans involving engineering, architecture, landscape architecture or land surveying shall be respectively certified by the appropriate engineer, architect, landscape architect or land surveyor authorized by the State of Maryland to Practice as such.

B. Site plans shall be prepared to a scale of one-inch equals thirty feet (1"=30') or larger. The sheet shall be 24" by 36" unless the Zoning Administrator approves deviations from this standard. A site plan may be prepared in one or more sheets to show clearly the information required and to facilitate the review and approval of the plan.

6-202 Required Information on Category 2 Site Plans

All Category 2 Project Developments shall be submitted to the Zoning Administrator in three (3) legible copies and one (1) digital copy. Category 2 Project Developments shall contain the following information:

A. The project name and the name, address and telephone number of the landowner and builder/developer.

B. The location, height, ground coverage and use of all structures.

C. For each building, the number and type of dwelling units, classified by the number of bedrooms, and the total floor area, if any, to be used for commercial purposes.

D. The floor areas of all non-residential buildings and the proposed use of each.

E. The locations of recreational and other open spaces.

F. Calculations of building coverage, density, open space, numbers of parking spaces, and areas of land use.

G. All existing and proposed streets and easements, their names, numbers and widths; and existing and proposed utilities.

H. A landscaping scheme, including dimensions and distances and the location, size and description of all proposed landscape material as required by the provisions of this Ordinance.

I. Existing vegetation, proposed removal of vegetation, and proposed replacement of vegetation.

J. If the project is in the Critical Area Overlay District, the project must meet the Critical Area Plan requirements.

K. Location, type size and height of fencing, retaining walls and screen planting as required by the provisions of this Ordinance.

L. If the project is in the Floodplain Overlay district, proposed measures should be shown which will protect project property and inhabitants required by the provisions of the Town's adopted Floodplain Ordinance.

M. A parking plan, showing all off-street parking, related driveways, loading spaces and walkways, indicating type of surfacing, size, angle of stalls, width of aisles and a specific schedule showing the number of parking spaces provided and the number required.

N. Renderings or other visuals, which show compliance with the North Beach Design Standards.

O. Sufficient information to show how the physical improvements associated with the proposed development interrelates with existing or proposed development of record on adjacent properties.

P. All existing and proposed water and sanitary sewer facilities, indicating all pipe sizes, types and grades and where connection is to be made to the utility system.

Q. Provisions for the adequate disposition of natural and storm water, indicating the location, size, type and grade of ditches, catch basins and pipes and connections to existing drainage system. Provisions for adequate storm water management as required by Town regulations

R. Provisions for the adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading and construction.

S. A statement of the adequacy of roads and utilities to be impacted by the project. Should such roads and utilities be found to be inadequate, the site plan shall state the actions to be undertaken to make them adequate in light of the proposed project.

6-203 <u>Procedure for Processing</u>

A. Upon receipt of the Site Plan, the Planning Commission shall conduct a review and may solicit comments from other technical agencies, departments, agencies, and officials as the Planning Commission may deem appropriate.

B. The site plan shall be approved if it meets the requirements of this Section; the other requirements of this Ordinance and all other Federal, State, and Town regulations and all necessary permits and approvals have been or will be obtained by the applicant.

C. The Planning Commission shall approve, conditionally approve, or reject a Site Plan within

sixty (60) days from the filing of the application.

D. Notice of such action shall be given in writing to the applicant.

6-204 Construction of Required Improvements

A. Upon approval of a site plan, the applicant shall then secure the necessary construction permits from appropriate agencies before commencing work. The applicant may construct only such improvements as have been approved by the Planning Commission.

B. After construction has been completed, inspection of site improvements shall be made by the town Zoning Administrator or Code Compliance Officer to verify compliance with the Town's requirements and Planning Commission approval.

C. The installation of improvements shall not bind the Town to accept such improvements or the maintenance; repair and operation thereof; requirements for said improvements shall be in addition to (and in lieu of) any other legal requirements.

D. The Calvert County Government will not issue a County Use and Occupancy Permit until the Town of North Beach Use and Occupancy Permit have been obtained. The Town of North Beach will notify the County when this has been completed.

6-300 INTRODUCTION: MIXED USE DEVELOPMENT AGREEMENTS

In the Commercial District, Waterfront Limited District, when it is developed as mixed use, and the Waterfront Renaissance District, the landowner must propose a mixed-use development and negotiate a development agreement. The Development Plan for the Mixed-Use Plan shall be submitted, reviewed and approved as provided for in Section 6-309.

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6-301 MIXED USE DISTRICTS DEVELOPMENT

6-302 Purpose

The Development Agreement Concept for Mixed Use in the Commercial District, Waterfront Limited (when developed as Mixed Use) and the Waterfront Renaissance District was established to:

A. Promote greater flexibility in the uses permitted and development standards required in those districts, allowing for the development of a mix of land uses that are compatible with each other and commercial and waterfront locations.

B. Assure effective control over the location, type, and arrangement of uses appropriate to those districts.

C. Cultivate clear and consistent images or new development with those districts and help ensure compatibility between new development and neighboring properties.

D. Bring about a general physical improvement of lands in the districts through coordinated and comprehensive development and redevelopment.

E. Promote the integration of new streets and general pedestrian circulation patterns into the existing development pattern of North Beach

F. Help achieve the purposes of the districts as set forth in Section 3-104 and 105.

G. Promote the public welfare and otherwise achieve the intent of this Ordinance.

6-303 District Boundaries

The boundaries of the Districts are indicated on the Official Zoning Map of the Town of North Beach identified in Article 2 of this Ordinance. The Commercial District and the Waterfront Districts are identified as the C-M, W-1 and W-2 districts in Paragraph 3- 104 and 105 of Article 3.

6-304 Application

A. In these districts, the applicant may file an application for a preliminaryy concept review which is necessary to permit the development of a property with mixed uses within these districts.

B. The application shall include a Development Plan as described in Section 6-305.

6-305 Development Plan

The application for a mixed use project shall include a development plan, drawn to an acceptable scale, which shall show:

A. A boundary survey and legal description of the property.

B. A vicinity map at a scale not less than one inch equals 400 feet.

C. Adjacent property owners, zoning districts, land uses, streets, and public lands.

D. Existing topography and existing significant natural features.

E. Proposed sidewalks and overall circulation system and parking.

F. Proposed site features.

G. Proposed reservations for parks, recreational facilities, and/or open space and any proposed on-site easements for public use.

H. Proposed location of land uses and all buildings by type, heights of all buildings and structures, front, side and rear setbacks.

I. Proposed elevations of buildings by type prepared by a registered architect.

J. Residential densities and use types, overall tract density, and floor-to-area ratio for the site.

K. A tabulation of the total area of the site for the proposed project and the percentage thereof designated for each of the proposed dwelling types and land uses and open space.

L. A statement describing the proposed stormwater management, water supply, sewerage disposal facilities and systems, streets and roads. A report showing the adequacy of these public facilities and services to serve the proposed development.

M. A statement of the method intended to be used to assure that a consistent and compatible image for new development will be developed within the district, including architectural design, signage, and typical sections for streets and sidewalks.

N. A statement of the method intended to be used to assure perpetual maintenance of those areas to be used for recreational or other common or quasi-public purposes.

O. A statement of the method to be used to meet critical area requirements including mitigation and to promote overall environmentally sensitive design including alternatives to impervious surfaces. A statement of the amount of impervious surface area for the proposed project.

P. A statement describing the market demand for the project and projected time frame for build-out, absorption rates, and projected sale prices.

6-306 Administration

A. Unless otherwise noted in this Ordinance, Development Plan review and approval by the Planning Commission will follow the procedure outlines in Section 6-309 of this Article.

B. The Planning Commission shall require that the developer provide, at developer costs, studies to support a Development Plan.

C. The Planning Commission shall require the developer to establish an escrow account in the amount of at least $7,500 from which the Planning Commission shall retain, at its discretion, experts to review the Development Plan and/or supporting materials and advise it on such matters. Any monies remaining from the escrow account shall be returned to the Developer when the Use and Occupancy permits are obtained.

6-307 Development Standards

A. The Planning Commission may authorize and/or require deviation from the requirements as set forth in Article 5 in association with the review and approval of the Development Plan.

B. The Planning Commission, as part of the approval of a Development Plan, will negotiate parking needs as they relate to the use/s proposed and the available parking within the town at the time of the development.

C. Any material change to an approved development Plan shall require amendments to the Development Plan and the approval by the Planning Commission using procedures similar to those used to approve the original Site Plan

Section 6-308 Procedures for Planning Commission approval of a Development Plan and Developer Agreement

A. The process begins with the submission of the following documents to the Zoning Administrator:

Application Form
3 paper copies of the Development Plan
Digital copy of the Development Plan
Fees established by the Town for the type of review requested.

B. The Zoning Administrator will review the submission and request any supplemental information that the Planning Commission may need for their review.

C. The Zoning Administrator will review the project and submit it to the Planning Commission with a staff memorandum outlining the different aspects of the project.

D. The Town Clerk will schedule the Development Plan for review and action by the Planning Commission at a meeting to be held after the Zoning Administrator completes the initial review.

E. The Planning Commission will review the project at a scheduled meeting which must be attended by the applicant. The Planning Commission will determine if the Development Plan is approvable and what if any changes are necessary and what needs to be included in the Developer agreement.

F. Utilizing the funds provided in Section 6-306, the Town will contract with a professional to negotiate a Developer Agreement with the applicant. Upon the applicant's approval of the draft Developer agreement, that and any modifications to the Development Plan from the initial planning Commission review will be presented to the Commission at a regularly scheduled meeting for their consideration and approval.

G. Upon approval of the Development Plan and Developer Agreement by the Planning Commission, the applicant can submit a Category 2 Site Plan for Commission approval required for Zoning and Building Permits.

Section 6-500: SITE PLANS FOR MISCELLANEOUS ZONING PERMITS

A. Miscellaneous Zoning Permits are required for fences, accessory buildings, roof replacement, siding, decks, minor site work and signs. These permits will be reviewed and approved by the Zoning Administrator.

B. After issuance of a Miscellaneous Building Permit by the Zoning Administrator, a County Building Permit may be required for projects such as decks and larger accessory structures.

C. Information to be submitted with an application for a Miscellaneous Zoning Permit shall contain sufficient details to show the location, size and type of work to be included in the permit.

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ARTICLE 7

ADMINISTRATION

7-100 ENFORCEMENT AND INTERPRETATION

7-101 Enforcement of Ordinance

Unless otherwise specifically qualified, the provisions of this Ordinance shall be enforced by the Zoning Administrator or his/her designee. The Zoning Administrator shall have all necessary authority to administer and enforce the provisions of this Ordinance. Such authority shall include the ability to order, in writing, the remedy of any condition found in violation of this Ordinance and the ability to bring legal action to insure compliance with the provisions, including injunction, abatement, or other appropriate action or proceeding.

7-102 Duties of the Zoning Administrator

In the administration of the provisions of this Ordinance, the Zoning Administrator shall have the following specific duties and responsibilities:

A. The receipt, review for completeness and substantial compliance, official acceptance, and maintenance of current and permanent files and records for the following:

1. Proposed and adopted amendments to the Zoning Ordinance, to include the Zoning Map;
2. Applications for special exceptions;
3. Appeals of a decision made by the Zoning Administrator;
4. Applications for a variance;
5. Applications for Category 1 and Category 2 Site Plan approval;
6. Applications for Zoning Permit approvals, and;
7. All other applications required by this Ordinance unless otherwise qualified by specific provisions.

B. Review and take action on all miscellaneous Zoning Permits

C. Sign applications and site plans to indicate completion of review.

D. Sign Zoning Permits on behalf of the Town.

E. Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of this Ordinance.

F. Ensure that copies of the Zoning Ordinance, all amendments, and the Zoning Map are available for public distribution.

H. Perform such other duties and functions as are required by the provisions of this Ordinance.

I. Provide responses to questions to public and or property owners on zoning requirements.

7-103 Questions of Interpretation

The Zoning Administrator shall be responsible for interpreting the Zoning Ordinance. Interpretive decisions made by the Zoning Administrator shall be in writing. Copies of such decisions shall be filed with the property file in the Town records. An appeal of any decision of the Zoning Administrator may be taken to the Board of Appeals as provided for in Part 4 of this Article.

7-104 Application Forms and Filing

All applications and appeals as provided for in this Ordinance shall be submitted in writing on prescribed forms to the Zoning Administrator. Each application or appeal shall contain that specific information as may be required by the various provisions of this Ordinance.

7-105 Application Fees

All applications and appeals as provided for in this Ordinance shall be accompanied by a filing fee in the amount to be determined in a schedule of fees established by the Town Council.

7-106 Required Notice for Public Hearings

No public hearing as required by the provisions of this Ordinance shall be held unless the following notice requirements have been satisfied:

A. Publication. Public notice of any hearing held shall be published once a week for two (2) successive weeks in a local newspaper having general circulation in Calvert County. The first such notice shall be published at least fourteen (14) days prior to the date of the hearing, and shall specify the time and place of the hearing and the nature of the matter before the hearing body. Such notice shall be the responsibility of the hearing body.

B. Written Notice to Applicant/Appellant. The hearing body shall submit written notice to the applicant/appellant by first class mail, such to be postmarked at least twenty (20) days before the day of the hearing.

C. Posting. The Zoning Administrator shall, at least fourteen (14) days before the date of the hearing, post on the land or building involved in any application or appeal, a notice of the public hearing. Said notice shall contain the date, location and time of the public hearing, the nature of the proposed change, the property affected, such other information as may be necessary to provide adequate identification of the application, and where further information on the application may be obtained.

D. Written Notice to Adjacent Property Owners. The hearing body shall submit written notice to all owners of property adjoining and immediately across the street from the subject property. Such written notice shall state the date, time, place, and subject matter of the hearing, and the name of the applicant. Such notice shall be sent by first class mail and postmarked not less than twenty (20) days before the day of the hearing.

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7-107 Limitation on Rehearing

If an application or appeal is denied by the approving body, no new application or appeal concerning any or all of the same property for the same general use as applied or appealed for originally shall be heard by said approving body for a period less than twelve (12) months from the date of action by the approving body on the original application or appeal.

7-200 NON-CONFORMING USES

7-201 Definitions

A. Nonconforming Structure or Lot – A structure or lot that does not conform to a dimensional regulation prescribed by this Ordinance for the District in which it is located or to regulations for signs, off-street parking, off-street loading, or accessory buildings, but which structure or lot was in existence at the effective date of this ordinance and was lawful at the time it was established.

