Town Zoning Ordinance

of

The Town of Onley, Virginia

Adopted 2 May 2022
***Amended November 6, 2023**
****Amended October 13, 2026**

Prepared by:

Onley Planning Commission

Town of Onley Zoning Ordinance as duly adopted by the Onley Town Council in regular session on 2 May 2022

Certification: _____
Matthew D. Hart, Mayor

Teste: _____
Jamye Salazar, Town Clerk

The effective date of this ordinance shall be from and after its adoption by the Onley Town Council, and its provisions shall be enforced thereafter until repealed or amended.

*This document was amended on **November 6, 2023**, to include: (1) definitions for Temporary sign, Feather Flag for Business and Pennants for Business. (2) Section IV-6 was added. (3) Fee for temporary sign permit was added.

This document was amended on **October 13, 2026, to include: (1) changes to Section III-4.3 Special Exceptions, (2) changes to Section III-4.5 Frontage and Yard Regulations

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Article I - General Provisions

I-1 Purpose and Authority to Zone Whereas, by act of the General Assembly of Virginia as provided in Title 15.2, Chapter 22, Article 7, Section 15.2-2280 through 15.2-2316 of the Code of Virginia, as amended, the governing body of any county or municipality may, by ordinance, classify the territory under its jurisdiction into districts of such number, shape, and area as it may deem best suited to carry out the purposes of this article, and in each district it may regulate, restrict, permit, prohibit, and determine the following:

A. the use of land, buildings, structures, and other premises for agricultural, commercial, industrial, residential, and other specific uses; and

B. the size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing or removal of structures; and

C. the areas and dimensions of land, water, and air space to be occupied by buildings, structures and uses, and of courts, yards, and other open spaces to be left unoccupied by uses and structures, including variations in the sizes of lots based on whether a public or community water supply or sewer system is available and used; and

D. the excavation or mining of soil or other natural resources.

Therefore, be it ordained by the governing body of the Town of Onley, Virginia, for the purpose of promoting the health, safety, and/or general welfare of the public and of further accomplishing the objectives of Section 15.2-2200 of the Code of Virginia, that the following be adopted as the zoning ordinance of the Town of Onley, Virginia, together with the accompanying map. This ordinance has been designed: (1) to provide for adequate light, air, convenience of access, and safety from fire, flood, and other dangers; (2) to reduce or prevent congestion in the public streets; (3) to facilitate the creation of a convenient, attractive, and harmonious community; (4) to expedite the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, schools, parks, forests, playgrounds, recreational facilities, airports, and other public requirements; (5) to protect against destruction of or encroachment upon historic areas; (6) to protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation or loss of life, health, or property from fire, flood, panic, or other dangers; (7) to encourage economic development activities that provide desirable employment and enlarge the tax base; (8) to promote affordable housing; (9) to protect surface water and ground water as required by the Chesapeake Bay Preservation Act; and (10) to be in accord with and to implement the goals, objectives and policies set forth in Town of Onley Comprehensive Plan, as adopted by the Onley Town Council.

I-2 Ordinance Sets Minimum Standards Whenever the standards set forth in this ordinance are at variance with the requirements of any other lawfully adopted statutes, rules, regulations, deed restrictions, covenants, or ordinances, the most restrictive, or that imposing the highest standards shall govern.

I-3 Town Liability The zoning of any land and the granting of any permit or certificate for the use of land and/or structure shall not be interpreted as a guarantee by the Town of Onley of the suitability of such land or structure for developing or use.

I-4 Severability Clause Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole or any other part thereof other than the part so declared to be unconstitutional or invalid.

I-5 Non-exclusionary Intent It is not the intent of this ordinance to exclude any economic, racial, religious or ethnic group from enjoyment of residence, land ownership or tenancy within the Town; nor is it the intent of this ordinance to use public powers in any way to promote the separation of economic, racial, religious, ethnic groups, nor persons with disabilities; nor is it the intent of this ordinance to use public powers in any way to deny anyone the otherwise lawful use of the resources within the Town of Onley based upon family status, except as may be the incidental result of meeting the purpose outlined in Section I-1, herein.

I-6 Provisions for Official Zoning Map The boundaries of the zoning districts are shown on the official zoning map of the Town of Onley, Virginia, which together with all notations, amendments, and explanatory matter thereon are hereby made a part of this ordinance. The official zoning map shall be attested by the signature of the Mayor of the Town, whose signature shall be witnessed, and shall remain on file in the office of the Zoning Administrator and/or Town Hall where it shall be accessible to the general public.

1-6.1 Changes or Amendments If, in accordance with the provisions of this ordinance, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the change has been approved by the Town Council, but no more than 30 days after approval. Such changes shall be attested by the initials of the Zoning Administrator and the date of entry. A paper copy and a digital copy of such map or maps shall be maintained in the office of the Zoning Administrator and/or Town Hall.

Changes to this ordinance which involve matters portrayed on the official zoning map shall become effective immediately upon being entered onto the official zoning map or matter shown thereon except in conformity with the procedure set forth in this ordinance. Any unauthorized change of whatever kind by any person shall be considered a violation of this ordinance and punishable as provided under Article VII.

I-6.2 Replacement In the event that any or all of the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Town Council may by resolution adopt a new official zoning map. The new official zoning map may correct drafting or other errors, or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be attested by the signature of the Mayor and shall be witnessed. Unless the prior official zoning map or maps have been lost or totally destroyed, the prior map or maps or any significant parts thereof remaining shall be preserved, together with all available records pertaining to the adoption and amendment, if any, of the prior map or maps.

I-6.3 Application and Interpretation of District Boundaries Where uncertainty exists as to the boundaries of zoning districts as shown on the official zoning map, the following rules shall apply:

A. Unless otherwise indicated, district boundaries indicated as approximately following the center lines of existing or proposed roads, streets, highways, alleys, or railroads; mean low water or center lines, as indicated, of streams, ponds, drainage ditches, or other natural and manmade bodies of water; or property lines shall be construed to follow such lines.

B. Boundaries indicated as parallel to or extensions of features indicated in subsection A above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.

C. If no distance, angle, curvature description, or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the same shall be determined by the size of the scale shown on the official zoning map.

D. Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Board of Zoning Appeals shall hear and decide the exact location of the district line in keeping with the provisions of Article VIII.

E. Where the exact location of district boundaries is not clear after application of the rules presented, the Board of Zoning Appeals shall hear and decide such questions in accordance with the provisions of Article VIII.

I-7 Application of District Regulations The regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land except as hereinafter provided:

A. No building or land shall hereafter be used or occupied, and no building or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered except in

conformity with all of the regulations herein specified for the district in which it is located or is to be located.

B. No building shall hereafter be erected, constructed, or altered so as to exceed height or bulk limits, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, or to have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required.

C. No new yard or lot shall hereafter be created nor shall any yard or lot existing at the time of enactment of this ordinance be altered so that width, depth, or area requirements; front side, or rear requirements; or other requirements of this ordinance are not maintained, except when a portion of a lot is acquired for public use.

D. Nothing contained herein shall require any changes in the plans or construction of any building for which a building permit was granted prior to the effective date of this ordinance. However, if such construction does not commence within six (6) months or less after this ordinance becomes effective, construction shall be in conformity with the provisions of this ordinance for the district in which the activity is located.

I-8 General Performance Criteria The following standards shall apply in all zoning districts west of Rt. 13 (Bypass) in the Town of Onley:

A. All on-site sewage disposal systems not requiring a Virginia Pollutant Discharge Elimination System (VPDES) permit shall be pumped out at least once every five years, in accordance with the provisions of the Accomack County Health Code.

B. Any land disturbing activity exceeding 2,500 square feet, including construction of all single-family houses, septic tanks and drain fields, shall comply with the requirements of the Accomack County Erosion and Sediment Control Ordinance.

I-9 Keeping livestock is not allowed within the town limits of Onley. Animals weighing more than 50 pounds may not be buried within the town limits of Onley.