B. Nonconforming Use – A use of a building or lot that does not conform to a use regulation prescribed by this Ordinance for the District in which it is located, but which was in existence at the effective date of this Ordinance, was lawful at the time it was established, and is duly approved by a valid zoning permit issued by the Zoning Administrator.

7-202 Existing Uses

Any building, structure, lot or use lawfully existing at the time of the adoption of this Ordinance, or lawfully existing at the time this Ordinance is subsequently amended, may continue to be used even though such building, structure or lot that does not conform to use or dimensional regulations of the zoning district in which it is presently located.

7-203 Alteration or Extension

A nonconforming use shall not be enlarged. A nonconforming structure or lot shall not be altered, extended or enlarged except as provided for in Article 5.

7-204 Reconstruction

A nonconforming structure, lot or use that is destroyed or damaged by any casualty may be restored within one (1) year after such destruction or damage. After one year, any restoration shall be made to conform to this Ordinance. Upon petition of the property owner, the Planning Commission may approve one 12-month extension, provided evidence is provided demonstrating to the satisfaction of the Planning Commission that substantial progress is being made toward reconstruction.

7-205 Abandonment

No nonconforming structure, lot or use, once abandoned, shall thereafter be re-established. For the purpose of this Section, abandoned shall be defined as the cessation of a nonconforming use for a period of three (3) months or more.

7-206 Change of Use

Whenever a nonconforming use is changed to a conforming use, such shall not be restablished. Whenever a nonconforming use has been changed in whole or in part to a more restricted non-conforming use with the approval of the Board of Appeals, such use shall not again be changed to a less restricted nonconforming use. No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.

7-207 Exceptions to Minimum Lot Sizes and Lot Widths

If two (2) or more lots of record, one or both of which fail to meet the requirements of this Ordinance with regard to lot area and/or lot width, have continuous frontage and are in single ownership at any time after the application of the provisions of this Ordinance to such lots, and if such lots taken together would form one or more lots, each meeting the requirements of this Ordinance with regard to lot area and lot width, such lot or lots shall no longer be considered nonconforming, and must be used in compliance with the lot area and lot width requirements irrespective of subsequent changes in ownership.

7-300 AMENDMENTS

7-301 Initiation of Amendments

The text of this Ordinance and any zoning district boundary shown on the Zoning Map may be amended by the Town Council, provided that the proceedings for any amendment shall be initiated in the following manner:

A. By the adoption by the Planning Commission of a resolution recommending to Town Council such an amendment; or

B. By the introduction by the Town Council of a ordinance to amend, which ordinance, upon adoption, shall be issued to the Planning Commission and Zoning Administrator; or

C. By the filing with the Zoning Administrator of an application by the owners or their agents of the land proposed to be rezoned.

7-302 Individual Application Procedure

All applications for amendments, initiated in the manner prescribed by Paragraph C of Section 7-301 above, shall be submitted to the Zoning Administrator on forms supplied by him. The Zoning Administrator, upon receipt of a properly completed application, shall refer the application along with pertinent evaluation material to the Planning Commission for consideration and recommendation to the Town Council.

7-303 Public Hearing Requirement

All applications or ordinances to amend the Zoning ordinance or the Zoning Map shall be subject to a public hearing before the Planning Commission and Town Council in accordance with the provisions of Section 7-106 above. A single public hearing on the same amendment may be held jointly by the Planning Commission and Town Council.

7-304 Report by Planning Commission

A. After the conclusion of a public hearing, the Planning Commission shall report to the

Town Council its recommendations with respect to the proposed amendment.

B. The Planning Commission need not confine its recommendation to the proposed amendment as set forth in the application/resolution; it may recommend text revision or reduce or enlarge the extent of the land it recommends to be rezoned.

C. In recommending the adoption of any amendment to this Ordinance, the Planning Commission shall state its reasons for such recommendation, describing any changes in conditions, if any, that it believes make the amendment advisable and specifically setting forth the manner in which, in its opinion, the amendment would be in harmony with the adopted Comprehensive Plan and the adopted development or land use plan and would be in furtherance of the purpose of this Ordinance.

D. Within thirty (30) days following a public hearing, the Planning Commission shall transmit its recommendation to the Town Council. Failure to provide a recommendation within such specified time shall be deemed a recommendation for approval.

7-305 Findings of Fact Required by the Town Council

A. For a comprehensive amendment to this Ordinance initiated by the Planning Commission or Town Council under Section 7-301, Paragraph A or B above, the Town Council shall find such amendment consistent with the Comprehensive Plan.

B. For an individually filed amendment initiated under Section 7-301, Paragraph C, the Town Council shall make findings of fact in each specific case including, but not limited to, the following matters:

1. Population change.
2. Availability of public facilities.
3. Present and future transportation patterns.
4. Compatibility with existing and proposed development for the area.
5. Recommendations of the Planning Commission.
6. Relationship of the proposed amendment to the Comprehensive Plan.
7. Substantial change in the character of the neighborhood, or there was a mistake in the existing zoning classification.

7-306 Effective Date of Amendment

An amendment to the Zoning Ordinance or the Zoning Map shall become effective on the date of Town Council approval, provided it is at least ten (10) days after a public hearing on such amendment.

7-400 APPEALS

7-401 Initiation

Any person or agency aggrieved or affected by a decision of the Zoning Administrator may appeal such decision to the Board of Appeals.

7-402 Time Limit on Filing

A. Appeals shall be filed within thirty (30) days from the date of the decision that is being appealed. An appeal shall be initiated by filing a notice of appeal with the Zoning Administrator that specifies the grounds for such appeal and shall be filed in accordance with the provisions of Part 1 above.

B. Upon receipt of a notice of appeal, the Zoning Administrator shall forward said notice and all of the papers constituting the records upon which the decision being appealed was based, to the Board of Appeals for decision within forty-five (45) days of receipt (which time limit may be modified upon request by good cause shown).

7-403 Processing and Public Hearing Requirements

The Board of Appeals shall process all notices of appeal in accordance with the provisions of Part 2 of Article 8. No determination shall be made by the Board on any appeal until a public hearing has been held on same in accordance with the provisions of Section 7-106 above.

7-404 Decision on Appeals

A. The Board of Appeals may affirm or reverse, wholly or partly, or may modify the order, requirement, decision, or determination that is being appealed.

B. The concurring vote of three (3) members of the Board of Appeals shall be required to reverse any order, decision, or determination of the Zoning Administrator under this Ordinance.

C. The Board of Appeals shall render a written decision on the appeal within sixty (60) days after receipt of same by the Zoning Administrator (which time limit may be modified upon request by good cause shown).

7-405 Stay of Proceedings

An appeal shall stay all proceedings in furtherance of the action upon which the appealed decision is based.

7-500 VARIANCES

7-501 Purpose

A property owner may apply to the Board of Appeals for a variance of the strict application of the terms of this Ordinance. The Board of Appeals may authorize a variance in the strict application of any specific requirement of this Ordinance except as qualified in Section 7-504 below. The requirements of Section 7-503 shall be followed by the Board of Appeals in granting a variance of

the strict application of the terms of this Ordinance.

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7-502 Processing and Public Hearing Requirement

A. Applications for variance shall be submitted to the Zoning Administrator and should include the following;

1. A written statement detailing the specific provision of the Ordinance from which a variance is sought,

2. The nature and extent of the variance sought,

3. The special conditions of the property, or the nature of the use and/or development of immediately adjacent property, which would make a variance necessary, and

4. A statement indicating why the variance should be granted.

B. The Board of Appeals shall process all applications for variance in accordance with the provisions of Part 2 of Article 8.

C. No variance shall be authorized by the Board until a public hearing has been held on same in accordance with the provisions of Section 7-106 above.

7-503 Decision on Variances

A. No variances in the strict application of any provisions of this Ordinance shall be authorized by the Board of Appeals except upon the following findings, made in the following sequence:

1. The Board of Appeals shall ascertain whether or not there are unusual circumstances or conditions applying to the land or buildings for which the variance is sought and whether or not such circumstances or conditions do not apply generally to other land or buildings in the same zoning district and the same vicinity, and have not resulted from any act of the applicant other than the act of purchasing the land involved in the application.

2. In considering allegations of the existence of unusual circumstances and conditions, the Board of Appeals shall take into account only such circumstances and conditions as pertain to the physical situation or condition of the specific land or building involved in the application and shall not consider any allegation or knowledge of financial hardship or any other personal situation or circumstance on the part of the applicant.

3. The Board of Appeals shall ascertain whether or not the aforesaid special circumstances or conditions are such that the strict enforcement of the specific provision of the Ordinance involved in the application would deprive the applicant of the reasonable use of the land or building that is involved, and that the granting of some variance in such strict enforcement is necessary for the reasonable use of such land or building.

4. If an affirmative finding in all respects is not made together with a full statement of the reasons therefore, the Board of Appeals shall have no jurisdiction to proceed further and shall deny the application.

5. Upon an affirmative finding, the Board of Appeals shall determine what variance, in its opinion, is the minimum that will afford relief; in so doing the

Board of Appeals shall not be confined to the specific content of the application.

6. In making such a determination, the Board of Appeals shall give careful consideration to the relationship of the land or building in question to land and building in the neighborhood and to the purpose and intent of this Ordinance, and shall not give favorable consideration to any variance unless it finds that the same is in harmony with such purpose and intent, and will not be injurious to the use of land and buildings in the vicinity or to the neighborhood or otherwise be detrimental to the public welfare.

7. On the completion of the above steps of the foregoing procedures and after the completion of a written record of its findings, but not otherwise, the Board of Appeals shall authorize such variance as it deems to be necessary as aforesaid, in order to afford relief. In so doing, the Board of Appeals shall prescribe any conditions applying to the authorization made by it that it may deem to be necessary or desirable in furtherance of the purpose and intent of this Ordinance, and may make such requirements in connection therewith as will give reasonable assurance that such conditions will be met.

B. The concurring vote of three (3) members of the Board of Appeals shall be required to authorize a variance.

C. The Board of Appeals shall render a written decision on the application for a variance within sixty (60) days after receipt of same.

7-504 Unauthorized Variances

A. No variance shall be authorized that would permit the establishment of any use not otherwise permitted in the zoning district under the strict provision of this Ordinance.

B. No variance shall be authorized that would reduce the amount of off-street parking space required by Article 5, Part 3.

C. No variance shall be authorized that would relate to signs under the provisions of Article 5, Part 4.

D. No variance shall be authorized that would modify any definition set forth in Article 9.

7-505 Expiration of Variances

If the activity or construction has not commenced within such time as the Board of Appeals or Zoning Administrator have specified or if no time has been specified, then within a period of twelve (12) months, unless extended, such variance shall automatically expire without notice.

7-506 Variances Granted by the Planning Commission

A. In the CM and W-2 Districts, the Planning Commission may, upon written request, grant a tolerance of up to twenty percent (20%) of the established yard requirements provided that the following conditions are met:

1. The owners of all immediately adjoining side and rear yard properties are notified in writing by the Planning Commission at least 10 days prior to the meeting at which time such request will be considered.
2. The Planning Commission shall make a written finding that the objectives of the

Zoning Ordinance will not be jeopardized by the variance.

B. The Planning Commission in granting a variance may prescribe such conditions and safeguards as it deems appropriate which comply with the intent of the Ordinance.

C. The Planning Commission shall render a decision on a variance request per sub-section "A" above, request within 60 days.

7-600 ZONING AND BUILDING PERMITS

7-601 Permit Required

The erection of all buildings and all structures, additions, deletions and modifications thereto, shall be subject to the provisions of this Ordinance and the Building Codes administered and enforced by Calvert County. No building or structure shall be erected or modified until a Zoning Permit application has been approved by the Zoning Administrator and where applicable a Building Permit issued by Calvert County.

7-602 Application for a Zoning Permit

Applications for a Zoning Permit shall be submitted in writing on prescribed forms to the Zoning Administrator. Each application shall be accompanied by a site plan in accordance with the provisions of Article 6 and shall contain other specific information as may be required by the various provisions of this Ordinance.

7-603 Issuance of a Zoning Permit

A Zoning Permit shall be issued by the Zoning Administrator after one of the following being completed.

A. The Zoning Administrator's review and approval of a Category 2 Site Plan.

B. Thirty (30) days following the approval of a Category 1 Site Plan by the Planning Commission, to allow the right of appeal of the site plan as provided for in Section 6-106.

7-700 CERTIFICATE OF USE AND OCCUPANCY

7-701 Certificate Required

No use or occupancy shall be made of any structure hereinafter erected or of any premises hereinafter improved, and no change in use shall be permitted, unless and until a Certificate of Use and Occupancy has been approved by the Town of North Beach and the Calvert County Government in accordance with the provisions of this Part.

7-702 When Required

For the purpose of this Ordinance, a Certificate of Use and Occupancy shall be obtained from the Zoning Administrator before any person shall:

A. Occupy or use, or permit or cause to be occupied or used, any building hereafter erected.

B. Change the use, or permit or cause a change in the use, of any existing building.

C. Make any change in the use of a nonconforming use.

D. Enlarge any use with respect to the unit of measurement specified in this Ordinance as the basis for determining the amount of required off-street parking space, whether the same is specified in terms of floor area, dwelling unit or any other element of size or use.

E. Continue any use after a change in the proprietorship of such use, except a single-family dwelling.

7-703 Application for a Certificate

A. For Construction

1. Written application for a Certificate of Use and Occupancy for any building hereafter erected shall be made to the Zoning Administrator after the completion of the work covered by the Zoning Permit.
2. If the proposed use is in conformance with the provisions of this Ordinance, all other applicable laws and ordinances, conditions, or special exceptions, and meets the minimum requirements set forth in Section 7-704 below, the applicable permit shall be issued.

B. For a Change in Use

1. Written application for a Certificate of Use and Occupancy for the use of vacant land or for a change in the use of land or a building, for a change of a nonconforming use, for the enlargement of a use or for the continuation of a use, shall be made to the Zoning Administrator.
2. If the proposed uses is in conformance with the provisions of this Ordinance, all other applicable laws and ordinances, conditions, or special exceptions, and meets the minimum requirements set forth in Section 7-704 below, the applicable permit shall be issued.

7-704 Minimum Requirements

The following minimum requirements must be met prior to the Issuance of a Certificate of Use and Occupancy:

A. The structure must have passed all applicable final Calvert County inspections such as building, electrical, plumbing, or mechanical inspection. Where applicable, the structure must have been approved for occupancy by the State Fire Marshal.

B. The structures lot must be final graded. Sodding and/or seeding are required to be complete. An exception may be granted in the winter when seeding, sodding, and/or final grading and landscaping improvements is not possible, or when extraordinary sustained inclement weather conditions have occurred, and then the lot must be rough graded and completely mulched where disturbed. When exceptions for final grading, landscaping, sodding and/or seeding are granted, an agreement satisfactory to the Zoning Administrator shall be necessary to show when such shall be brought into full compliance.

C. All walks adjacent to the street and/or between the driveway or parking lot and the structure must be complete.

D. All streets and driveways necessary to provide access for the structure to a public street must be complete except for a final surface

E. All storm and sanitary sewers serving the lots for which a Certificate of Use and Occupancy is requested must be completed and approved.

F. Curb and gutter in front of the structure must be complete and in place.

7-705 Certificate Not to Validate Any Violation

No Certificate of Use and Occupancy shall be deemed to validate any violation of any provision of any law or ordinance.

7-706 Revocation of Certificate

The Zoning Administrator may revoke an approved Certificate of Use and Occupancy when it is determined that such approval was based on a false statement or misrepresentation of fact by the applicant, or as provided for in Section 7-804 below.

7-800 VIOLATIONS AND PENALTIES

7-801 Generally

Any person, whether owner, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this Ordinance, or permits any such violation, or fails to comply with any of the requirements hereof, or who erects any building or uses any building or uses any land in violation of any detailed statement or plan submitted by him and approved under the provisions of this Ordinance shall be guilty of a Municipal Infraction. Each day that a violation continues shall be deemed a separate offense.

7-802 Unlawful Improvements

Any building erected or improvements constructed contrary to any of the provisions of this Ordinance and any use of any building or land which is conducted, operated or maintained contrary to any of the provisions of this Ordinance shall be and the same is declared to be unlawful.

7-803 Enforcement

The Zoning Administrator may initiate injunction, mandamus, or any other appropriate action to prevent, enjoin, abate, or remove such erection or use in violation of any provision of this Ordinance.

7-804 Violation Notice

Upon his becoming aware of any violation of any provisions of this Ordinance, the Zoning Administrator shall serve notice of such violation on the person committing or permitting the same. A preset fine may be imposed for each violation. If a person who receives a citation for a violation fails to pay the fine by the date of payment set forth on the citation and fails to file a notice of intention to stand trial, a formal notice of the violation shall be sent to the owner's last known address. If the citation is not satisfied within fifteen (15) days from the date of the notice, the person is liable for an additional fine not to exceed twice the original fine. If after thirty-five (35) days, the citation is not satisfied, the Zoning Administrator may request adjudication of the

case through the District Court.

7-805 Remedies Not Exclusive

The remedies provided for in this Part are cumulative and not exclusive and shall be in addition to any other remedies provided by law.

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ARTICLE 8

COMMISSION AND BOARD

8-100 PLANNING COMMISSION

8-101 Purpose

The Planning Commission shall advise the Town Council on all matters relating to the orderly growth of the Town of North Beach. More specifically, the Planning Commission, with the advice and assistance of the Town staff, shall:

A. Prepare and recommend a Comprehensive Plan for the Town of North Beach, and review said plan at least once every 10 years.

B. Prepare and recommend amendments to the Zoning Ordinance.

C. Review and make recommendations on amendments to the Zoning Map.

D. Prepare and recommend amendments to the Subdivision Ordinance.

E. Review proposed public facilities for consistency with the Comprehensive Plan in accordance with the provisions of the Land Use Article of the Code of Maryland.

F. Approve Category 1 Site Plans in accordance with the provisions of Article 6.

G. Approve Category 2 Site Plans for single family detached dwellings and additions.

H. Approve certain parking and landscaping modifications according to the procedures in Article 5, Parts 2 and 4.

I. Approve subdivision plats.

J. Review and prepare advisory opinions on applications for appeals, special exceptions, or variances filed with the Board of Appeals.

K. Prepare and adopt an annual report in accordance with the provisions of the Land Use Article of the Code of Maryland.

8-102 Authority and Establishment

The Planning Commission was established in conformance with a resolution adopted by the Town Council on April 8, 1971, as amended, pursuant to the provisions of the Land Use Article of the Code of Maryland. The official title of this Commission shall be the "North Beach Planning Commission".

8-103 Membership

A. The Planning Commission shall consist of five (5) members, who shall be qualified voters and/or property owners in the Town. The majority of the members shall be

residents of the Town. All members shall be appointed by the Mayor and confirmed by the Town Council.

B. Members shall be appointed for five (5) year terms and terms of appointment shall be staggered.

C. Any vacancy in membership for an unexpired term shall be filled by appointment by the Mayor and approved by the Council.

D. Any appointed member may be removed, after a public hearing, by the Town Council.

8-104 Officers

A. The Commission shall elect a Chairman and Vice Chairman from the appointed members and create and fill such other of its offices as it may determine.

B. The term of the Chairman and Vice Chairman shall be one (1) year, with eligibility for reelection. Vice Chairman shall chair meetings and have all other regular responsibilities in the absence of the Chairman.

8-105 Meetings

A. Regular meetings of the Planning Commission are held every month at a time and place to be designated by resolution by the Commission.

B. Special meeting of the Commission may be called by the Chairman with notice to Commission members and public by posting on Town signs and website..

C. All Commission meetings shall be open to the public.

D. All public hearings conducted by the Planning Commission shall be in accordance with the provisions of Section 7-303.

E. Three of the membership of the Commission shall constitute a quorum

F. No action of the Commission shall be valid unless authorized by a majority vote of those present and voting.

8-106 Records

The Planning Commission shall keep minutes of all its proceedings, showing evidence presented, findings of fact by the Commission, and the vote of each member upon each question, or if absent or failing to vote, such fact. These minutes shall be a public record.

8-200 BOARD OF APPEALS

8-201 Purpose

In recognition that many of the provisions of this Ordinance are of a nonspecific and general nature, and that they are not perfect and are subject to interpretation, the Board of Appeals is established to very specific terms of this Ordinance to the end that the intent of these provisions may be effectuated, but only in a manner that the spirit of the Ordinance is maintained and upheld. More specifically, the Board of Appeals, with the advice and assistance of the Town staff, shall:

A. Hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator or his agent in the administration or enforcement of this Ordinance, as provided in Article 7, Part 4.

B. Hear and decide applications for Special Exceptions as are authorized under Article 3, Part 4 of this Ordinance.

C. Authorize, upon appeal in specific cases, a Variance from the terms of this Ordinance, as provided in Article 7, Part 5.

D. Hear and decide applications for interpretation of the Zoning Map where there is uncertainty as to the location of a zoning district boundary, as provided in Article 2, Part 2.

8-202 Authority and Establishment

The Board of Appeals is established pursuant to the provisions of Land Use Code, Code of Maryland. The official title of this Board shall be the "North Beach Board of Appeals".

8-203 Membership

A. The Board shall consist of five (5) members, who shall be qualified voters and/or property owners in the Town. The majority of the members shall be residents of the Town. All members shall be appointed by the Mayor and confirmed by the Town Council.

B. The terms of office of the members of the Board are three (3) years.

C. Any vacancy in membership for an unexpired term shall be filled by appointment by the Mayor and approved by the Council.

D. A member whose term expires shall continue to serve until his successor is appointed and qualifies. Members may be appointed to succeed themselves.

E. Any appointed member may be removed by the Town Council after a public hearing.

8-204 Officers

A. The Board shall elect a Chairman from one of the appointed members and create and fill such other of its offices as it may determine.

B. Upon election by the members, the Chairman shall serve a three (3) year term.

8-205 Meetings

A. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine.

B. Three (3) members of the Board shall constitute a quorum.

C. The Chairman, or in his/her absence, the acting Chairman, may administer oaths and compel the attendance of witnesses.

D. All meetings of the Board shall be open to the public.

E. Notice for all public hearings conducted by the Board shall be in accordance with the provisions of Section 7-106.

F. No action of the Board shall be valid unless authorized by three (3) members present and voting affirmatively on such action.

8-206 Referral to Planning Commission

A. The Board shall request an advisory opinion from the Planning Commission on any application for an appeal, special exception, or variance. The Commission shall submit a report of such advisory opinion prior to the decision by the Board on an application.

B. Advisory opinions regarding appeals, special exceptions, and variances shall be rendered by the Planning Commission within sixty (60) days after submission to it; otherwise such appeal, special exception or variance shall be deemed to have received a favorable advisory opinion.

8-207 Records

The Board shall keep written records and minutes of all its proceedings, showing evidence presented, findings of fact by the Board, and the vote of each member upon each question, or if absent or failing to vote, such fact. These written records and minutes shall be public records.

8-208 Decisions

In exercising the powers of this part, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

8-209 Subject to Judicial Review

All decisions and findings of the Board shall be final decisions, and shall, in all instances, be subject to judicial review in the manner provided by Land Use Code of Maryland.

ARTICLE 9

DEFINITIONS

The following definitions shall be used in the interpretation and administration of this Ordinance.

ACCESSORY APARTMENT	A second dwelling unit either within an existing single-family detached dwelling or in a separate accessory structure on the same lot as the principal single family detached dwelling for use as a complete and independent living facility with separate kitchen and bathroom facilities.
ACCESSORY USE	A use customarily incidental and subordinate to the principal use, and located on the same lot with the principal use.
ACCESSORY BUILDING:	A building that is not suitable and does not meet code requirements for human habitation. Accessory Buildings must not be connected to the principal structure above the surface level of the lot. Examples of such buildings are: garages, tool and garden equipment storage sheds.
ACCESSORY PARKING LOCATION:	Parking spaces located on land other than the lot for which the parking is required. Permission can only be granted by the Board of Appeals under Section 5-204A of this Ordinance.
ALTERATION, STRUCTURAL:	A change or rearrangement in the structural parts of a building or structure; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another.
APARTMENT:	One (1) or more habitable rooms with kitchen and bathroom facilities exclusively for the use of and under the control of the occupants of those rooms.
AREA (NET FLOOR)	Is the area actually occupied not including accessory unoccupied areas such as corridors, stairs, closets, thickness of walls, columns, toilet room, mechanical area or other features. (As defined in the Standard Building Code).

AUTOMOBILE SERVICE STATION: A building or lot having pumps and storage tanks at which automotive fuels, oils and/or accessories are dispensed, sold or offered for sale at retail, and at which minor automobile repair service is offered. No major mechanical and body work is permitted. No junked automobiles or other vehicles shall be parked or otherwise stored on the premises.

BED & BREAKFAST FACILITY: A residence where paying guests are lodged overnight and breakfast is the only meal served to overnight guests.

BOARD: The word "Board" shall always mean the Board of Zoning Appeals of North Beach, Maryland.

BOARDER: A non-transient individual other than a member of the family occupying the dwelling unit or a part thereof who, for a consideration, is furnished sleeping accommodations and may be furnished meals or other services as part of the consideration.

BOARDING HOUSE: A dwelling in which, for compensation, lodging or meals, or both, are furnished on a weekly or monthly basis.

BUILDING: A structure having one or more stories and a roof, designed primarily for the shelter, support, or enclosure of persons, animals or property of any kind.

BUILDING HEIGHT: The vertical distance from the average finished grade to the highest point of the roof.

BUILDING PERMIT: Approval issued by the Calvert County Department of Inspections and Permits for the construction of a new building or repair or addition to an existing building.

CERTIFICATE OF USE AND OCCUPANCY: A document issued by the Zoning Administrator in accordance with Article 7, Part 7, allowing the use or occupancy of a building and certifying that the structure or use has been constructed or will be used in compliance with all applicable codes, ordinances and regulations.

CHILD DAY CARE: A private dwelling or facility which receives for care, protection and supervision, as a cooperative or for compensation, a child or children under eighteen (18) years of age for only part of a twenty-four (24) hour day unattended by parent or legal guardian.

CHURCHES AND OTHER PLACES OF WORSHIP: A building or structure or group of buildings or structures, which by design or construction, are primarily intended for the conducting of organized religious services and accessory associated uses.

COMMERCIAL RETAIL: An establishment where the primary business is the sale of merchandise in small quantities for use or consumption by the immediate purchaser.

COMMERCIAL OFFICE: A room or rooms of a building used for an office or office related and support functions.

COMMERCIAL SERVICES:	Any establishment where the primary business is providing a commercial service to the general public.
COMMISSION:	The word "Commission" and the words "Planning Commission" shall always mean the North Beach Planning Commission.
COMPREHENSIVE PLAN:	The official document or elements thereof, adopted by the Town Council, and intended to guide the physical development of the Town.
CONCESSIONS, BEACH:	Retail sales or services located on the public beach in designated locations. Leases are signed with the Town to be able to operate such concessions.
CONDITIONAL USE:	A use permitted in a particular zoning district only upon showing that such use will comply with all the restrictions for that zoning district as well as all the conditions for the location or operation of such use as specified in Article 3, Part 3 of this Ordinance.
CRITICAL AREA:	A geographical area around the tidal waters of the Chesapeake Bay and its tributaries designated by the Maryland General Assembly. Development in this critical area should be such as to minimize impact on the Bay's water quality and plant, fish and wildlife habitat.
DAY CARE CENTER.	A day nursery, child boarding home, day camp, summer camp, foster home, or other place for the reception, board, or care for compensation of six (6) or more children under sixteen years of age.
DAY CARE, Home	(See Home Day Care)
DEPARTURE:	To depart from the general requirement of the law as stated in the ordinance; a divergence from the normal requirements.
DESIGN STANDARDS:	Standards established to regulate and grade exterior features of buildings and properties is provided for in the Town of North Beach Architectural Design Guidelines and Standards 2012 enacted by the Town Council in August 2012 and as amended to date.
DEVELOPER:	The owner or owners of any land included in a proposed development or the holder of an option or contract to purchase such land, or a person or persons having enforceable proprietary interests in such land.
DEVELOPMENT:	Any activity which materially affects the existing condition or use of any land or structure.
DEVELOPMENT DEVELOPMENT ACTIVITIES:	Any construction, modification, extension, or expansion of buildings or structures; placement of fill or dumping; storage of materials; land excavations; land clearing; land improvement; or any combination thereof, including the subdivision of land.
DISTRICT OVERLAY:	A special district created for the purpose of imposing special regulations on given designated areas of the Town. Overlay districts shall be in addition to and shall overlap and/or overlay other zoning districts.