Article II - Definitions

For the purpose of this ordinance, certain words and terms are defined as follows. Words used in the present tense include the future. Words in the singular include the plural, and the plural includes the singular.

accessory use or structure a use or structure which is (a) clearly incidental to and customarily found in connection with the principal use or structure; (b) is subordinate to and serves the principal use or structure; and (c) is located on the same lot(s)or parcel(s) whether single or adjacent to the principal use or structure
Any use or structure which poses an environmental hazard or requires a permit from a

regulatory authority other than the Accomack County Health Department shall not be deemed an accessory use or structure.

accessory living unit: a separate and complete housekeeping unit which provides complete and independent living, sleeping, sanitation, and cooking facilities which is a portion of a main structure or is an accessory structure clearly secondary to a primary single-family dwelling located on the same lot
When in a detached structure, the presence of a living area and a bathroom with sink, toilet, and tub or shower shall be considered to constitute an accessory apartment.

acreage: a parcel of land, regardless of area, described by metes and bounds which is not a numbered lot on any recorded subdivision plat

agriculture: the tilling of the soil, the raising of crops, horticulture, forestry, and gardening, including the keeping of animals and fowl, and including any agricultural industry or business

alteration: any change in the total floor area, use, adaptability, or external appearance of an existing structure

apartment house: a building which is owned by an individual person, firm or corporation which is to be leased as the residence of three (3) or more families living independently of each other

automobile graveyard: any lot or place which is exposed to the weather and upon which more than five (5) motor vehicles of any kind, incapable of being operated, and which would not be economically practical to make operative, are placed, located, or found. (Code of Virginia, Section 33.1-348)

basement: a story having part but not more than one-half (1/2) of its height below grade (see *cellar*)
A basement shall be counted as a story for purposes of height regulations, if it is used for business purposes, or for dwelling purposes by other than a janitor employed on the premises

bed and breakfast house: an owner-occupied dwelling where lodging and breakfast are provided for compensation for up to six (6) persons, distinct from hotels, boarding houses and tourist houses and open to transients
Up to one person may be hired to assist in the operation of the establishment.

Best Management Practices (BMP): a practice, or a combination of practices, that is determined by a state or designated area-wide planning agency to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals

boarding house: a building where, for compensation, lodging and meals are provided for at least six (6) and up to 10 persons

buffer area: an area of natural or established vegetation managed to protect other components of a

Resource Protection Area and state waters from significant degradation due to land disturbances

building: any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or personal property

building, height of: The height of a building shall be measured from the average elevation of the ground surface along the front of the building.

building, main: the principal structure or one (1) of the principal buildings on a lot, or the building or one (1) of the principal buildings housing the principal use on the lot

camping trailer: a trailer that is towed behind a pick-up truck or other vehicle and is fitted or suitable for recreational camping

cellar: a story having more than one-half (1/2) of its height below grade and which may not be occupied for dwelling purposes (see *basement)*

Chesapeake Bay Preservation Area (CBPA): any land designated by the Onley Town Council pursuant to Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, 9 VAC 10-20 et al, and Section 10.1-2107 of the Code of Virginia
A Chesapeake Bay Preservation Area shall consist of a Resource Protection Area and a Resource Management Area.

commission, the: the Planning Commission of the Town of Onley, Virginia

condominium: a system of separate ownership of individual units in a multiple-unit building or development; individual ownership of a single unit or space in a multiunit structure in which common ownership may exist of the land and other amenities as so specified in the source of title
All the owners have a right in common to use the common elements of the building or development with separate ownership confined to the individual units. (See Code of Virginia 55-79.39 et seq.)

construction footprint: the area of all impervious surface including, but not limited to, buildings, roads and drives, parking areas, and sidewalks and the area necessary for construction of such improvements

craft industry: the creation or processing of items, by hand, using appropriate hand or power tools and equipment and not involving assembly line techniques

dairy: a commercial establishment for the manufacture and sale of dairy products

detached structure: a structure that is not attached to another structure or in the case of dwelling units, a dwelling surrounded by yards on all sides on the same lot

development: the construction, or substantial alteration, of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures

diameter at breast height (DBH): the diameter of a tree measured outside the bark at a point 4.5 feet above ground

district: districts as referred to in the State Code, Section 15.2-2280 of the Code of Virginia

dripline: a vertical projection to the ground surface from the furthest lateral extent of a tree's leaf canopy

dwelling: a structure or part of a structure containing one or more dwelling units; any site-built, modular-housing structure or manufactured home which is designed for use for residential purposes, except hotels, boarding houses, lodging houses, tourist cabins, apartments, and /or travel trailers
Dwellings may be further identified as one-family (or single-family), multiple-family, semidetached, or attached. Dwelling units contain independent living facilities, and generally contain permanent provisions for living, sleeping, eating, cooking, and sanitation. No individual dwelling unit shall have more than one (1) kitchen.

dwelling, attached: one of two or more residential buildings having a common or party wall separating the dwelling units

dwelling, multiple-family: a structure arranged or designed to be occupied by more than two (2) families

dwelling, semi-detached: one of two buildings, arranged or designed as dwellings, located on abutting walls without openings, and with each building having a separate lot with minimum dimensions required by district regulations

dwelling, single-family: a residential dwelling unit other than a single unit manufactured home designed for and occupied by one (1) family only

dwelling, temporary: a portable dwelling not necessarily attached to a permanent foundation

dwelling, two-family: a structure arranged or designed to be occupied by two (2) families and having only two (2) dwelling units

dwelling unit: a single complete independent living facility for one or more persons physically separated from any other dwelling unit which may be in the same structure
An independent living unit includes permanent provision for living, sleeping, eating, cooking, and sanitation. The presence of a bathroom containing a sink and toilet shall constitute permanent provisions for sanitation. The presence of electrical power shall constitute the ability to provide permanent cooking facilities. Dwelling units are a unit of measurement used as one of the components to calculate density.

family: A family shall be defined as one of the following:

A. one (1) person or two (2) or more persons related by blood or marriage with any number of natural children, foster children, or adopted children and will not to exceed two (2) roomers or boarders;

B. two (2) single parents or guardians with not more than a total of six (6) of their dependent children, including natural children, foster children, stepchildren or adopted children, functioning as a single housekeeping unit;

C. a group of not more than four (4) persons not necessarily related by blood or marriage functioning as a single housekeeping unit; or

D. one (1) person or two (2) persons, one of whom shall be elderly and/or disabled, and one (1) or both of whom own the dwelling unit, plus one (1) family which may consist of one (1) person or two (2) or more persons related by blood or marriage, and with any number of natural children, foster children, step-children or adopted children.

farmer's market: a physical retail marketplace intended to sell foods directly to consumers Farmer's markets may be indoors or outdoors and typically consist of booths, tables, or stands where produce, plants, crafts, and/or prepared foods and beverages may be sold.

feather flag: a free standing temporary sign typically constructed of a single plastic or metal shaft driven in the ground with an attached pennant that is vertically elongated and attached to the shaft

fence: any manmade object or set of objects serving as but not limited to, a means of separating, demarcating, obstructing, or barricading properties of parts of properties

First Amendment rights signs: any sign lawfully advocating any political, social, religious, or other cause or position of the person or persons exhibiting such, the content of which would be protected by such person or person's right to freedom of speech as defined under the First Amendment to the United States Constitution and/or article I, section 12 of the Constitution of Virginia, subject to the restrictions hereinafter provided
Such permitted signs shall not contain any message of a commercial nature and shall not direct attention to a business operated for profit or any entity operated on a nonprofit basis, or to the sale or gift of any commodity or service, nor shall such exhibitor charge a fee therefore. Such signs shall be permitted both in residential and commercial districts. No such sign or combination of signs, in a residential district shall exceed 32 square feet in area or exceed five feet in height and shall comply with all applicable setbacks in such residential district. Any such sign or signs within a commercial district shall comply with all the criteria of Article IV-4.1 as to size and location.

frontage: the minimum width of a lot measured from one (1) side line to the other along a straight building setback line as defined as required herein

garage, private: accessory building designed or used for the storage of not more than three (3) automobiles owned and used by the occupants of the building to which it is accessory
On a lot occupied by a multiple-unit dwelling, the private garage may be designed and used for the

storage of one and one-half (1.5) times as many automobiles as there are dwelling units.