DISTRICT, ZONING:	Section delineated on the Zoning Map for which the regulations governing the use of land and the use, density, bulk, and height of buildings or other structures are the same.
DUPLEX:	See Dwelling, Single-Family Attached.
DWELLING:	A structure or portion thereof which is used principally for human habitation.
DWELLING UNIT:	One (1) or more rooms in a residential building or residential portion of a building which are arranged, designed, used or intended for use as a complete, independent living facility which includes permanent provisions for living, sleeping, eating, cooking and sanitation. Occupancy shall be in accordance with the provisions of Part 7, Article 7 of this Ordinance.
DWELLING, MULTI FAMILY:	A residential building or residential portion of a building containing three (3) or more separate dwelling units, generally with a common outside entrance.
DWELLING, SINGLE FAMILY:	A residential building containing only one (1) dwelling unit.
DWELLING, SINGLE FAMILY, ATTACHED:	Two (2) closely placed, interrelated single family dwelling units which are generally joined to one another by a common wall, or floor and which have their own entrances. This is also known as a duplex.
DWELLING, SINGLE FAMILY DETACHED:	A single-family dwelling, which is not attached to any other dwelling.
FAMILY:	An individual, or two (2) or more persons related by blood or marriage, or group of not more than (4) persons not related by blood or marriage, living together as a single housekeeping group in a dwelling unit.
FLOODPLAIN:	Land areas subject to continuous or periodic inundation.
FLOOR AREA, GROSS:	The total number of square feet of floor area in a building measured from the interior faces of exterior walls. The term gross floor area shall include basements; elevator shafts and stairwells at each story; habitable space in penthouses or attics; interior balconies; and mezzanines. Parking structures below or above grade and rooftop mechanical structures are excluded from gross floor area.
FLOOR AREA RATIO:	Determined by dividing the gross floor area of all buildings on a lot by the area of that lot.
FLOOR AREA NET:	Net Floor Area shall be calculated as 85% of gross floor area.
GRANDFATHERED:	Describes the status accorded certain properties and development

activities that are of record prior to the date of adoption of the Zoning Ordinance or provisions of the Zoning Ordinance.

GROUP HOME: Any residential structure used to provide assisted community living for persons with physical, mental, emotional, familial, or social difficulties.

HABITABLE SPACE: Space in a structure suitable for human occupancy. The space is suitable and meets code requirements for living, sleeping, eating, cooking or working.

HOME OCCUPATION: Any activity carried out for compensation by a resident as an accessory use in the residents dwelling unit.

HOME DAY CARE. A facility operated in a residence by the owner of the residence for no more than five (5) people, excluding residents where care is given to children under the age of 18, or persons with physical handicaps, or persons in need of oversight because of old age, mental retardation or other disability, and which routinely involves care and housing for less than 18 hours per day per person.

HOTEL OR INN: A building or part of a building in which room are reserved exclusively for transient guests who rent rooms on a daily basis. Additional services, such as restaurants, meeting rooms and recreation facilities may be provided.

LANDSCAPING: The improvement of a lot with grass, shrubs, trees, other vegetation and/or ornamental objects. Landscaping may include pedestrian walks, flower beds, ornamental objects such as fountains, statues and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.

LOADING SPACE: An off-street space used for the loading or unloading of vehicles.

LOT: A parcel of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit.

LOT AREA: The total horizontal area included within the lot lines of a lot.

LOT, CORNER: A lot abutting on two (2) or more streets at their intersection, where the interior angle of the intersection does not exceed one hundred thirty-five (135) degrees.

LOT LINE: A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

LOT LINE, FRONT: The lot line separating a lot from a street or public right-of-way. On a corner lot, either street line may be considered the front lot line.

LOT LINE, REAR: The lot line generally opposite or parallel to the front lot line. If the rear lot line is less than ten (10) feet long or the lot comes to a point at the rear, such rear lot line is assumed to be a line not less than ten (10) feet long parallel to the front lot line, lying wholly within the lot.

LOT LINE , SIDE: A lot line which is neither a front lot line nor a rear lot line as defined

herein.

LOT WIDTH:	The width of a lot along a line parallel to the front lot line and lying at a distance from the front lot line equal to the required minimum front yard on that lot.
MIXED-USE BUILDING:	A single building, or attached buildings, containing one or more residential dwellings units and one or more non-residential land uses which are permitted in the Zoning District or Sub-area and regulated by the Zoning Ordinance. For the purposes of this Ordinance, a residential dwelling unit is a mixed use building is not considered a single-family dwelling.
MIXED-USE DEVELOPMENT:	A mixed use building or a group of buildings on a single buildable lot or site plan, that contain both residential swelling units and non-residential land uses which are permitted in the Zoning District or Sub-area and regulated by the Zoning Ordinance.
MIXED-USE STRUCTURE:	Any structure that is used or intended for use for a mixture of nonresidential and residential uses in the same structure.
NONCONFORMING USE:	A building, structure, or use which was lawful when established and legally continued, but which no longer conforms to the requirements of the zone in which it is located because of the adoption or amendment of the Zoning Ordinance or Zoning Map.
NONCONFORMING STRUCTURE:	A structure which lawfully erected prior to the adoption or amendment of this Ordinance, but which, by virtue of the adoption or amendment of this Ordinance, no longer conforms to the requirements of this Ordinance in terms of such requirements as area, setbacks, or heights requirements, etc.
NURSING HOME.	Includes rest homes, convalescent home and homes for the aged and shall mean a place devoted primarily to the treatment and care of any persons suffering from illnesses, diseases, deformities or injuries, not requiring extensive care but who do require care in excess of room and board and who need medical, psychological, nursing, convalescent or chronic care.
OPEN SPACE:	Land and water areas retained for use as active or passive recreation areas or maintained for resource protection in an essentially undeveloped state; land and water areas that area within the boundaries of a lot that is intended to provide light and air, and is designed for either scenic or recreational purposes. Open space may include, but not be limited to: lawns, decorative planting, walkways, active and passive recreation areas, wooded areas, water bodies and those areas where landscaping and screening are required by the provisions of Part 4, Article 5. Open space shall not include driveways, parking lots, other vehicle surfaces, or any area occupied by a building.
OVERLAY DISTRICT:	Overlay Districts are created for imposing special regulations in designated areas of the Town to accomplish the purposes set forth for each overlay district. For all Overlay Districts, except the Waterfront Renaissance Overlay District, the requirements shall be in addition to the Zoning District within which the lands placed in the overlay district lie.

OWNER:	An individual, firm, association, syndicate, partnership or corporation having legal title to a piece of land.
PARCEL:	A lot, or contiguous group of lots or sections of land conveyed by deed, and usually considered a unit for purposes of development.
PARKING: FACILITY/LOT	An area specifically allotted to the parking of motor vehicles as an accessory use. Such space shall not be located in a dedicated right-of-way, a service drive, nor any easement for public ingress and egress.
PARKING SPACE:	An off-street space accessible and of appropriate dimensions to be used exclusively for the temporary parking of a motor vehicle.
PERMITTED USE:	A use allowed in a zoning district subject to the restrictions applicable to that zoning district.
PERSON OF RECORD:	Shall include: (1) Applicant/Appellant; (2) Adjacent property owners as stated in Section 7-106 d; (3) Any person requesting same prior to hearing.
RESTAURANT:	An establishment for the sale of food and beverages for consumption on the premises. Restaurants also include establishments that sell packaged foods prepared on the premises for offsite consumption.
SETBACK:	The required minimum horizontal distance from a lot line that establishes the minimum yard area that must exist between that lot line and the principal structure.
SIGN:	Any device, or part thereof, which is used to advertise, identify, display, direct or attract attention to an object, business, product, service, event or location by any means, including words, letters, figures, symbols, fixtures, illumination or projected images that can be seen from right of way or adjoining property.
SIGN (PORTABLE):	A sign that is not permanently affixed to a building, structure or the ground, including any sign attached to or displayed on a vehicle that is used for the expressed purpose of advertising a business establishment, product, service, or entertainment, when that vehicle is so parked as to attract the attention of motoring or pedestrian traffic.
SITE PLAN:	A required submission before a Building Permit or Certificate of Use and Occupancy is issued for the construction, rehabilitation or use of any building or structure. It is prepared and approved in accordance with the provisions of Article 6.
SPECIAL EXCEPTION:	A grant of a specific use, under the provisions of Article 3, Part 4, that would not be appropriate generally or without restriction.
STREET:	A strip of land intended primarily for vehicular traffic and providing the principal means of access to property.

STRUCTURE:	A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.
SUBDIVISION:	The division of a lot, tract, or parcel of land into two or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale or of building development. It includes re-subdivision and, when appropriate to the context, relates to the process of re-subdividing or to the land or territory subdivided. beverages may be served or sold only as accessory to the primary use.
SUBSTANTIAL ALTERATION:	A repair, reconstruction, replacement or improvement of a principal structure, with a proposed total footprint that is atleast 50 percent greater than that of the structure that is the subject of the alteration.
TEMPORARY CONSESSION	Mobile retail vendor.
TEMPORARY STRUCTURE:	A structure with an in permanent foundation and which is removed when the designated time period for which the use or for which the temporary structure was erected has ceased.
TOPOGRAPHY:	The existing configuration of the Earth's surface including the relative relief, elevations, and position of land features.
TOWN:	The word "Town" shall always mean the Town of North Beach, Maryland.
TOWNHOUSES	Three or more single family structures connected.
UNINHABITABLE	A structure that is no longer habitable as determined by the application of the terms and conditions contained in the International Property Maintenance Code.
UTILITY BUILDING OR FACILITY.	Includes transformer stations or structures housing switching equipment and regulators, power transmission line rights-of-way, radio and television, transmitter towers, and cell towers.
USE:	The purpose or activity for which land or buildings are designed, arranged, or intended, or for which land or buildings are occupied or maintained.
VACATION RENTAL:	Dwellings used for short term (weekly, biweekly, monthly) rentals when not occupied by the owner.
VARIANCE:	The modification of Development Requirements as identified in Article 5. Variances are authorized by the Board of Appeals in accordance with the provisions of Article 7, Part 5.
YARD:	Any open space extending across the full width of a lot and the principal building.

YARD, FRONT:	Open space extending across the full width of the lot and lying between the front lot line and the principal building.
YARD, REAR:	Open space extending across the full width of the lot and lying between the rear line and the principal building.
YARD, SIDE:	Open space between the side lot line of the lot and the principal building, and extending from the front yard to the rear yard, or, in the absence of either such yards, to the front or rear lot lines.
ZONING MAP:	The "Official Zoning Map, North Beach, Maryland" adopted by the Town Council, together with all amendments thereto.
ZONING ADMINISTRATOR:	The person designated by the Mayor to administer and enforce the provisions of this Ordinance.

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ARTICLE 10

CITICAL AREA OVERLAY DISTRICT REQUIREMENTS

10-100 INTRODUCTION CRITICAL AREA PROGRAM REQUIREMENTS

This Article contains requirements for development in the Critical Area Overlay District as described in Article 4-300..Requirements contained in this Article 10 superseded all requirements contained elsewhere in thre North Beach Zoning Ordinance.

Part 1. Implementation of the Critical Area Program Purpose and Goals

A. Goals.

The goals of the **[Town of North Beach]** Critical Area Program are to accomplish the following:

(1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or run off from surrounding lands;

(2) Conserve fish, wildlife, and plant habitat; and

(3) Establish land use policies for development in the Critical Area which accommodate growth as well as address the environmental impacts that the number, movement, and activities of people may have on the area.

B. **[The Town of North Beach Critical Area Program]**.

(1) **The [Town of North Beach] Critical Area Program consists of the [Town of North Beach] Zoning Ordinance and the Official Critical Area map(s).** Related provisions may be found in the **[Town of North Beach]** Subdivision Regulations.

C. Regulated activities and applicability.

Any applicant for a permit or license to pursue activities within the Critical Area, including but not limited to, development or redevelopment, grading, sediment and erosion control, timber harvesting, shoreline erosion control, installation of a septic system and drain field, operation of a waste collection or disposal facility, operation of a commercial or private marina or other water-related commercial or industrial operation (whether public or private), mining (whether surface or sub-surface) or quarrying, farming or other agriculture-related activities shall have such permits or licenses issued by the Zoning Administrator after review to determine compliance with the **[Municipal]** Zoning Ordinance.

D. Critical Area Overlay District Map.

(1) The Official Critical Area Overlay District Map is maintained in force as part of the Official Zoning Map for **[Town of North Beach]**. The Official Critical Area Map delineates the extent of the Critical Area Overlay District that shall include:

(a) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State wetland maps, and all state and private wetlands designated under Title 16 of the Environment Article of the Annotated Code of Maryland; and

(b) All land and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands and the heads of tides designated under Title 16 of the Environment Article of the Annotated Code of Maryland.

(2) Within the designated Critical Area Overlay District, all land shall be assigned one of the following land management and development area classifications:

(a) Intensely Developed Area (IDA).

(b) Limited Development Area (LDA).

(c) Resource Conservation Area (RCA).

(3) The Critical Area Overlay District Map may be amended by the **[Town Commissioners or Mayor and Council]** in compliance with amendment provisions in this chapter (ordinance), the Maryland Critical Area Law, and COMAR Title 27.

E. General Requirements

(1) Development and redevelopment shall be subject to the Habitat Protection Area requirements prescribed in this Ordinance.

(2) Reasonable accommodations for the needs of disabled citizens.

(a) An applicant seeking relief from the Critical Area standards contained in this Ordinance in order to accommodate the reasonable needs of disabled citizens shall have the burden of demonstrating by a preponderance of evidence the following:

(i) The alterations will benefit persons with a disability within the meaning of the Americans with Disabilities Act;

(ii) Literal enforcement of the provisions of this Ordinance would result in discrimination by virtue of such disability or deprive a disabled resident or user of the reasonable use and enjoyment of the property;

(iii) A reasonable accommodation would reduce or eliminate the discriminatory effect of the provisions of this Ordinance or restore the disabled resident's or user's reasonable use or enjoyment of the property;

(iv) The accommodation requested will not substantially impair the purpose, intent, or effect, of the provisions of this Ordinance as applied to the property; and

(v) The accommodation would be environmentally neutral with no greater negative impact on the environment than the literal enforcement of the statute, ordinance, regulation or other requirement; or would allow only the minimum environmental changes necessary to address the needs resulting from the particular disability of the applicant/appellant.

(b) The Board of Appeals shall determine the nature and scope of any accommodation under this Ordinance and may award different or other relief than requested after giving due regard to the purpose, intent, or effect of the applicable provisions of this Ordinance. The Board may also consider the size, location, and type of accommodation proposed and whether alternatives exist which accommodate the need with less adverse

effect.

(c) The Board of Appeals may require, as a condition of approval, that upon termination of the need for accommodation, that the property be restored to comply with all applicable provisions of this Ordinance. Appropriate bonds may be collected or liens placed in order to ensure **[Town of North Beach]**'s ability to restore the property should the applicant fail to do so.

Part 2. Intensely Developed Areas.

A. Development standards.

For all development activities in the Intensely Developed Areas, the applicant shall identify any environmental or natural feature described below and meet all of the following standards:

(1) Development activities shall be designed and implemented to minimize destruction of forest and woodland vegetation;

(2) All roads, bridges, and utilities are prohibited in a Habitat Protection Area, unless no feasible alternative exists. If a road, bridge or utility is authorized the design, construction, and maintenance shall:

(a) Provide maximum erosion protection;

(b) Minimize negative impact on wildlife, aquatic life, and their habitats; and

(c) Maintain hydrologic process and water quality.

(3) All development activities that must cross or affect streams shall be designed to:

(a) Reduce increases in flood frequency and severity that are attributable to development;

(b) Retain tree canopy so as to maintain stream water temperature within normal variation;

(c) Provide a natural substrate for stream beds; and

(d) Minimize adverse water quality and quantity impacts of stormwater.

(4) All development and redevelopment activities shall include stormwater management technologies that reduce pollutant loadings by at least 10 percent

below the level of pollution on the site prior to development or redevelopment as provided in *Critical Area 10% Rule Guidance Manual – Fall 2003* and as may be subsequently amended.

Part 3. Limited Development Areas.

A. Development standards.

For all development activities in the Limited Development Areas, the applicant shall identify any environmental or natural feature described below, and shall meet all of the following standards:

(1) Development and redevelopment shall be subject to the water-dependent facilities requirements of this Ordinance;

(2) Roads, bridges, and utilities are prohibited in a Habitat Protection Area unless no feasible alternative exists. If a road, bridge or utility is authorized the design, construction and maintenance shall:

(a) Provide maximum erosion protection;

(b) Minimize negative impacts on wildlife, aquatic life and their habitats; and

(c) Maintain hydrologic processes and water quality.

(3) All development activities that must cross or affect streams shall be designed to:

(a) Reduce increases in flood frequency and severity that are attributable to development;

(b) Retain tree canopy so as to maintain stream water temperature within normal variation;

(c) Provide a natural substrate for stream beds; and

(d) Minimize adverse water quality and quantity impacts of stormwater.

(4) If there is a wildlife corridor system identified by the Wildlife Heritage Service on or near the site which can be enhanced by additional plantings, the applicant shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetative tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with offsite habitats. The wildlife

corridor system may include Habitat Protection Areas identified in this Ordinance. **[Town of North Beach]** shall ensure the maintenance of the wildlife corridors by requiring the establishment of conservation easements, restrictive covenants, or similar instruments approved by the **[Town of North Beach]** Attorney through which the corridor is preserved by public or private groups, including homeowners associations, nature trusts and other organizations.

(5) Development on slopes 15 percent or greater, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the slope and is consistent with the policies and standards for Limited Development Areas.

(6) Except as otherwise provided in this subsection, for stormwater runoff, lot coverage is limited to 15% of a lot or parcel or any portions of a lot or parcel that are designated LDA.

(a) If a parcel or lot of one-half acre or less in size existed on or before December 1, 1985, then lot coverage is limited to twenty-five (25%) of the parcel or lot.

(b) If a parcel or lot greater than one-half acre and less than one acre in size existed on or before December 1, 1985, then lot coverage is limited to fifteen percent (15%) of the parcel or lot.

(c) If an individual lot one acre or less in size is part of a subdivision approved after December 1, 1985, then lot coverage may exceed fifteen percent (15%) of the individual lot; however the total lot coverage for the entire subdivision may not exceed fifteen percent (15%).

(d) Lot coverage limits provided in §(a) and §(b) above may be exceeded, upon findings by the Planning Commission or its designee that the following conditions exist:

(i) The lot or parcel is legally nonconforming. A lot or parcel legally developed as of July 1, 2008 may be considered legally nonconforming for the purposes of lot coverage requirements.

(ii) Lot coverage associated with new development activities on the property have been minimized;

(iii) For a lot or parcel one-half acre or less in size, total lot coverage does not exceed the lot coverage limits in §(a) by more than twenty-five percent (25%) or five hundred square feet (500 square feet), whichever is greater;

(iv) For a lot or parcel greater than one-half acre and less than one acre in size, total lot coverage does not exceed the lot coverage limits in §(b) or five thousand, four hundred and forty-five (5,445) square feet, whichever is greater;

(v) The following table summarizes the limits set forth in §(i) through §(iv) above:

Table A(6)(d) Lot Coverage Limits

Lot/Parcel Size (Square Feet)	Lot Coverage Limit
0 – 8,000	25% of parcel + 500 SF
8,001 – 21, 780	31.25% of parcel
21,780 – 36,300	5,445 SF
36,301 – 43,560	15% of parcel

(e) If the Planning Commission or its designee makes the findings set forth in §(d) above and authorizes an applicant to use the lot coverage limits set forth in that paragraph, the applicant shall:

(i) Demonstrate that water quality impacts associated with runoff from the development activities that contribute to lot coverage have been minimized through site design considerations or the use of best management practices to improve water quality; and

(ii) Provide on-site mitigation in the form of plantings to offset potential adverse water quality impacts from the development activities resulting in new lot coverage. The plantings shall be equal to two times the area of the development activity.

(iii) If the applicant cannot provide appropriate stormwater treatment and plantings due to site constraints, then the applicant shall pay a fee to **[Town of North Beach]** in lieu of performing the on-site mitigation. The amount of the fee shall be $1.50 per square foot of the required mitigation. [P2]

(7) The alteration of forest and developed woodlands shall be restricted and shall be mitigated as follows:

(a) The total acreage in forest and developed woodlands within the **[Town of North Beach]** in the Critical Area shall be maintained or preferably increased;

(b) All forests and developed woodlands that are allowed to be cleared or developed shall be replaced in the Critical Area on not less than an equal area basis;

(c) If an applicant is authorized to clear more than 20 percent of a forest or developed woodlands on a lot or parcel, the applicant shall replace the forest or developed woodlands at 1.5 times the areal extent of the forest or developed woodlands cleared, including the first 20 percent of the forest or developed woodlands cleared.

(d) An applicant may not clear more than 30 percent of a forest or developed woodlands on a lot or parcel, unless the Board of Appeals grants a variance and the applicant replaces forest or developed woodlands at a rate of 3 times the areal extent of the forest or developed woodlands cleared.

(e) If an applicant is authorized to clear any percentage of forest or developed woodland the remaining percentage shall be maintained through recorded, restrictive covenants or similar instruments approved by **[Town of North Beach]**.

(8) The following are required for forest or developed woodland clearing as required in §(7) above:

(a) The applicant shall ensure that any plantings that die within twenty-four (24) months of installation shall be replaced. A performance bond in an amount determined by **[Town of North Beach]** shall be posted to assure satisfactory replacement as required in §(7) above and plant survival;

(b) A permit issued by the **[Town of North Beach]** before forest or developed woodland is cleared. Forests and developed woodlands which have been cleared before obtaining a **[Municipal]** permit is a violation and shall be replanted at three times the areal extent of the cleared forest;

(c) Clearing of forest or developed woodlands that exceed the maximum area allowed in §(7) above shall be replanted at three times the areal extent of the cleared forest;

(d) If the areal extent of the site limits the application of the reforestation standards in this section the applicant may be allowed to plant offsite or pay a fee in lieu of planting.

(9) If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of at least 15 percent.

(a) The applicant shall designate, subject to the approval of **[Town of North Beach]**, a new forest area on a part of the site not forested; and

(b) The afforested area shall be maintained as forest cover through easements, restrictive covenants or other protective instruments approved by the **[Town of North Beach]** Attorney.

Part 4. Resource Conservation Areas.

A. Development standards.

For all development activities and resource utilization in the Resource Conservation Areas, the applicant shall meet all of the following standards:

(1) Land use management practices shall be consistent with the policies and criteria for the Habitat Protection Area provisions of this Ordinance.

(2) Land within the Resource Conservation Area may be developed for residential uses at a density not to exceed one dwelling unit per 20 acres.

(3) Development activity within the Resource Conservation Areas shall be consistent with the requirements and standards for Limited Development Areas as specified in this Ordinance.

(4) Nothing in this Section shall limit the ability of a participant in any agricultural easement program to convey real property impressed with such an easement to family members provided that no such conveyance and will result in a density greater than one dwelling unit per 20 acres.

Part 5. Land Use and Density

A. Permitted Uses

(1) Permitted uses in the Critical Area shall limited to those uses allowed by the underlying zoning classification as modified by Table (1)(a) and the supplemental

use standards in Part 6 provided such uses meet all standards established by the Critical Area Overlay Zone.

Table A(1)(a) Permitted Uses

	LEGEND: P = Permitted if allowed in the underlying zoning district PC = Permitted with conditions if allowed in the underlying zoning district NP = Not permitted			
		Land Use Management Designation		
Item	**Use Description**	**IDA**	**LDA**	**RCA**
1.00	**RESIDENTIAL**			
1.10	Accessory Dwelling Unit	P	P	PC
2.00	**INSTITUTIONAL**			
2.10	Existing institutional uses	P	P	PC
2.20	New institutional uses	P	P	NP
2.30	Cemetery	P	P	PC
2.40	Group Home	P	P	PC
2.50	Day Care	P	P	PC
3.00	**COMMERCIAL**			
3.10	Existing commercial uses	P	P	PC
3.20	New commercial uses	P	P	NP
3.30	Home occupation	P	P	PC
3.40	Bed and breakfast facility	P	P	PC
4.00	**MARITIME/WATER DEPENDENT**			
4.10	Expansion of existing commercial marinas	P	P	PC
4.20	New marina, commercial	P	P	NP
4.30	Community piers and noncommercial boat docking and storage	P	P	PC
4.40	Public beaches and public water-oriented recreational and educational areas	P	P	PC
4.50	Research Areas	P	P	PC
4.60	Fisheries activities	P	P	P
4.70	Structures on Piers	PC	PC	PC
4.80	Private pier	P	P	P
5.00	**RECREATION**			
5.10	Golf course	P	P	PC
6.00	**INDUSTRIAL**			
6.10	Existing industrial uses	P	P	PC

	LEGEND: P = Permitted if allowed in the underlying zoning district PC = Permitted with conditions if allowed in the underlying zoning district NP = Not permitted			
		Land Use Management Designation		
Item	**Use Description**	**IDA**	**LDA**	**RCA**
6.20	New industrial uses	P	PC	NP
6.30	Non-maritime heavy industry	P	NP	NP
7.00	**TRANSPORTATION/PARKING/COMMUNICATIONS/UTILITIES**			
7.10	Utility transmission facilities	PC	PC	PC
8.00	**PUBLIC/QUASI-PUBLIC**			
8.10	Sanitary landfill; rubble fill	PC	PC	PC
8.20	Solid or hazardous waste collection or disposal facilities	PC	PC	PC
8.30	Sludge Facilities	PC	PC	PC
9.00	**OTHER**			

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B. Maximum Permitted Density

(1) The maximum permitted density in the **[Town of North Beach]** Critical Area shall be as shown in Table B(1).

Table B(1)
Maximum Residential
Density (Dwelling Units Per Acre)

Land Use Management Designation		
IDA	**LDA**	**RCA**
Density permitted by Underlying Zoning	Density permitted by Underlying Zoning	1 dwelling unit per 20 acres

(2) Calculation of 1-in-20 acre density of development.

In calculating the 1-in-20 acre density of development that is permitted on a parcel located within the Resource Conservation Area, **[Town of North Beach]**:

(a) Shall count each dwelling unit;

(b) May permit the area of any private wetlands located on the property to be included under the following conditions:

(i) The density of development on the upland portion of the parcel may not exceed one dwelling unit per eight acres; and

(ii) The area of private wetlands shall be estimated on the basis of vegetative information as designated on the State wetlands maps or by private survey approved by the **[Town of North Beach]**, the Commission, and Maryland Department of the Environment.

Part 6. Supplemental Use Standards

The following supplemental use standards apply to the permitted uses listed in Table A(1)(a) above and shall apply when the permitted use is allowed in the underlying zoning district.

A. Accessory Dwelling Unit (1.10)

(1) If a permitted use in the underlying zoning district, one additional dwelling unit (accessory dwelling unit) as part of a primary dwelling unit may be permitted in the Resource Conservation Area provided the additional dwelling unit is served

by the same sewage disposal system as the primary dwelling unit and:

(a) is located within the primary dwelling unit or its entire perimeter is within 100 feet of the primary dwelling unit and does not exceed 900 square feet in total enclosed areas; or

(b) is located within the primary dwelling unit and does not increase the amount of lot coverage already attributed to the primary dwelling unit.

(2) An additional dwelling unit meeting all of the provisions of this section may not be subdivided or conveyed separately from the primary dwelling unit; and

(3) The provisions of this section may not be construed to authorize the granting of a variance, unless the variance is granted in accordance with the variance provisions contained herein.

B. Existing institutional uses (2.10)

(1) Existing institutional facilities, including those that directly support agriculture, forestry, aquaculture or residential development shall be allowed in Resource Conservation Areas.

(2) Expansion of existing institutional facilities and uses in the Resource Conservation Area shall be subject to the non-conforming use provisions of this Ordinance and the Grandfathering provisions in Part 8 and may require growth allocation.

C. New institutional uses (2.20)

(1) New institutional facilities and uses, except those specifically listed shall not be permitted in Resource Conservation Areas.

(2) Certain institutional uses may be permitted if allowed in the underlying zoning district and if the use complies with all requirements for such uses as provided in the **[Town of North Beach]** Zoning Ordinance. These institutional uses are limited to:

(a) A cemetery that is an accessory use to an existing church; provided manmade lot coverage is limited to 15 percent of the site or 20,000 square feet, whichever is less;

(b) A day care facility in a dwelling where the operators live on the premises and there are no more than eight (8) children;

(c) A group home or assisted living facility with no more than eight (8) residents; and

(d) Other similar uses determined by the Town of North Beach and approved by the Critical Area Commission to be similar to those listed above.

D. Existing Commercial Uses (3.10)

(1) Existing commercial facilities and uses, including those that directly support agriculture, forestry, aquaculture or residential development shall be allowed in Resource Conservation Areas.

(2) Expansion of existing commercial facilities and uses in the Resource Conservation Area shall be subject to the non-conforming use provisions of this Ordinance and the Grandfathering provisions in Part 8 and may require growth allocation.

E. New commercial uses (3.20)

(1) New commercial uses, except those specifically listed, shall not be permitted in Resource Conservation Areas.