garage, public: a building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling, or storing motor-driven vehicles

governing body: the Town Council of Onley, Virginia

group home: those residential facilities licensed through Virginia's Public Behavioral Health and Developmental Services System and occupied by not more than 10 mentally ill or developmentally disabled persons together with one or more resident counselors or other staff persons
Mental illness and developmental disability do not include illegal use of or addiction to a controlled substance as defined in the Code of Virginia.

health care facilities: a facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis, or treatment of human disease, pain, injury, deformity, or physical condition

historical area: an area indicated on the zoning map to which the provisions of the ordinance apply for protection of a historical heritage

home garden: a garden in a residential district for the production of vegetables, fruits, and flowers generally for use and/or consumption by the occupants of the premises

home occupation: an occupation conducted in a dwelling unit (or dwelling accessory structure), provided that:

A. Use of the dwelling for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants;
B. not more than 45% of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
C. there shall be no change in the outside appearance of the dwelling unit, accessory building, or premises, or any visible or audible evidence of the conduct of such home occupation (no equipment or process shall be used which creates noise, vibration, glare, fumes, odor, or electrical interference detectable to the normal senses from off the residential lot of the dwelling unit and no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in live voltage off the premises) other than one (1) sign, not exceeding four (4) square feet in area (letters must be no more than six (6) inches in height);
D. parking needs generated by such home occupation shall be met off the street; and
E. the business owner shall have no more than one (1) employee.
Home occupations shall be divided into two (2) categories: home office and home business.
    i. Home office shall be a very low impact office use approvable with a Zoning Permit through the Zoning Administrator and shall meet the following criterion: there shall be no retail sales on the property.
    ii. Home business shall be a low impact use allowed upon the approval of a

Zoning Permit and a Fee Permit and shall meet the following criteria:

1. other than members of the family actually residing in the dwelling unit, there shall be no more than one (1) additional, non-family employee;
2. sales from such a home business should be services or products handcrafted on the premises; and
3. all home business Special Use Permits shall be issued to the applicant, shall not run with the land, and shall be null and void when the person who applied for the permit ceases to operate the use permitted.

impervious cover: a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil
Impervious surfaces include, but are not limited to: roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

infill: utilization of vacant land in previously developed areas

land disturbance: any activity causing a land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto other lands, including, but not limited to, clearing, grading, excavating, transporting and filling of land; except that this term shall not apply to minor activities such as home gardening, individual home landscaping, and home repairs and maintenance

livestock: domesticated animals such as but not limited to pigs, llamas, alpacas, goats, horses, cows, sheep, and fowl

lot: a parcel of land occupied or to be occupied by a main structure or group of main structures and accessory structures, together with such yards, open spaces, lot width, and lot areas as are required by this ordinance, and having frontage upon a street, either shown on a plat of record or considered as a unit of property and described by metes and bounds

lot, corner: a lot abutting on two (2) or more streets at their intersection.
Of the two (2) sides of a corner lot, the front shall be deemed to be the shorter of the two (2) sides fronting on str
lot, depth of: the average horizontal distance between the front and rear lot lines

lot, double frontage: an interior lot having frontage on two (2) streets

lot, interior: any lot other than a corner lot

lot, width: the width of any lot at the setback line, calculated by measuring back a uniform distance from the street line as required by the setback regulation
If the street line curves or angles, then the setback line shall also curve or angle uniformly with the street line and the lot width shall be calculated along the said curve or angle setback line.

lot of record: a lot which has been recorded in the Office of the Circuit Court Clerk

low-impact business uses: In order to further the Town of Onley Comprehensive Plan's goals of economic self-sufficiency for all citizens and the preservation of character, certain low-impact business uses noted below may be allowed by-right or as a Special Exception in residentially–zoned areas and not require business zoning if certain they meet the following conditions but may be handled as a By-Right use or as a Special Use in certain zoning districts as set forth below. Care must be taken to ensure that any proposed business use proposal meets the following letter of these conditions to ensure that the integrity of the principal zoning district is maintained and that impacts on the surrounding community are mitigated. The following such low-impact uses are recognized:

A. Home occupation – See *Home Occupation* definition above.

B. Residential business: Any one of the specifically named types of business listed below which conforms to the following criteria. The Residential Business uses shall only be allowed with approval of a Zoning Permit and a Special Use Permit. A Residential Business differs from a Home Business in that no residence is required on the site and there is no restriction on the number of employees except as listed below.

It is the intent of the Town by providing the Residential Business designation to foster the rehabilitation and adaptive re-use of existing buildings in residential areas and to facilitate the development of low-impact businesses compatible with the surrounding residential areas.

Home business shall meet all of the following criteria:

i. Residential character: The home business shall be of low impact on the surrounding community and shall be consistent with the character of the district in which it is located and be owner-occupied.

ii. Existing building used: The home business shall make use of the residence. Such a building may be renovated as long as its exterior appearance is not substantially changed. The existing building must be the principal structure used by the business; however, additions to that building are permitted up to 25% of the existing square footage and conditioned upon the exterior appearance of such addition being consistent with that of the existing building.

iii. Impervious surface requirements: No new, impervious surface, including accessory structures, building additions, parking areas, or driveways may be created that would result in a construction footprint, including the existing building, greater than 60% of the site.

iv. Water usage limited: No business which requires a Virginia Department of Environmental Quality water withdrawal permit shall qualify as a home business.

v. Sewage disposal: No business which creates industrial wastewater shall qualify as a home business. Sanitary sewage must be able to be handled by a septic system approved for the site by the Accomack County Health

Department.

vi. Signage: Signs on site will be limited to those available for home business under Article XII of this ordinance and must be approved as part of the Special Use Permit process.

vii. Illumination: There shall be no external illumination of a home business that is not consistent with the original use of the existing building.

viii. Outside storage: Outside storage must be completely screened from offsite view by appropriate fencing or vegetation. Subsequent loss of such screening shall be cause for the issuance of a Cease-and-Desist Order by the Zoning Administrator, requiring the termination of the Home Business until such time as the screening is replaced.

Qualifying home businesses shall be limited to the following specific businesses:

craft/handcraft/artisan studio producing and selling items made onsite

furniture repair

adult day care six (6) or fewer clients

nursery/daycare preschool children, six (6) or fewer

catering selling off-premises

clothing alterations/tailoring

bed and breakfast

professional office, limit one (1) employee

barber/beauty shop, limit one (1) chair

manufacture and/or manufacturing: the processing and/or converting of raw, unfinished materials, or products, or either of them, into articles or substances of different character, or for use for a different purpose

manufactured home: a structure constructed to federal HUD code, transportable in one or more sections, which, in the traveling mode, is eight (8) feet or more in width and is 40 or more feet in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical conditions contained therein
The term "mobile home," once widely used to describe transportable housing units, has been replaced in the Code of Virginia, Section 36-85.16 et seq., by the term "manufactured home."

manufactured home park or subdivision: any area designed to accommodate two (2) or more manufactured homes intended for residential use where residence is in manufactured homes exclusively

modular housing: a dwelling constructed at the manufacturer's facility and transported after construction on streets and highways in sections for assembly at a site on a permanent foundation A modular home must be built to standard established in the Building Officials and Code Administrators International, Inc. (BOCA) National Building Code. (See Code of Virginia 36-71.1 et seq.) This definition shall not include a travel trailer or manufactured home.