(2) Certain commercial uses may be permitted if allowed in the underlying zoning district and if the use complies with all requirements for such uses as provided in the **[Town of North Beach]** Zoning Ordinance. These commercial uses are limited to:

(a) A home occupation as an accessory use on a residential property and as provided for in **[Town of North Beach]**'s Zoning Ordinance;

(b) A bed and breakfast facility located in an existing residential structure and where meals are prepared only for guests staying at the facility; and

(c) Other uses determined by the Town of North Beach and approved by the Critical Area Commission to be similar to those listed above.

F. Expansion of existing commercial marinas (4.10)

(1) Expansion of existing commercial marinas may be permitted within Resource Conservation Areas provided:

(a) Water quality impacts are quantified and appropriate Best Management Practices that address impacts are provided;

(b) That it will result in an overall net improvement in water quality at or leaving the site of the marina;

(c) The marina meets the sanitary requirements of the Department of the Environment; and

(d) Expansion is permitted under the nonconforming use provisions of this Ordinance.

(2) Expansion of existing commercial marinas may be permitted in the Buffer in the Intensely Developed Areas and Limited Development Areas provided that the applicant demonstrates:

(a) The project meets a recognized private right or public need;

(b) Adverse effects on water quality, fish, plant and wildlife habitat are minimized;

(c) Insofar as possible, non-water-dependent structures or operations associated with water-dependent projects or activities are located outside the buffer; and

(d) Expansion is permitted under the nonconforming use provisions of this Ordinance.

G. New marina, commercial (4.20)

(1) New commercial marinas shall not be permitted in Resource Conservation Areas.

(2) New commercial marinas may be permitted in Limited Development Areas and Intensely Developed Areas if allowed in the underlying zoning, provided:

(a) New marinas shall establish a means of minimizing the discharge of bottom wash waters into tidal waters.

(b) New marinas meet the sanitary requirements of the Department of the Environment.

(c) New marinas may be permitted in the Buffer in the Intensely Developed Areas and Limited Development Areas provided that it can be shown:

(i) The project meets a recognized private right or public need;

(ii) Adverse effects on water quality, fish, plant and wildlife habitat are

minimized; and

(iii) Insofar as possible, non-water-dependent structures or operations associated with water-dependent projects or activities are located outside the Buffer.

H. Community piers and noncommercial boat docking and storage (4.30)

(1) New or expanded community marinas and other non-commercial boat-docking and storage facilities may be permitted in the Buffer subject to the requirements in this Ordinance provided that:

(a) These facilities may not offer food, fuel, or other goods and services for sale and shall provide adequate and clean sanitary facilities;

(b) The facilities are community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision;

(c) The facilities are associated with a residential development approved by **[Town of North Beach]** for the Critical Area and consistent with all State requirements and the requirements of this Ordinance applicable to the Critical Area;

(d) Disturbance to the Buffer is the minimum necessary to provide a single point of access to the facilities; and

(e) If community piers, slips, or moorings are provided as part of the new development, private piers in the development are not allowed.

(2) Number of slips or piers permitted.

The number of slips or piers permitted at the facility shall be the lesser of §a or §b below:

(a) One slip for each 50 feet of shoreline in the subdivision in the Intensely Developed and Limited Development Areas and one slip for each 300 feet of shoreline in the subdivision in the Resource Conservation Area; or

(b) A density of slips or piers to platted lots or dwellings within the subdivision in the Critical Area according to the following schedule:

Table (b).2 Number of Slips Permitted

Platted Lots or Dwellings in the Critical Area	Slips
up to 15	1 for each lot
16 – 40	15 or 75% whichever is greater
41 – 100	30 or 50% whichever is greater
101 – 300	50 or 25% whichever is greater
over 300	75 or 15% whichever is greater

I. Public beaches and public water-oriented recreational and educational areas (4.40)

(1) Public beaches or other public water-oriented recreation or education areas including, but not limited to, publicly owned boat launching and docking facilities and fishing piers may be permitted in the Buffer in Intensely Developed Areas.

(2) These facilities may be permitted within the Buffer in Limited Development Areas and Resource Conservation Areas provided that:

(a) Adequate sanitary facilities exist;

(b) Service facilities are, to the extent possible, located outside the Buffer;

(c). Permeable surfaces are used to the extent practicable, if no degradation of groundwater would result;

(d) Disturbance to natural vegetation is minimized; and

(e) Areas for possible recreation, such as nature study, and hunting and trapping, and for education, may be permitted in the Buffer within Resource Conservation Areas if service facilities for these uses are located outside of the Buffer.

J. Research areas (4.50)

(1) Water-dependent research facilities or activities operated by State, Federal, or local agencies or educational institutions may be permitted in the Buffer, if non-water-dependent structures or facilities associated with these project are, to the extent possible, located outside of the Buffer.

K. Fisheries activities (4.60)

(1) Commercial water-dependent fisheries including, but not limited to structures for crab shedding, fish off-loading docks, shellfish culture operations and shore-based facilities necessary for aquaculture operations and fisheries activities may be permitted in the Buffer in Intensely Developed Areas, Limited Development Areas and Resource Conservation Areas.

L. Structures on Piers (4.70)

(1) Except as provided in §1, §2, and §3 below, construction of dwelling unit or other non-water-dependent structure on a pier located on State or private tidal wetlands within the Critical Area is prohibited.

(a) A building permit for a project involving the construction of a dwelling unit or other non-water-dependent structure on a pier located on State or private wetlands within the Critical Area may be approved provided a permit was issued by the Department of Natural Resources on or before January 1, 1989.

(b) A building permit for a project involving the construction of a dwelling unit or other non-water-dependent structure on a pier located on State or private wetlands within the Critical Area may be approved if the following conditions exist:

(i) The project is constructed on a pier that existed as of December 1, 1985 that can be verified by a Department of Natural Resources aerial photograph dated 1985, accompanied by a map of the area;

(ii) The project does not require an expansion of the pier greater than 25% of the area of piers or dry docks removed on the same property; however, additional expansion may be allowed in the amount of 10% of the water coverage eliminated by removing complete piers from the same or other properties. If the horizontal surface of a pier to be removed is not intact, but pilings identify its previous size, then that area may be used in determining the additional expansion permitted. The project expansion based on water coverage eliminated can be considered only if all nonfunctional piers on the property are removed except for the project pier. The total expansion may not exceed 35% of the original size of the piers and dry docks removed; and

(iii) The project is located in an Intensely Developed Area.

(c) A building permit for the repair of an existing dwelling unit or other non-water-dependent structure on a pier located on State or private wetlands

within the Critical Area may be approved.

(d) If a structure that is not water-dependent is permitted under the exceptions included in this section, an applicant is required to demonstrate that the project will meet the following environmental objectives using the standards established herein:

(i) The construction and operation of the project will not have a long term adverse effect on the water quality of the adjacent body of water;

(ii) The quality of stormwater runoff from the project will be improved; and

(iii) Sewer lines or other utility lines extended for the pier will not affect the water quality of adjoining waters.

M. Golf course (5.10)

(1) A golf course, excluding main buildings and/or structures such as the clubhouse, pro-shop, parking lot, etc., may be permitted in Resource Conservation Areas provided:

(a) Such use is permitted in the underlying zoning; and

(b) Development is in accordance with the official guidance adopted by the Critical Area Commission on August 3, 2005.

N. Existing industrial uses (6.10)

(1) Existing industrial facilities and uses, including those that directly support agriculture, forestry, or aquaculture may be permitted in Resource Conservation Areas.

(2) Expansion of existing industrial facilities and use in the Resource Conservation Area shall be subject to the non-conforming use provisions of this Ordinance and the Grandfathering provisions in Part 8 and may require growth allocation..

O. New industrial uses (6.20)

(1) New industrial uses shall not be permitted in Resource Conservation Areas.

(2) New, expanded or redeveloped industrial facilities may only be permitted in Limited Development Areas (LDA) if permitted uses in the underlying zoning

district and provided such facilities meet all requirements for development in the LDA.

(3) New, expanded or redeveloped industrial or port-related facilities and the replacement of these facilities may be permitted only in those portions of Intensely Developed Areas that have been designated as Buffer Management Areas.

P. Non-maritime heavy industry (6.3)

(1) Non-maritime heavy industry may be permitted if:

(a) The site is located in an Intensely Developed Area; and

(b) The activity or facility has demonstrated to all appropriate local and State permitting agencies that there will be a net improvement in water quality to the adjacent body of water.

Q. Utility transmission facilities (7.10)

(1) Utility transmission facilities, except those necessary to serve permitted uses, or where regional or interstate facilities must cross tidal waters, may be permitted in the Critical Area provided:

(a) The facilities are located in Intensely Developed Areas; and

(b) Only after the activity or facility has demonstrated to all appropriate local and State permitting agencies that there will be a net improvement in water quality to the adjacent body of water.

(2) These provisions do not include power plants.

R. Sanitary landfill; rubble fill (8.10)

(1) Sanitary landfills or rubble fills may not be permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality or wastewater management problem.

(2). Existing, permitted facilities shall be subject to the standards and requirements of the Department of the Environment.

S. Solid or hazardous waste collection or disposal facilities (8.20)

(1) Solid or hazardous waste collection or disposal facilities, including transfer stations may not be permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality wastewater management problem.

(2) Existing, permitted facilities shall be subject to the standards and requirements of the Department of the Environment.

T. Sludge Facilities (8.40)

(1) Permanent sludge handling, storage and disposal facilities, other than those associated with wastewater treatment facilities may be permitted in the Critical Area provided:

(a) The facility or activity is located in an Intensely Developed Areas; and

(b) Only after the activity or facility has demonstrated to all appropriate local and State permitting agencies that there will be a net improvement in water quality to the adjacent body of water.

(2) Agricultural or horticultural use of sludge under appropriate approvals when applied by an approved method at approved application rates may be permitted in the Critical Area, except in the 100 foot-Buffer.

Part 7. Growth Allocation.

A. Growth allocation acreage

Growth allocation available to **[Town of North Beach]** includes:

(1) An areas equal to five (5) percent of the RCA acreage located within **[Town of North Beach]** and;

(2) Growth allocation available to **[Town of North Beach]** as provided for by **[County].**

B. Growth Allocation Floating Zone District GA.

(1) Purpose. The Growth Allocation Floating Zone is not mapped but is designated for use in areas classified as Resource Conservation Areas (RCA) and/or Limited

Development Area (LDA) within the **[Town of North Beach]** Critical Area Overlay District. The purpose of the floating zone is to permit a change in the land management classification established in the Critical Area Overlay District on specific sites so that they may be developed to the extent permitted by the underlying zoning classification or the land use management classification. Only projects which have been approved by the **[Town Commissioners or Mayor and Council]** for award of the Critical Area Growth Allocation are eligible for floating zones.

(2) Designation of floating zones.

(1) The Growth Allocation District GA shall be a floating zone.

(2) The Growth Allocation District GA provides for changing the land management classification of Resource Conservation Areas (RCA's) and Limited Development Areas (LDA's) in the Critical Area Overlay District.

C. Standards.

When locating new Intensely Developed or Limited Development Areas the following standards shall apply:

(1) A new Intensely Developed Area shall only be located in a Limited Development Area or adjacent to an existing Intensely Developed Area;

(2) A new Limited Development Area shall only be located adjacent to an existing Limited Development Area or an Intensely Developed Area:

(3) New Intensely Developed Areas shall be at least 20 acres in size unless:

(a) They are contiguous to an existing IDA or located in an LDA; or

(b) They are a grandfathered commercial or industrial use, which existed as of **(DATE LOCAL PROGRAM APPROVAL)**. The amount of growth allocation deducted shall be equivalent to the area of the entire parcel or parcels subject to the growth allocation request.

(4) No more than one-half of the **[Town of North Beach]**'s growth allocation may be located in Resource Conservation Areas **(RCAs)** except as provided in Subsection (9) below;

(5) A new Limited Development Area or Intensely Developed Area shall be located in a manner that minimizes impacts to Habitat Protection Area as defined herein and in COMAR 27.01.09 and in an area and manner that optimizes benefits to water quality;

(6) A new Intensely Developed Areas shall only be located where they minimize their impacts to the defined land uses of the Resource Conservation Area (RCA);

(7) A new Intensely Developed Area or a Limited Development Area in a Resource Conservation Area shall be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters;

(8) New Intensely Developed or Limited Development Areas to be located in Resource Conservation Areas shall conform to all criteria of **[Town of North Beach]** for such areas, shall be so designated on the **[Town of North Beach]** Critical Area Maps and shall constitute an amendment to this Ordinance subject to review and approval by the **[Town of North Beach]** Planning Commission, the **[Town Commissioners or Mayor and Council]** and the Critical Area Commission as provided herein.

(9) If **[Town of North Beach]** is unable to utilize a portion of its growth allocation as set out in §(1) and §(2) above within or adjacent to existing Intensely Developed or Limited Development Areas, then that portion of the growth allocation which cannot be so located may be located in the Resource Conservation Areas in addition to the expansion allowed in §(4) above.

D. Additional Factors.

In reviewing map amendments or refinements involving the use of growth allocation, **[Town of North Beach]** shall consider the following factors:

(1) Consistency with **[Town of North Beach]**'s adopted comprehensive plan and whether the growth allocation would implement the goals and objectives of the adopted plan. "Consistency with" means that a standard or factor will further, and not be contrary to the following items in the comprehensive plan:

(a) Policies;

(b) Timing of the implementation of the plan, of development, and of rezoning;

(c) Development patterns;

(d) Land uses; and

(e) Densities or intensities.

(2) For a map amendment or refinement involving a new Limited Development Area,

whether the development is:

(a) To be served by a public wastewater system or septic system that uses the best available nitrogen removal technology;

(b) A completion of an existing subdivision;

(c) An expansion of an existing business; or

(d) To be clustered.

(3) For a map amendment or refinement involving a new Intensely Developed Area, whether the development is:

(a) To be served by a public wastewater system;

(b) If greater than 20 acres,to be located in a designated Priority Funding Area; and

(c) To have a demonstrable economic benefit.

(4) The use of existing public infrastructure, where practical;

(5) Consistency with State and regional environmental protection policies concerning the protection of threatened and endangered species and species in need of conservation that may be located on- or off-site;

(6) Impacts on a priority preservation area;

(7) Environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater discharges to tidal waters, tidal wetlands, and tributary streams; and

(8) Environmental impacts associated with location in a coastal hazard area or an increased risk of severe flooding attributable to the proposed development.

Part 8. Grandfathering.

A. Continuation of existing uses.

(1) The continuation, but not necessarily the intensification or expansion, of any use in existence on **(DATE OF PROGRAM APPROVAL) may be permitted**, unless the use has been abandoned for more than one year or is otherwise restricted by existing municipal ordinances.

(2) If any existing use does not conform with the provisions of this Ordinance, its intensification or expansion may be permitted only in accordance with the variance procedures in Part 9.

B. Residential density on Grandfathered Lots.

(1) Except as otherwise provided, the following types of land are permitted to be developed with a single-family dwelling, if a dwelling is not already placed there, not withstanding that such development may be inconsistent with the density provisions of this Ordinance.

(a) A legal parcel of land, not being part of a recorded or approved subdivision, that was recorded as of December 1, 1985

(b) Land that received a building permit subsequent to December 1, 1985, but prior to **(DATE OF PROGRAM APPROVAL).**

(c) Land that was subdivided into recorded, legally buildable lots, where the subdivision received final approval between June 1, 1984 and December 1, 1985;

(d) Land that was subdivided into recorded, legally buildable lots, where the subdivision received the final approval after December 1, 1985 and provided that either development of any such land conforms to the IDA, LDA or RCA requirements in this Ordinance or the area of the land has been counted against the growth allocation permitted under this Ordinance.

C. Consistency.

Nothing in this Section may be interpreted as altering any requirements of this Ordinance related to water-dependent facilities or Habitat Protection Areas.

Part 9. Variances.

A. Applicability.

[Town of North Beach] has established provisions where, owing to special features of a site or other circumstances, implementation of this Ordinance or a literal enforcement of provisions within this Ordinance would result in unwarranted hardship to an applicant, a Critical Area variance may be obtained.

(1) In considering an application for a variance, **[Town of North Beach]** shall

presume that the specific development activity in the Critical Area, that is subject to the application and for which a variance is required, does not conform with the general purpose and intent of Natural Resources Article, Title 8 Subtitle 18, COMAR Title 27, and the requirements of this Ordinance.

(2) Unwarranted hardship means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.

B. Standards.

The provisions for granting such a variance shall include evidence submitted by the applicant that the following standards are met:

(1) Special conditions or circumstances exist that are peculiar to the land or structure involved and that a literal enforcement of provisions and requirements of the this Ordinance would result in unwarranted hardship;

(2) A literal interpretation of the provisions of this Ordinance will deprive the applicant the use of land or a structure permitted to others in accordance with the provisions of this Critical Area ordinance;

(3) The granting of a variance will not confer upon an applicant any special privilege that would be denied by this Critical Area Ordinance to other lands or structures within the Critical Area;

(4) The variance request is not based upon conditions or circumstances which are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming on any neighboring property; and

(5) The granting of a variance shall not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Critical Area and the granting of the variance will be in harmony with the general spirit and intent of the State Critical Area Law and this Ordinance.

C. Process.

Applications for a variance will be made in writing to the **[Town of North Beach]** Board of Appeals with a copy provided to the Critical Area Commission. **[Town of North Beach]** shall follow its established procedures for advertising and notification of affected landowners.

(1) After hearing an application for a Critical Area Program variance, the Board of Appeals shall make written findings reflecting analysis of each standard.

(2) If the variance request is based on conditions or circumstances that are the result of actions by the applicant, [Town of North Beach] shall consider that fact.

(3) The applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance established in paragraph (A) above.

(4) **[Town of North Beach]** shall notify the Critical Area Commission of its findings and decision to grant or deny the variance request.

D. Findings.

Based on competent and substantial evidence, **[Town of North Beach] Board of Appeals** shall make written findings as to whether the applicant has overcome the presumption of nonconformance as established in §A above, and if applicable §B above. With due regard for the person's technical competence, and specialized knowledge, the written findings may be based on evidence introduced and testimony presented by:

(1) The applicant;

(2) **[Town of North Beach]** or any other government agency; or

(3) Any other person deemed appropriate by **[Town of North Beach]**.

E. Appeals.

Appeals from decision concerning the granting or denial of a variance under these regulations shall be taken in accordance with all applicable laws and procedures of the **[Town of North Beach]** for variances. Variance decisions by the Board of Appeals may be appealed to the Circuit Court in accordance with the Maryland Rules of Procedure. Appeals may be taken by any person, firm, corporation or governmental agency aggrieved or adversely affected by any decision made under this Ordinance.

F. Conditions and mitigation.

The Board of Appeals shall impose conditions on the use or development of a property which is granted a variance as it may find reasonable to ensure that the spirit and intent of this Ordinance is maintained including, but not limited to the following:

(1) Adverse impacts resulting from the granting of the variance shall be mitigated as recommended by the Planning Commission, but not less than by planting on the site per square foot of the variance granted at no less than a three to one basis.

(2) New or expanded structures or lot coverage shall be located the greatest possible distance from mean high water, the landward edge of tidal wetlands, tributary streams, nontidal wetlands, or steep slopes.

G. Commission notification.

Within ten (10) working days after a written decision regarding a variance application is issued, a copy of the decision will be sent to the Critical Area Commission. **[Town of North Beach]** may not issue a permit for the activity that was the subject of the application until the applicable 30-day appeal period has elapsed.

Part 10. Lot Consolidation and Reconfiguration

A. Applicability
The provisions of this part apply to a consolidation or a reconfiguration of any nonconforming legal grandfathered parcel or lot. These provisions do not apply to the reconfiguration or consolidation of parcels or lots which are conforming or meet all Critical Area requirements. Nonconforming parcels or lots includes:

(1) Those for which a Critical Area variance is sought or has been issued; and

(2) Those located in the Resource Conservation Area and are less than 20 acres in size.

B. Procedure
An applicant seeking a parcel or lot consolidation or reconfiguration shall provide the required information required in COMAR 27.01.02.08.E to the [Town of North Beach].

(1) The [Town of North Beach] may not approve a proposed parcel or lot consolidation or reconfiguration without making written findings in accordance with COMAR 27.01.02.08.F.

(2) The [Town of North Beach] shall issue a final written decision or order granting or denying an application for a consolidation or reconfiguration.

(a) After a final written decision or order is issued, the [Town of North Beach] shall send a copy of the decision or order and a copy of any approved development plan within 10 business days by U.S. mail to the Commission's business address.

Part 11. Amendments

A. Amendments.

The **[Town of North Beach Commissioners/Mayor and Council]** may from time to time amend the Critical Area provisions of this Ordinance. Changes may include, but are not limited to amendments, revisions, and modifications to these zoning regulations, Critical Area Maps, implementation procedures, and local policies that affect the **[Town of North Beach]**'s Critical Area. All such amendments, revisions, and modifications shall also be approved by the Critical Area Commission as established in § 8-1809 of the Natural Resources Article of the Annotated Code of Maryland. No such amendment shall be implemented without approval of the Critical Area Commission. Standards and procedures for Critical Area Commission approval of proposed amendments are as set forth in the Critical Area Law § 8-1809(i) and § 8-1809(d), respectively.

B. Zoning map amendments.

Except for program amendments or program refinements developed during a six-year comprehensive review, a zoning map amendment may only be granted by **[Town of North Beach Commissioners/Mayor and Council]** upon proof of a mistake in the existing zoning. This requirement does not apply to proposed changes to a zoning map that meet the following criteria:

(1) Are wholly consistent with the land classifications as shown on the adopted Critical Area Overlay Map; or

(2) The use of growth allocation in accordance with the growth allocation provisions of this Ordinance is proposed.

C. Process.

(1) When an amendment is requested, the applicant shall submit the amendment to the Planning Commission for review and research. Upon completing Findings of Fact, these documents shall be forwarded to the **[Town of North Beach Commissioners/Council]**.

(2) **[Town of North Beach Commissioners/Council]** shall hold a public hearing at which parties of interest and citizens shall have an opportunity to be heard. At least fourteen (14) days notice of the time and place of such hearing shall be published in a newspaper of general circulation in **[Town of North Beach]**.

(3) After the **[Town of North Beach Commissioners/Council]** approve an amendment, they shall forward their decision and applicable resolutions along

with the amendment request to the Critical Area Commission for final approval.

Part 12. Enforcement

A. Consistency.

The Critical Area provisions of this Ordinance, in accordance with the Critical Area Act and Criteria supersede any inconsistent law, Chapter or plan of **[Town of North Beach]**. In the case of conflicting provisions, the stricter provisions shall apply.

B. Violations.

(1) No person shall violate any provision of this Zoning Ordinance. Each violation that occurs and each calendar day that a violation continues shall be a separate offense.

(2) Each person who violates a provision of this Ordinance shall be subject to separate administrative civil penalties, abatement and restoration orders, and mitigation for each offense.

(3) Non compliance with any permit or order issued by **[Town of North Beach]** related to the Critical Area shall be a violation of this Ordinance and shall be enforced as provided herein.

C. Responsible persons.

The following persons may each be held jointly or severally responsible for a violation: (1) persons who apply for or obtain any permit or approval, (2) contractors, (3) subcontractors, (4) property owners, (5) managing agents, or (6) any person who has committed, assisted, or participated in the violation.

D. Required enforcement action.

In the case of violations of this Ordinance, **[Town of North Beach]** shall take enforcement action including:

1. Assess administrative civil penalties as necessary to cover the costs associated with performing inspections, supervising or rendering assistance with identifying and citing the violation, issuing abatement and restoration orders, and reviewing mitigation plans and ensuring compliance with these plans;

2. Issue abatement, restoration, and mitigation orders as necessary to:

(a) Stop unauthorized activity;

(b) Restore and stabilize the site, as appropriate, to its condition prior to the violation or to a condition that provides the same water quality and habitat benefits; and

3. Require the implementation of mitigation measures, in addition to restoration activities, to offset the environmental damage and degradation or loss of environmental benefit resulting from the violation.

E. Right to enter property.

Except as otherwise authorized and in accordance with the procedures specified herein, the **[Town of North Beach Commissioners/Council]** or their designee may obtain access to and enter a property in order to identify or verify a suspected violation, restrain a development activity, or issue a citation if **[Town of North Beach]** has probable cause to believe that a violation of this Ordinance has occurred, is occurring, or will occur. **[Town of North Beach]** shall make a reasonable effort to contact a property owner before obtaining access to or enter the property. If entry is denied, **[Town of North Beach]** may seek an injunction to enter the property to pursue an enforcement action.

F. Administrative civil penalties.

In addition to any other penalty applicable under State or **[Town of North Beach]** law, every violation of a provision of Natural Resources Article, Title 8 Subtitle 18, the Critical Area provisions of this Ordinance shall be punishable by a civil penalty of up to $10,000 per calendar day.

1. Before imposing any civil penalty, the person(s) believed to have violated this Ordinance shall receive: written notice of the alleged violation(s) including which, if any, are continuing violations, and an opportunity to be heard. The amount of the civil penalty for each violation, including each continuing violation, shall be determined separately. For each continuing violation, the amount of the civil penalty shall be determined per day. In determining the amount of the civil penalty, **[Town of North Beach]** shall consider:

(a) The gravity of the violation;
(b) The presence or absence of good faith of the violator;
(c) Any willfulness or negligence involved in the violation including a history of prior violations;
(d) The environmental impact of the violation; and
(e) The cost of restoration of the resource affected by the violation and mitigation for damage to that resource, including the cost to **[Town of North Beach]** for performing, supervising, or rendering assistance to the

restoration and mitigation.

2. Administrative civil penalties for continuing violations shall accrue for each violation, every day each violation continues, with no requirements for additional assessments, notice, or hearings for each separate offense. The total amount payable for continuing violations shall be the amount assessed per day for each violation multiplied by the number of days that each violation has continued.

3. The person responsible for any continuing violation shall promptly provide the **[Town of North Beach]** with written notice of the date(s) the violation has been or will be brought into compliance and the date(s) for **[Town of North Beach]** inspection to verify compliance. Administrative civil penalties for continuing violations continue to accrue as set forth herein until **[Town of North Beach]** receives such written notice and verifies compliance by inspection or otherwise.

4. Assessment and payment of administrative civil penalties shall be in addition to and not in substitution for recovery by **[Town of North Beach]** of all damages, costs, and other expenses caused by the violation.

5. Payment of all administrative civil penalties assessed shall be a condition precedent to the issuance of any permit or other approval required by this Ordinance.

G. Cumulative remedies.

The remedies available to **[Town of North Beach]** under this Ordinance are cumulative and not alternative or exclusive, and the decision to pursue one remedy does not preclude pursuit of others.

H. Injunctive relief.

[Town of North Beach] is authorized to institute injunctive or other appropriate actions or proceedings to bring about the discontinuance of any violation of this Ordinance, an administrative order, a permit, a decision, or other imposed condition.

1. The pendency of an appeal to the Board of Appeals or subsequent judicial review shall not prevent **[Town of North Beach]** from seeking injunctive relief to enforce an administrative order, permit, decisions, or other imposed condition, or to restrain a violation pending the outcome of the appeal or judicial review.

I. Variances pursuant to a violation.

[Town of North Beach] may accept an application for a variance regarding a parcel or

lot that is subject to a current violation of this subtitle or any provisions of an order, permit, plan, or this Ordinance in accordance with the variance provisions of this Ordinance. However, the application shall not be reviewed, nor shall a final decision be made until all abatement, restoration, and mitigation measures have been implemented and inspected by **[Town of North Beach]**.

J. Permits pursuant to a violation.

[Town of North Beach] may not issue any permit, approval, variance, or special exception, unless the person seeking the permit has:

1. Fully paid all administrative, civil, or criminal penalties as set forth in Section F. above;

2. Prepared a restoration or mitigation plan, approved by **[Town of North Beach]**, to abate impacts to water quality or natural resources as a result of the violation;

3. Performed the abatement measures in the approved plan in accordance with the **[Town of North Beach]** regulations; and

4. Unless an extension of time is approved by **[Town of North Beach]** because of adverse planting conditions, within 90 days of the issuance of a permit, approval, variance, or special exception for the affected property, any additional mitigation required as a condition of approval for the permit, approval, variance, or special exception shall be completed.

K. Appeals.

An appeal to the **[Town of North Beach]** Board of Appeals may be filed by any person aggrieved by any order, requirement, decision or determination by **[Town of North Beach]** in connection with the administration and enforcement of this Ordinance.

1. An appeal is taken by filing a written notice of appeal with the Board of Appeals in accordance with the provisions in the **[Town of North Beach]** Zoning Ordinance and accompanied by the appropriate filing fee.

2. An appeal must be filed within thirty (30) days after the date of the decision or order being appealed; and

3. An appeal stays all actions by **[Town of North Beach]** seeking enforcement or compliance with the order or decisions being appealed, unless **[Town of North Beach]** certifies to the Board of Appeals that (because of facts stated in the certificate) such stay will cause imminent peril to life or property. In such a case,

action by [**Town of North Beach**] shall not be stayed except by order of the Board of Appeals or a court up on application of the party seeking the stay.