motor home: every private motor vehicle with a normal seating capacity of not more than 10 persons, including the driver, designed primarily for use as temporary living quarters for human beings

nonconforming lot: an otherwise legally platted lot that does not conform to the minimum area or width requirements of this ordinance for the district in which it is located either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance

nonconforming use: the otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this ordinance for the district in which it is located, either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance

nonconforming structure: an otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage, or other area regulations of this ordinance, or is designed or intended for a use that does not conform to the use regulations of this ordinance for the district in which it is located, either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance

non-point source pollution: pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agriculture and urban land development and use

non-tidal wetlands: those wetlands other than tidal wetlands that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to Section 404 of the federal Clean Water Act, in 33 C.F.R. 328.3b

noxious plants: plants that are difficult to control effectively, such as Johnson grass, kudzu, multiflora rose, and bamboo

office: for the purpose of this ordinance offices are defined as a building, room, or suite in which services, clerical work, professional duties, or the like are carried out

park (public): an area of land, usually in a largely natural state, for the enjoyment of the public, having facilities for rest and recreation, owned, set apart, and managed by the town

parking space: a permanently maintained area, enclosed or unenclosed, sufficient in size to store one (1) standard size automobile, together with a driveway connecting the parking space with a

street or alley and permitting ingress or egress of an automobile

parking area, off-street: parking (as defined in II-68) space provided for vehicles outside the dedicated street right-of-way

pennant: tapering flags that are nonpermanent and can be made of paper, cloth or plastic like consistancy

plan of development: the process for site plan review to ensure compliance with Section 10.1-2109 of the Code of Virginia, prior to any clearing or grading of a site or the issuance of a building permit

playground: an area used for outdoor play or recreation, especially by children, and often containing recreational equipment such as slides and swings, in a public park

principal use: the primary use made or intended to be made of a parcel of land, or a building or structure located on such parcel

processing: a series of actions or operations upon a raw material or product, resulting in a change of form of the product, usually adding value to that product
Processing may involve cooking or industrial processing.

professional offices: an office or group of offices of a person or persons engaged in any occupation, vocation, or calling, not purely commercial, mechanical, or agricultural, in which a professional knowledge or skill in some department of science or learning is used in its practical application to the affairs of others, either advising or guiding them in serving their interest or welfare through the practice of an act founded thereon

public street: a publicly-owned road designed and constructed in accordance with water quality protection criteria at least as stringent as requirements applicable to the Virginia Department of Transportation

public water and sewer systems: a water or sewer system owned and operated by the Town of Onley or owned and operated by a private individual or a corporation approved by the governing body and properly licensed by the State Corporation Commission, and subject to special regulations as herein set forth

recreational vehicle: vehicular-type structure designed as temporary living accommodations for recreation, camping, and travel use
There are four (4) basic types of recreational vehicles: travel trailers, motor homes, truck campers, and camping trailers.

redevelopment: the process of developing land that is or has been previously developed

required open space: any space required in any front, side, or rear yard

residential business: any one of the specifically named types of business listed in Article II of this Ordinance and which conform to the criteria found in that section.
The *residential business* designation shall be offered by Special Use Permit only in Residential (R-1) and Agricultural Zoning Districts. A business category may be added through the Zoning Ordinance Text Amendment process set forth in Article XI of this Ordinance if it conforms to the prescribed criteria.

Resource Management Area (RMA): that component of the Chesapeake Bay Preservation Area that is not classified as the Resource Protection Area
RMAs include land types that, if improperly used or developed, have the potential for causing significant water quality degradation or for diminishing the functional value of the Resource Protection Area.

Resource Protection Area (RPA): that component of the Chesapeake Bay Preservation Area comprised of lands adjacent to water bodies with perennial flow to the Chesapeake Bay that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters

restaurant: any building in which, for compensation, food or beverages are dispensed for consumption on the premises including, among other establishments, cafes, tea rooms, confectionery shops, or refreshment stands

retail stores and shops: buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood, and lumber yards) such as the following which will serve as illustration: drug store, newsstand, food store, candy shop, milk dispensary, dry goods and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barber shop, and beauty shop

setback: the minimum distance by which any building or structure must be separated from the front lot line

short term rental: a rental of less than 30 days. Other terms for this type of business might include but are not limited to AirBnB, VRBO, or any other online or private travel agent, agency or private owner. Short term rentals are not allowed in any zoning district within the town limits of Onley.

sign: any display of any letters, words, numerals, figures, device, emblems, pictures, or any parts or combinations thereof, by any means whereby the same are made visible for the purpose of making anything known, where such display be made on, attached to, or as a part of a structure, surface, or any other thing including, but not limited to, the ground, any rock, tree, or other natural object, which display is visible beyond the boundaries of the parcel of land on which the same is made
A display of less than one (1) square foot in area is excluded from this definition.

business a sign which directs attention to a product, commodity, or service available on the

premises.

home occupation a sign, not exceeding four (4) square feet in area directing attention to a product, commodity, or service available on the premises, but which product, commodity, or service is clearly a secondary use of the dwelling
Letters must be no more than six (6) inches in height.

residential business a sign on site shall be limited to those available for home occupations

home identification a sign not exceeding four (4) square feet in area identifying an individual dwelling, property, or occupants' name
Said sign shall not be located any closer than five (5) feet to any property line.

general advertising a sign which directs attention to a product, commodity, or service not necessarily available on the premises

location a sign which directs attention to the approximate location of an establishment from which the advertised product may be obtained

directional a sign which indicates the direction to which attention is called, four (4) square feet or less in area, giving the name only of the party responsible for the erection of same, one end of which may be pointed, or on which an arrow may be painted

identification a sign, not exceeding 16 square feet in area, for the purpose of showing the name and use of a convent, monastery, seminary, church, country club, sanitarium, cemetery, children's home, orphanage, fraternal organization, hospital, or other similar establishment, when such use is permitted in a residential zone as specified in this article and such sign is erected or displayed on the property as identified

-al estate a sign not exceeding four (4) square feet in area identifying a particular property for sale

temporary a sign not exceeding four (4) square feet in area applying to a seasonal or other brief activity such as, but not limited to, yard sales, horse shows, or auctions, but not to include First Amendment signs

sign structure: includes the supports, uprights, bracing, and framework of any structure, be it single-faced, double-faced, v-type, or otherwise exhibiting a sign

silvicultural activities: forest management activities, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the State Forester pursuant to § 10.1-1105 of the Code of Virginia and are located on property defined as real estate devoted to forest use under § 58.1-3230 of the Code of Virginia

store: see *retail stores and shops*

story: that portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it
If there is no floor above it, the space between the floor and the ceiling next above it.

story, half: a space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use

street; road: a public thoroughfare, except an alley or driveway, which affords principal means of access to abutting property

street line: the dividing line between a street or road right-of-way and the contiguous property

structure: anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground
This includes, among other things, dwellings, buildings, signs, et cetera.

substantial alteration: expansion or modification of a building or development that would result in a disturbance of land exceeding an area of 2,500 square feet in the Resource Management Area only

temporary sign: a sign not exceeding 32 square feet in area but applied to a seasonal or other brief activity, but not including First Amendment signs or other signs as addressed in the definition of sign

travel trailer: vehicular structure mounted on wheels which is designed as temporary living accommodations for recreation, camping, and travel use and can be easily towed by automobile or small truck and does not require special highway movement permits

truck camper: portable structure designed to be loaded onto or affixed to the bed or chassis of a truck that is designed to be used as temporary living accommodations for recreation, camping, and travel use

use, accessory: a subordinate use customarily incidental to and located upon the same lot occupied by the main use

variance: a variance is a reasonable deviation, granted by the Board of Zoning Appeals, from those provisions regulating the size or area of a lot or parcel of land or the size, area, bulk, or location of a building or structure

water-dependent facility: a development of land that cannot exist outside of the Resource Protection Area and must be located on the shoreline by reason of the intrinsic nature of its operation

These facilities include, but are not limited to, (i) ports; (ii) the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; (iii) marinas and other boat docking structures; (iv) beaches and other public water-oriented recreation areas; and (v) fisheries or other marine resources facilities.

wayside/mobile food truck: a licensed, motorized vehicle (towed or self-propelled) that is equipped to prepare and sell food

wayside stand, roadside stand, wayside market: any structure or land used for the sale of agricultural or horticultural produce, livestock, or merchandise produced by the owner or his family on their farm

wetlands: non-tidal wetlands

yard: an open space on a lot other than a court, unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

front: an open space on the same lot as a building between the front line of the building (excluding steps) and the front lot or street line, and extending across the full width of the lot

rear: an open, unoccupied space on the same lot as a building between the rear line of the building (excluding steps) and the rear line of the lot and extending across the full width of the lot

side: an open, unoccupied space on the same lot as a building between the side line of the building (excluding steps) and the side line of the lot, and extending from the front yard line to the rear yard line

Article III - Districts

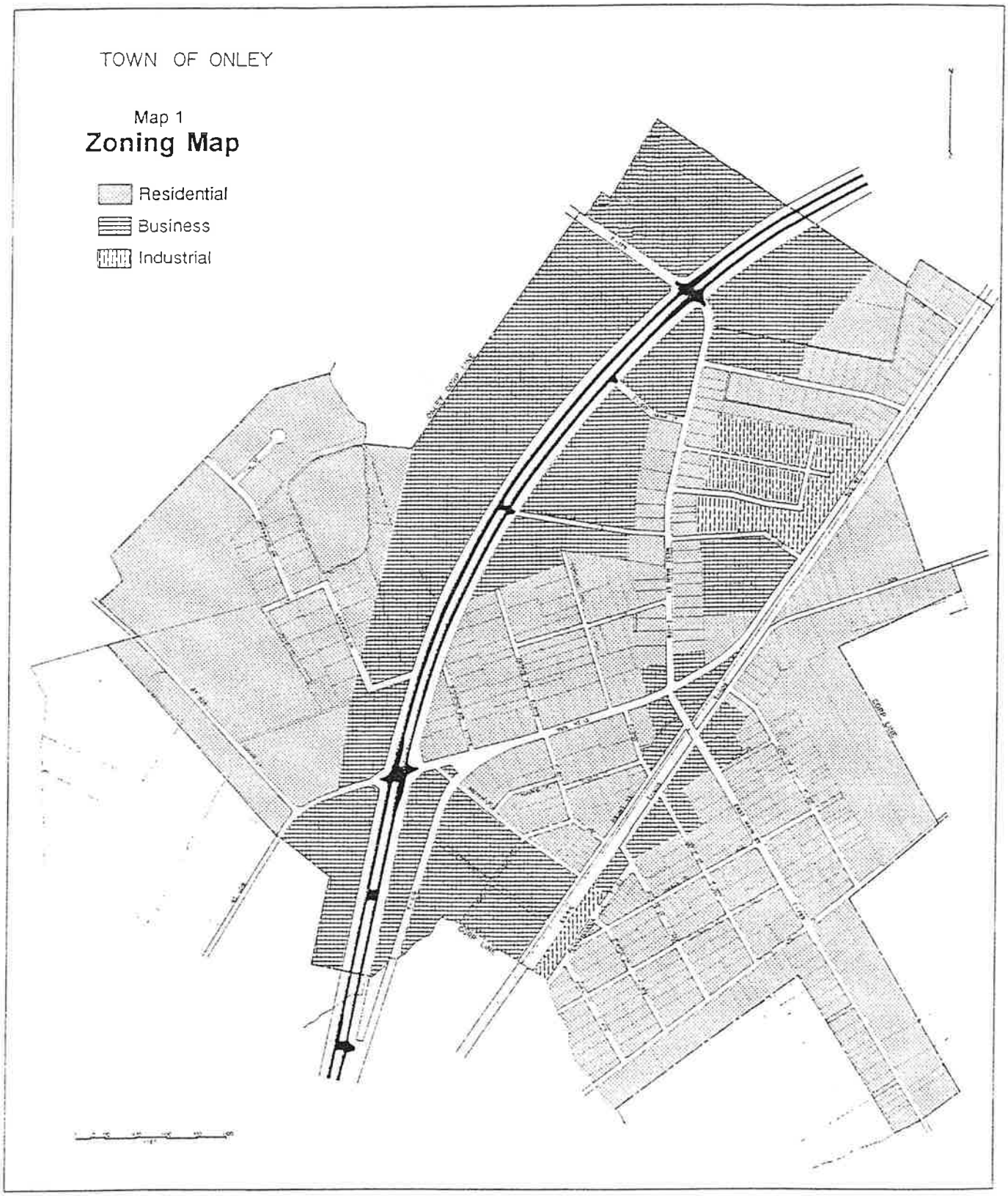
III-1 Enumeration of Districts For the purpose of this ordinance, the incorporated area of the Town of Onley, Virginia, is hereby divided into the following districts:

Residential	R-1	page 23
Business, General	B-G	page 24
Industrial, Limited	M-1	page 28
Chesapeake Bay Preservation Area Overlay District	CBPA	page 31

Location of these districts can be found on Map 1, page 20, and on Map 2, page 21.

A graphic illustration of lot terms and yard requirements as defined in Article II and used in the district regulations may be found on Figure 1, page 22.

ALL MAPS ARE ALMOST IMPOSSIBLE TO READ AND MUST BE REPLACED. ANY MAP IN THIS DOCUMENT MUST BE EASY TO READ OR ELECTRONICALLY LINKED TO A MAP THAT IS LEGIBLE. Chesapeake Bay Watershed map is wrong. THESE ARE NOT.