Part 13. The 100-Foot Buffer.

A. Applicability & Delineation

An applicant for a development activity or a change in land use shall apply all of the required standards for a minimum 100-foot Buffer as described in this part. The minimum 100-foot Buffer shall be delineated in the field and shall be shown on all applications as follows:

(1) The minimum 100-foot Buffer is delineated, based on existing field conditions, landward from:

(a) The mean high water line of a tidal water;
(b) The edge of each bank of a tributary stream; and
(c) The upland boundary of a tidal wetland.

(2) The Buffer shall be expanded beyond the minimum 100-foot Buffer as described in §A(1) above and the minimum 200-foot Buffer as described in §A(3) below, to include the following contiguous land features:

(a) A steep slope at a rate of four feet for every one percent of slope or the entire steep slope to the top of the slope, whichever is greater;
(b) A nontidal wetland to the upland boundary of the nontidal wetland;
(c) The 100-foot buffer that is associated with a Nontidal Wetland of Special State Concern as stated in COMAR §26.23.06.01;
(d) For an area of hydric soils or highly erodible soils, the lesser of:

(i) The landward edge of the hydric or highly erodible soils; or
(ii) Three hundred feet where the expansion area includes the minimum 100-foot Buffer.

(3) Applications for a subdivision or for a development activity on land located within the RCA requiring site plan approval after July 1, 2008 shall include:

(a) An expanded Buffer in accordance with §A(2) above; or

(b) A Buffer of at least 200 feet from a tidal waterway or tidal wetlands; and a Buffer of at least 100-feet from a tributary stream, whichever is greater.

(4) The provisions of §A(3) above do not apply if:

(a) The application for subdivision or site plan approval was submitted before July 1, 2008, and legally recorded (subdivisions) or received approval (site plans), by July 1, 2010;

(b) The application involves the use of growth allocation.

B. Permitted activities.

If approved by [Town of North Beach], disturbance to the Buffer is permitted for the following activities, provided mitigation is performed in accordance with an approved Buffer Management as required per Section F of this Part:

(1) A new development or redevelopment activity associated with a water-dependent facility or located in an approved Buffer Management Area; or

(2) A shore erosion control activity constructed in accordance with COMAR 26.24.02, COMAR 27.01.04, and this Ordinance;

(3) A development or redevelopment activity approved in accordance with the variance provisions of this Ordinance;

(4) A new development or redevelopment activity on a lot or parcel that was created before January 1, 2010 where:

(i) The Buffer is expanded for highly erodible soil on a slope less than 15 percent or is expanded for a hydric soil and the expanded Buffer occupies at least 75% of the lot or parcel;

(ii) The development or redevelopment is located in the expanded portion of the Buffer and not within the 100-foot Buffer; and

(iii) Mitigation occurs at a 2:1 ratio based on the lot coverage of the proposed development activity that is in the expanded Buffer.

(5) A new or replacement septic system on a lot created before [local program adoption date], where:

(i) The Health Department has determined the Buffer is the only available location for the septic system; and

(ii) Mitigation is provided at a 1:1 ratio for area of canopy cleared of any forest or developed woodland.

C. Buffer establishment in vegetation.

An applicant for a development activity, redevelopment activity or a change in land use that occurs outside the Buffer, but is located on a on a riparian lot or parcel that includes the minimum 100-foot Buffer, shall establish the Buffer in vegetation if the Buffer is not fully forested or fully established in woody or wetland vegetation.. The [Town of North Beach] shall require a Buffer Management Plan in accordance with the standards of this part and the [Policies and Procedures Manual].

(1) The provisions of this section apply to:

(a) Approval of a subdivision;

(b) A lot or parcel that is converted from one land use to another;

(c) Development or redevelopment on a lot or parcel created before January 1, 2010.

(2) The provisions of this section do not apply to an in-kind replacement of a structure.

(3) If a Buffer is not fully forested or fully established in existing, naturally occurring woody or wetland vegetation, the Buffer shall be established through planting shall be in accordance with COMAR 27.01.09.01-1.

D. Mitigation for impacts to the Buffer.

An applicant for a development activity that includes disturbance to the Buffer shall mitigate for impacts to the Buffer and shall provide a Buffer Management Plan in accordance with the standards set forth in this part and the **[Town of North Beach]** Policies and Procedures Manual.

(1) Authorized development activities may include a variance, subdivision, site plan, shore erosion control permit, building permit, grading permit, septic system approved by the Health Department on a lot created before [Program Adoption Date], and special exception.

(2) All authorized development activities shall be mitigated according to COMAR

27.01.09.01-2.

(3) All unauthorized development activities in the Buffer shall be mitigated at a ratio of 4:1 for the area of disturbance in the Buffer.

(4) Planting for mitigation shall be planted onsite within the Buffer. If mitigation planting cannot be located within the Buffer, then the **[Town of North Beach]** may permit planting in the following order of priority:
   (a) On-site and adjacent to the Buffer; and
   (b) On-site elsewhere in the Critical Area.

E. Buffer Planting Standards.

(1) An applicant that is required to plant the Buffer for Buffer establishment or Buffer mitigation shall apply the planting standards set forth in COMAR 27.01.09.01-2 and 01-4.

(1) A variance to the planting and mitigation standards of this Ordinance is not permitted.

F. Required Submittal of Buffer Management Plans.

An applicant that is required to plant the Buffer to meet establishment or mitigation requirements shall submit a Buffer Management Plan as provided in COMAR 27.01.09.01-3 with the application for the specific activity. The provisions of this part do not apply to maintaining an existing grass lawn or an existing garden in the Buffer.

(1) A Buffer Management Plan that includes planting for establishment shall be submitted with all other application materials, clearly specify the area to be planted and state if the applicant is:

   (a) Fully establishing the Buffer;

   (b) Partially establishing an area of the Buffer equal to the net increase in lot coverage, or

   (c) Partially establishing an area of the Buffer equal to the total lot coverage.

(2) Any permit for development activity that requires Buffer establishment or Buffer mitigation will not be issued until a Buffer Management Plan is approved by **[Town of North Beach].**

(3) An applicant may not obtain final approval of a subdivision application until the Buffer Management Plan has been reviewed and approved by **[Town of North Beach]**.

(4) **[Town of North Beach]** may not approve a Buffer Management Plan unless:

(a) The plan clearly indicates that all planting standards under §E of this Ordinance will be met; and

(b) Appropriate measures are in place for the long-term protection and maintenance of all Buffer areas.

(5) For a Buffer Management Plan that is the result of an authorized disturbance to the Buffer, a permit authorizing final use and occupancy will not be issued until the applicant:

(a) Completes the implementation of a Buffer Management Plan; or

(b) Provides financial assurance to cover the costs for:

(i) Materials and installation; and

(ii) If the mitigation or establishment requirement is at least 5,000 square feet, long-term survivability requirements as set forth in COMAR 27.01.09.01-2.

(6) Concurrent with recordation of a subdivision plat, an applicant shall record a protective easement for the Buffer.

(7) If an applicant fails to implement a Buffer Management Plan, that failure shall constitute a violation of this Ordinance.

(a) A permit for development activity will not be issued for a property that has the violation.

(8) An applicant shall post a subdivision with durable signs prior to final recordation in accordance with COMAR 2.7.01.09.01-2.

(9) Buffer management plans that includes natural regeneration shall follow the provisions of COMAR 27.01.09.01-4

G. Fees-In-Lieu of Buffer Mitigation.

A fee in-lieu of mitigation will be collected if the planting requirements of the Buffer Management Plan cannot be fully met onsite, **[Town of North Beach]** in accordance with the following standards:

(1) Fee-in-lieu monies shall be collected and held in a special fund, which may not revert to the **[Town of North Beach]**'s general fund;

(2) Fee-in-lieu shall be assessed at $1.50 per square foot of required Buffer mitigation;

(3) A portion of fee-in-lieu money can be used for management and administrative costs; however, this cannot exceed 20% of the fees collected; and

(4) Fee-in-lieu monies shall be used for the following projects:

(a) To establish the Buffer on sites where planting is not a condition of development or redevelopment;

(b) For water quality and habitat enhancement projects as approved by the Critical Area Commission or by agreement between [Town of North Beach] and the Critical Area Commission.

(c) Fee-In-Lieu – see Section I of this Chapter

H. Shore Erosion Control Projects.

Shore erosion control measures are permitted activities within the Buffer in accordance with the following requirements:

(1) An applicant for a shore erosion control project that affects the Buffer in any way, including, but not limited to access, vegetation removal and pruning, or backfilling shall submit a Buffer Management Plan in accordance with the requirements of this section; and

(2) Comply fully with all of the policies and criteria for a shore erosion control project stated in COMAR 27.01.04 and COMAR 26.24.06.01.

Part 14. Buffer Management Area (BMA) Provisions.

A. Development and Redevelopment Standards.

New development or redevelopment activities, including structures, roads, parking areas and other impervious surfaces or septic systems will not be permitted in the Buffer in a designated BMA unless the applicant can demonstrate that there is no feasible alternative and the **[Planning Commission]** finds that efforts have been made to minimize Buffer impacts and the development shall comply with the following standards:

(1) Development and redevelopment activities have been located as far as possible from mean high tide, the landward edge of tidal wetlands, or the edge of tributary streams.

(2) Variances to other local setback requirements have been considered before additional intrusion into the Buffer.

(3) Commercial, industrial, institutional, recreational and multi-family residential development and redevelopment shall meet the following standards:

(a) New development, including accessory structures, shall minimize the extent of intrusion into the Buffer. New development shall not be located closer to the water (or edge of tidal wetlands) than the minimum required setback for the zoning district or 50 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line.

(b) Redevelopment, including accessory structures, shall minimize the extent of intrusion into the Buffer. Redevelopment shall not be located closer to the water (or edge of tidal wetlands) than the local setback for the zoning district or 25 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line. A new structure may be constructed on the footprint of an existing structure.

(4) Single family residential development and redevelopment shall meet the following standards:

(a) New development or redevelopment shall minimize the shoreward extent of intrusion into the Buffer. New development and redevelopment shall not be located closer to the water (or the edge of tidal wetlands) than principal structures on adjacent properties or the local setback for the zoning district, whichever is greater. In no case shall new development or redevelopment be located less than 50 feet from the water (or the edge of

tidal wetlands).

(b) Existing principal or accessory structures may be replaced in the same footprint.

(c) New accessory structures may be located closer to the water than the setback if the Planning Commission has determined there are no other locations for the structures. The area of new accessory structures shall not exceed 500 square feet within 50 feet of the water and 1,000 square feet total in the Buffer.

(5) Variances to other local setback requirements shall be considered before additional intrusion into the Buffer is permitted.

(6) Development and redevelopment may not impact any Habitat Protection Area (HPA) other than the Buffer, including nontidal wetlands, other State or federal permits notwithstanding.

(7) Buffer Management Area (BMA) designation shall not be used to facilitate the filling of tidal wetlands that are contiguous to the Buffer or to create additional buildable land for new development or redevelopment.

(8) No natural vegetation may be removed in the Buffer except that required by the proposed construction.

(9) Mitigation for development or redevelopment in the in the BMA approved under the provisions of this subsection shall be implemented as follows:

(a) Natural forest vegetation of an area twice the extent of the footprint of the development activity within the 100-foot Buffer shall be planted on site in the Buffer or at another location approved by the Planning Commission.

(b) Applicants who cannot fully comply with the planting requirement in §a above, may use offset by removing an equivalent area of existing lot coverage in the Buffer.

(c) Applicants who cannot comply with either the planting or offset requirements in §(a) or §(b) above shall pay into a fee-in-lieu program as follows:

(i) Applicants shall submit to the Planning Commission two cost estimates from qualified landscape businesses for planting the

equivalent of twice the extent of the development within the 100-foot Buffer. The estimate shall include the cost of stock, planting, staking, mulching and a one year guarantee.

(ii) The Planning Commission shall determine the amount of the fee-in-lieu based on the average of the two estimates.

(d) Any fees-in-lieu collected under these provisions shall be placed in an account that will assure their use only for projects within the Critical Area to enhance wildlife habitat, improve water quality, or otherwise promote the goals of the **[Town of North Beach]**'s Critical Area Program. The funds cannot be used to accomplish a project or measure that would have been required under existing local, State, or federal laws, regulations, statutes, or permits. The status of these funds must be reported in the jurisdiction's quarterly reports.

(e) Any required mitigation or offset areas shall be protected from future development through an easement, development agreement, plat notes or other instrument and recorded among the land records of the County.

Part 15. Other Habitat Protection Areas.

A. Identification.

An applicant for a development activity, redevelopment activity or change in land use shall identify all applicable Habitat Protection Areas and follow the standards contained in this Part. Habitat Protection Areas includes:

(1) Threatened or endangered species or species in need of conservation;
(2) Colonial waterbird nesting sites;
(3) Historic waterfowl staging and concentration areas in tidal waters, tributary streams or tidal and nontidal wetlands;
(4) Existing riparian forests;
(5) Forest areas utilized as breeding areas by future interior dwelling birds and other wildlife species;
(6) Other plant and wildlife habitats determined to be of local significance;
(7) Natural Heritage Areas; and
(8) Anadromous fish propagation waters.

B. Standards

(1) An applicant for a development activity proposed for a site within the Critical Area that is in or near a Habitat Protection Area listed above, shall request review

by the Department of Natural Resources Wildlife and Heritage Service for comment and technical advice. Based on the Department's recommendations, additional research and site analysis may be required to identify the location of threatened and endangered species and species in need of conservation on a site.

(2) If the presence of a Habitat Protection Area is confirmed by the Department of Natural Resources, the applicant shall develop a Habitat Protection Plan in coordination with the Department of Natural Resource.

(3) The applicant shall obtain approval of the Habitat Protection Plan from the Planning Commission or the appropriate designated approving authority. The specific protection and conservation measures included in the Plan shall be considered conditions of approval of the project.

Part 16. Environmental Impact Assessment (EIA)

A. Applicability

[Town of North Beach] may require an Environmental Impact Assessment (EIA) for the following:

(1) Development or redevelopment activities in the Critical Area requiring site plan approval;

(2) Development or redevelopment activities in the Critical Area requiring subdivision approval;

(3) Development or redevelopment activities within a Habitat Protection Area other than a detached single family dwelling;

(4) An application of Growth Allocation; or

(5) An application of a Variance other than for detached single family dwelling.