TOWN OF ONLEY
Map 1
Zoning Map
Residential
Business
Industrial

TOWN OF ONLEY

Map 2

Chesapeake Bay Preservation Area Overlay District

Resource Management Area

Resource Protection Areas

Perennial Stream

Buffer Zone

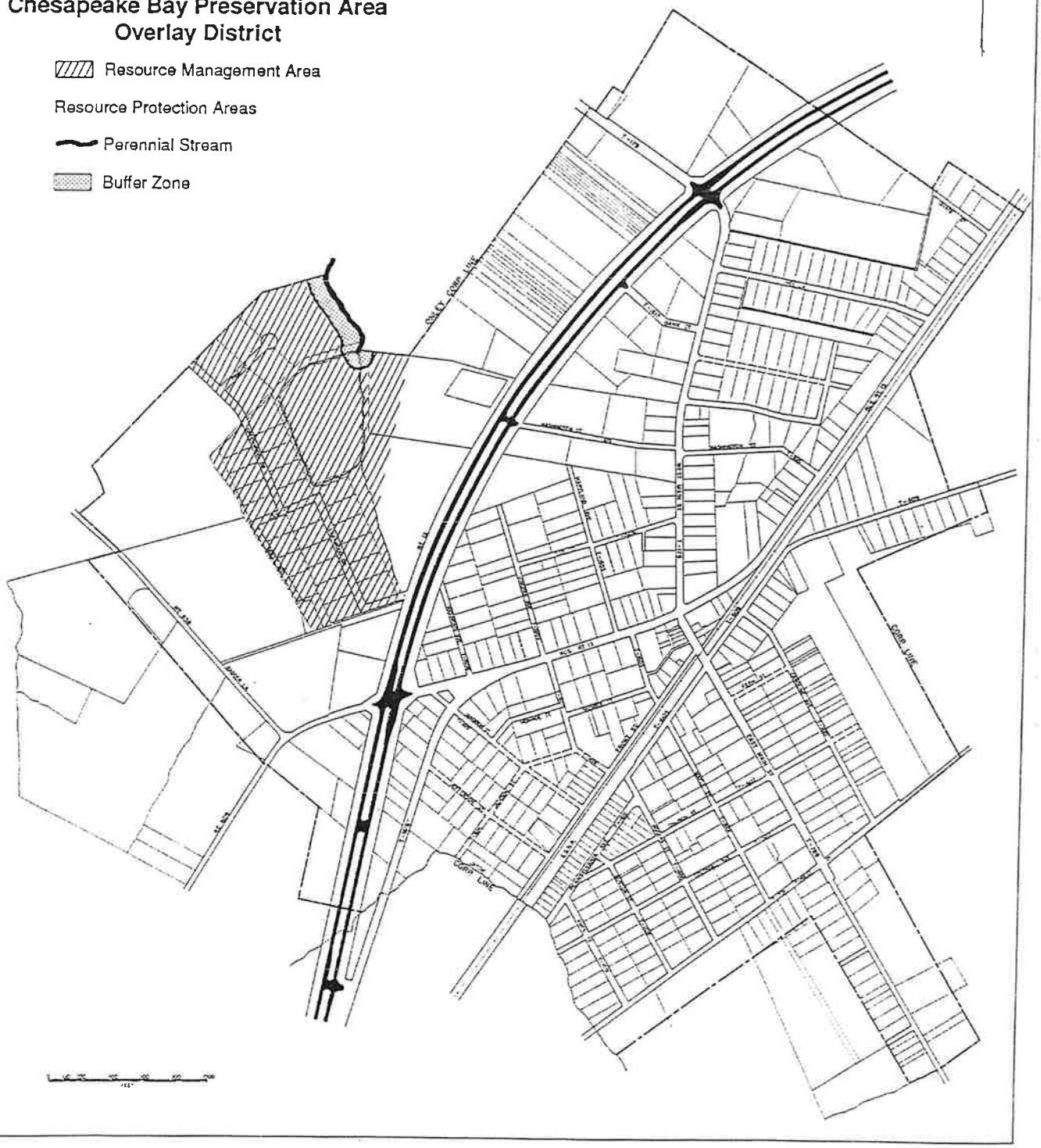


Figure 1

ILLUSTRATION OF LOT TERMS

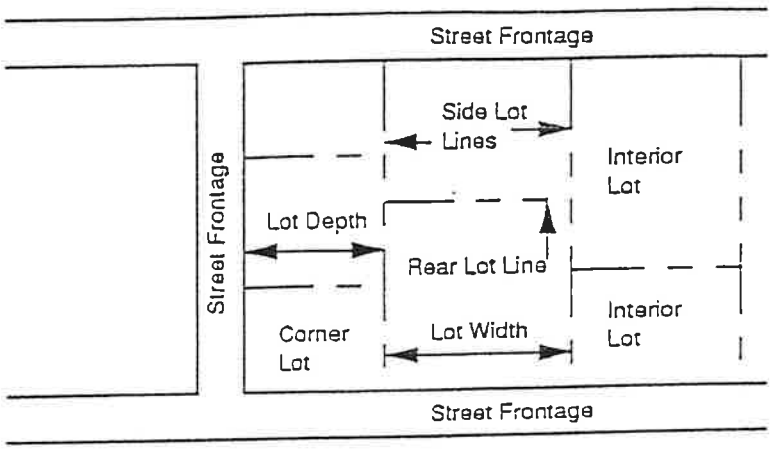
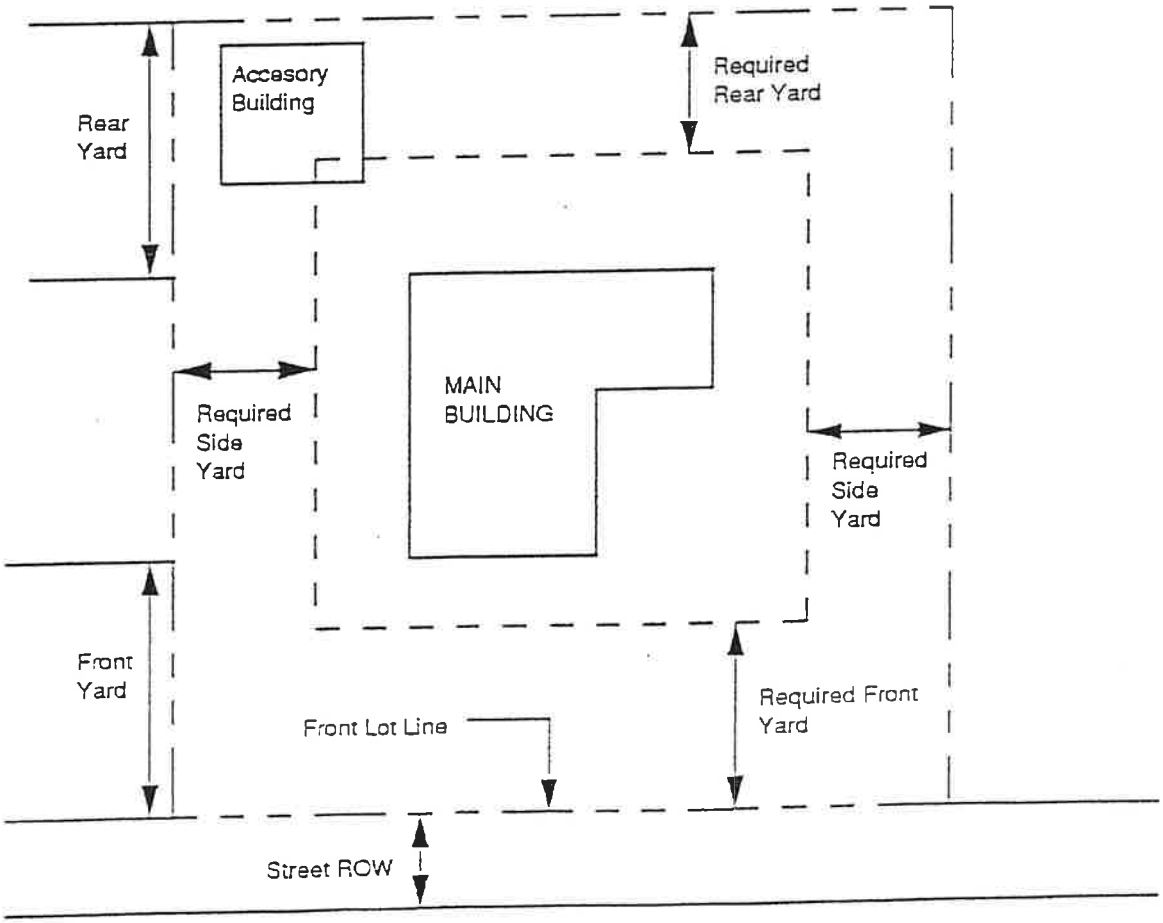


ILLUSTRATION OF REQUIRED YARDS



III-2 Residential District, R-1

III-2.1 Statement of Intent This district is composed of certain quiet, low-to-medium-density residential areas plus certain open areas where similar residential development is recommended to occur by the Town of Onley Comprehensive Plan The regulations for this district are designed to stabilize and protect the essential characteristics of the district and to promote and encourage, insofar as compatible with the intensity of land use, a suitable environment for family life where there are children. To these ends, development is limited to a relatively medium concentration; and permitted uses are basically limited to single-family dwellings providing homes for the residents, plus certain additional uses, such as parks, and certain public facilities that serve the residents of the Residential district. This area is represented as R-1 on the Future Land Use Map in the Onley Town Plan.

III-2.2 Principal Permitted Uses and Structures The following uses shall be permitted subject to all the other requirements of this ordinance as a matter of right in Residential District (R-1).

A. single-family dwellings (except manufactured housing on a single chassis)

B. churches

C. public parks and playgrounds

D. accessory structures

E. public utilities: signs, poles, distribution lines, distribution transformers, pipes, meters, and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities
For purposes of this ordinance *public utilities* does not include telecommunication facilities.

F. residential swimming pools, hot tubs and spas provided that same are located no closer than 10 feet to any adjoining property line, and provided that any swimming pool with a depth of 24 inches or more, whether below or above grade, fixed or movable, shall be enclosed by fencing and lockable gates at least five (5) feet high with a mesh or openings not exceeding three (3) inches in width. Outdoor hot tubs and/or spas must have a lockable top. Tops must be locked when hot tub or spa is not in use.

G. home identification signs as defined in Article II and in compliance with Article IV of this ordinance

H. identification signs as defined in Article II and in compliance with Article IV of this ordinance

I. real estate signs as defined in Article II and in compliance with Article IV of this ordinance

J. temporary signs as defined in Article II and in compliance with Article IV of this ordinance.

III-2.3 Special Exceptions The following uses shall be permitted in Residential District (R-1), subject to all the other requirements of this ordinance, only upon the obtaining of a Special Use Permit from the Town Council.

A. two-family dwellings

B. manufactured housing

C. home occupations as defined in Section II, and home occupation signs as defined in Article II and in compliance with Article IV of this ordinance

D. bed and breakfast houses, owner occupied, bed and breakfast homes

E. kindergartens and/or daycare facilities

F. professional offices

G. health care facilities

H. Short term rentals are not permitted in any zoning district within the town limits of Onley.

III-2.4 Area Regulations The minimum lot area required for a permitted use in the "R-1" district is 20,000 square feet. The required area for any such use shall be approved by the Accomack County health official. The Zoning Administrator may require a greater area if considered necessary by the health official.

III-2.5 Setback Regulations Structures shall be located 35 feet or more from any street right-of-way which is 50 feet or greater in width, or 60 feet or more from the center of any street right-of-way less than 50 feet in width; however, no building need be set back more than the average of the setbacks of the two structures located on adjacent properties on either side. A vacant lot 50 feet or more in width may be assumed to be occupied by a building having a minimum setback. This shall be known as the "setback line."

III-2.6 Frontage Regulations For permitted uses, the minimum lot width measured along a street at the setback line shall be 100 feet or more.

III-2.7 Yard Regulations

side: The minimum side yard shall be 15 feet or more. A one-story accessory structure shall have a side yard of three (3) feet or more and any accessory building over 1 story in height shall be 10 feet or more from any lot line

rear: Each main building shall have a rear yard of 35 feet or more. A one-story accessory structure shall have a rear yard of three (3) feet or more and each accessory structure over one (1) story shall be 10 feet or more from any lot line.

III-2.8 Height Regulations Buildings may be erected up to 35 feet in height from grade level except that:

A. The height limit for main buildings may be increased up to 45 feet and up to three (3) stories provided each side yard is 15 feet, plus one (1) foot of side yard for each additional foot of building height over 35 feet.

B. A church may be erected to a height of 60 feet from grade provided that required front, side, and rear yards shall be increased one (1) foot for each foot in height over 35 feet.

C. Public utility structures, church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, residential television antennae, and residential radio aerials are exempt. Parapet walls may be up to 4 feet above the height of the building on which the walls rest.

D. Accessory structures shall be limited to two (2) stories or 25 feet in height.

III-2.9 Access. Each dwelling shall front on a dedicated public street or a 15-foot minimum width access easement.

III-2.10 Fencing Regulations Fences may be erected upon the issuance of a zoning permit, subject to all other requirements of this ordinance.

A. Fences may be erected up to 10 feet in height.

B. Fences may be placed on the property line with a written agreement between adjacent property owners; otherwise fencing shall be set back one (1) foot from the property line.

C. Type of construction and materials for fencing shall be subject to approval by the Zoning Administrator.

III-2.11 Special Provisions for Corner Lots

A. Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.

A. The side yard on the side facing the side street shall be 20 feet or more for both main and

accessory building

III-2.12 Occupancy Limitations

A. Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet of floor area for each occupant.

B. Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of the following table.

MINIMUM AREA REQUIREMENTS
(Minimum area in square feet)

Space	1-2 occupants	3-5 occupants	6 or more
Living Room	No Requirements	120	150
Dining Room	No Requirements	80	100
Kitchen	50	50	60
Bedrooms	Per III-2.12.A	Per III-2.12.A	Per III-2.12.A

III-4 Business, General District, B-G

III-4.1 Statement of Intent This district is intended to provide for the conduct of general business to which the public requires direct and frequent access without detracting from adjacent residential desirability. This includes such uses as retail stores, banks, theaters, business offices, newspaper offices, restaurants, and public buildings. The regulations for this district are designed to protect adjacent residential uses from undue disruption while providing convenience of goods and services.
This area is represented as Business B-G on page 16 of the Town of Onley, Virginia, Zoning Map and as Business on the Future Land Use Map in the Onley Town Plan.

III-4.2 Principal Permitted Uses and Structures The following uses shall be permitted by right:

A. retail sales and services stores

B. bakeries

C. dry cleaners, laundries, and laundromats

D. professional offices (doctors, dentists, lawyers, *et cetera*)

E. post offices, county offices, town offices, and other similar public uses

F. barber and beauty shops

G. hotels, motels, and inns.

H. churches

I. libraries

J. automobile service stations with repair under cover

K. banks and lending institutions

L. clubs and lodges

M. auto sales lots

N. restaurants

O. residential apartments above stores

P. public utilities: signs, poles, distribution lines, distribution transformers, pipes, meters, and other facilities necessary for the provision and maintenance of public utilities, including water and sewage facilities with the exception of cell phone towers

Q. Virginia Alcoholic Beverage Control (ABC) stores

R. assembly, servicing or repair of electrical appliances, and/or consumer electronics

III-4.2 Permitted Signs

A. Business signs not affixed to the building in which the business is conducted shall be permitted only upon the specific premises where the business is located, provided that no business shall have more than one (1) sign and said sign shall not exceed 32 square feet in area. Signs shall not exceed a height of 20 feet above ground level. Larger or higher signs may be allowed with a Special Use Permit.

B. Signs or a combination of letters may be attached to a building or structure, where business is conducted on the premises, for the purpose of advertising and displaying the name, address, and/or a business slogan, of the specific business conducted therein.

C. directional signs, as defined in Article II and in compliance with Article IV of this ordinance

D. identification signs not exceeding 16 square feet in area

E. bulletin boards and identification signs for church or municipal activities not exceeding 16 square feet in area

III-4.3 Special Exceptions The following uses may be allowed in Business, General District, B-G,

subject to all the other requirements of this ordinance, only upon the obtaining of a Special Use Permit from the governing body.

A. Mobile food trucks, mobile food and drink units, public billiard parlors and poolrooms, bowling alleys, dance halls and similar forms of public amusement only after a public hearing shall have been held by the governing body on an application submitted to the body for such use. The governing body may request that the Planning Commission submit a recommendation to them concerning such use applications. In approving any such application, the governing body may establish such special requirements and regulations for the protection of adjacent property, set the hours of operation, and make requirements as they may deem necessary in the public interest.

B. Short term rentals are not permitted in any zoning district within the town limits of Onley.

C. Any use not specified

III-4.4 Area Regulations None, except for permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the Accomack County health official

III-4.5 Frontage and Yard Regulations Buildings shall be set back a minimum of fifty (50) feet from the VDOT right of way, except those buildings fronting on U.S. Route 13 which shall be setback a minimum of one hundred (100) feet from the VDOT right-of-way. Where existing buildings on adjoining or neighboring properties are located less than the applicable required setback, a building may be constructed in line with the established building line of those properties. In no case shall a building be located closer to the VDOT right-of-way than the established building line of the adjoining or neighboring properties.
A vacant lot fifty (50) feet or less in width may be assumed to be occupied by a building having a minimum setback. This shall be known as the "setback line". Side yards shall be a minimum of ten (10) feet. For permitted uses adjoining or adjacent to a residential district, the minimum side yard or rear yard shall be twenty-five (25) feet, and off-street parking shall be in accordance with the provisions contained herein.

III-4.6 Height Regulation Buildings may be erected to a height of 45 feet and three (3) stories, except that:

A. Public utility structures, church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, residential television antennae, and residential radio aerials are exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.

B. Accessory buildings shall be limited to two (2) stories in height and any accessory building over one (1) story in height shall be at least 10 feet from any lot line.

III-4.7 Access Each main building shall front on a dedicated public street or a 15-foot minimum width access easement.

III-5 Industrial, Limited District, M-1

III-5.1 Statement of Intent The primary purpose of this district is to permit certain industries, while protecting the residential or business properties. The limitations and provisions hereof are imposed to protect and foster adjacent residential and/or business desirability while permitting industries to locate in a proper area. This area is represented as Industrial M-1 on page 20 of the Town of Onley, Virginia, Zoning Map and as Industrial on the Future Land Use Map in the Onley Town Plan.

III-5.2 Principal Permitted Uses and Structures The following uses shall be permitted by right:

A. all uses permitted in Business, General District, B-G

B automobile assembly, upholstering, repairing, rebuilding, reconditioning, body and fender work, truck repairing or overhauling
Any automotive or equipment painting must be performed within a federally approved spray facility.

C. welding or machine shop, excluding punch presses exceeding 40-ton rated capacity and drop hammers

D. laboratories - pharmaceutical and/or medical

E. manufacture, compounding, processing, packaging, or treatment of such products as bakery goods, candy, cosmetics, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, and food products

F. manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay, and kilns fired only by electricity or gas

G. manufacture of musical instruments, toys, novelties, and rubber and metal stamps

H. building materials sales yards, plumbing supplies storage

I. contractors' equipment storage yards or plants, or rental of equipment commonly used by contractors with a Special Use Permit

J. cabinets, furniture, and upholstery shops

K. boat building

L. monument stone works

M. airports, with a Special Use Permit

N. wholesale businesses, storage warehouses with a Special Use Permit

O. off-street parking as required by this ordinance

P. public utility generating, booster or relay stations, transformer substations, transmission lines and towers, and other facilities for the provision and maintenance of public utilities, including railroads and facilities, broadband and fiber optic transmission and distribution systems, and water and sewerage installations

Q. Business signs not affixed to the building in which the business is conducted shall be permitted only upon the specific premises where the business is located, provided that no business shall have more than one (1) sign and said sign shall not exceed 32 square feet in area. Signs shall not exceed a height of 20 feet above ground level. NOTE: Larger or higher signs may be allowed with a Special Use Permit.

R. laundries, laundromats, dry cleaning establishments

III-5.3 Requirements for Permitted Uses

A. Before a building permit shall be issued or construction commenced on any permitted use in this district, or a permit issued for a new use, site plans shall be submitted to the Zoning Administrator in accordance with the requirements of Section III-6.12, Plan base,emt Development Process, of this Ordinance. The Zoning Administrator may refer these plans to the planning commission for recommendation. Modification of the plans may be required.

B. Permitted uses shall be conducted wholly within a completely enclosed building or within an area enclosed on all sides by a solid masonry wall, a uniformly painted solid board fence or evergreen hedge a minimum of six (6) feet in height. Public utilities and signs requiring natural air circulation, unobstructed view, or other technical considerations necessary for proper operation may be exempt from this provision. This exception does not include storage of any materials.

C. Landscaping may be required within any established or required front setback area. The plans and execution must take into consideration traffic hazards. Landscaping may be permitted up to a height of three (3) feet and to within 50 feet from the corner of any intersecting streets.

D. Sufficient area shall be provided (a) to adequately screen permitted uses from adjacent business and residential districts, and (b) for off-street parking of vehicles incidental to the industry, its employees and clients.

E. Permitted uses within this district must control storm water runoff by approved measures so

that water runoff will not be harmful to either the residential or business districts. Plans for storm water management must be approved by the Accomack County Planning Department before a building permit is issued.

F. Automobile graveyards and junkyards in existence on February 4, 1970 are to be considered as nonconforming uses. They shall be allowed up to one (1) year from February 4, 1970 in which to completely screen, on any side open to view from a public road, the operation or use by a masonry wall, a uniformly painted solid board fence, or an evergreen hedge a minimum of six (6) feet in height or an approved manufactured solid fence a minimum of six (6) feet in height. *(See updated Onley Town Ordinance 002-06)*

III-5.4 Area Regulations For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the Accomack County health official.

III-5.5 Setback Regulations Buildings shall be located 20 feet or more from any street right of way. This shall be known as the "setback line."

III-5.6 Frontage and Yard Regulations For permitted uses the minimum side and rear yards shall be 20 feet. For permitted uses adjoining or adjacent to a residential or business district the minimum side and/or rear yard shall be 50 feet. The side yard of corner lots shall be 20 feet or more. Off-street parking shall be in accordance with the provisions contained herein.

III-5.7 Height Regulations Buildings may be erected up to a height of 45 feet above grade. Chimneys, flues, cooling towers, flagpoles, wind turbines radio or communication towers or their accessory facilities not normally occupied by workmen with a Special Use Permit. Parapet walls are permitted up to four (4) feet above the limited height of the building on which the walls rest.

III-5.8 Coverage Regulations Buildings or groups of buildings with their accessory buildings may cover up to 70 percent of the area of the lot but must comply with all other provisions of this article.

III-6 Chesapeake Bay Preservation Area Overlay District, CBPA

III-6.1 Statement of Intent

A. This article is enacted to implement the requirements of Title 62.1, Chapter 3.1, Section 62.1-44.15:67 et seq. of the Code of Virginia, 1950 as amended, (The Chesapeake Bay Preservation Act)as part of the Town of Onley Zoning Ordinance. The intent of the Onley Town Council and the purpose of the Overlay District is to: (1) protect existing high quality state waters; (2) restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them; (3) safeguard the clean waters of the Commonwealth from pollution; (4) prevent ally increase hi pollution; (5) reduce existing pollution; and (6) promote water resource conservation in order to provide for the health, safety,

and welfare of the present and future citizens of the Town of Onley.

B. This district shall be in addition to and shall overlay all other zoning districts where they are applied so that any parcel of land lying in the Chesapeake Bay Preservation Area Overlay District shall also lie in one or more of the other zoning districts provided for by the Zoning Ordinance. Unless otherwise stated in the Overlay District, the review and approval procedures provided for in the Town of Onley Zoning Ordinance Section III-6.12, Plan of Development Process, the Accomack County Erosion and Sediment Control Ordinance, and the Accomack County Building Code, including all grading permits and building permits, shall be followed in reviewing and approving development, redevelopment, and uses governed by this Article.

III-6.2 Authority This Article is enacted under the authority of Title 62.1, Chapter 3.1, Section 62.1-44.15:67 et seq. (the Chesapeake Bay Preservation Act) and Section 15.2-2283, of the Code of Virginia. Section 15.2-2283 states that zoning ordinances shall be designed to give reasonable consideration to the preservation of lands significant for the protection of the natural environment, and that such zoning ordinances may "also include reasonable provisions, not inconsistent with applicable state water quality standards, to protect surface water and groundwater as defined in Section 62.1-255."

III-6.3 Conflict with Other Regulations In any case where the requirements of this Article conflict with any other provision of the Town of Onley Code, whichever provision imposes the more stringent restrictions shall apply.

III-6.4 Definitions The words and terms used in the Overlay District have the meanings which are defined in Article II, Definitions, of the Town of Onley Zoning Ordinance, unless the context clearly indicates otherwise.

III-6.5 Application of CBPA District

A. The Chesapeake Bay Preservation Area Overlay District shall apply to all lands identified as CBPAs as designated by the Onley Town Council and as shown on the Town of Onley Chesapeake Bay Preservation Area Map. The Chesapeake Bay Preservation Area Overlay District is composed of a Resource Protection Area and a Resource Management Area.

1. Resource Protection Areas (RPA) shall consist of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may cause significant degradation to the quality of state waters. In their natural condition, these lands provide for the removal, reduction or assimilation of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the Chesapeake Bay and its tributaries, and minimize the adverse effects of human activities on state waters and aquatic resources. The RPA may include lands such as tidal wetlands, nontidal wetlands connected by surface flow and contiguous tidal wetlands or water bodies with perennial flow, and/or tidal shores, as applicable. A buffer area not less than 100 feet in width located adjacent to and landward of these lands and along both sides of any water body with perennial flow also comprise the RPA.

2. Resource Management Areas (RMA) include land types that, if improperly used or developed, have a potential for causing significant water quality degradation or for diminishing the functional value of the RPA. The following land categories comprise RMAs: floodplains, highly erodible soils, including steep slopes; highly permeable soils; nontidal wetlands not included in the RPA; and other lands considered by the Town Council as necessary to protect the quality of state waters. In the Town of Onley, RMAs are generally composed of the land east of Greenwood Drive to the west side of the RPA and lake, and the land located 200 feet west of Greenwood Drive, 700 ft. south of Elm Street, and 200 ft. east of Lakewood Drive.

B. The Town of Onley Chesapeake Bay Preservation Area Map on page 16 of this Ordinance shows the general location of CBPAs and should be consulted by persons contemplating activities within the Town of Onley prior to engaging in a regulated activity.

III-6.6 Interpretation of Resource Protection Area Boundaries

A. Delineation by the Applicant The site-specific boundaries of the Resource Protection Area shall be determined by the applicant and in accordance with Section III-6.12, Plan of Development Process, or through the review of a water quality impact assessment as required under Section III-6.11 of this Article. A water quality impact assessment is required for all projects within the Resource Protection Area and not limited to land disturbance projects with more than 2,500 square feet).

B. Delineation by the Zoning Administrator The Zoning Administrator, when requested by an applicant wishing to construct a single-family residence, may perform the delineation. The Zoning Administrator may use hydrology, soils, plant species, and other data, and consult other appropriate resources as needed to perform the delineation.

C. Where Conflict Arises Over Delineation When the applicant provides a site-specific delineation of the RPA, the Zoning Administrator will verify the accuracy of the boundary delineation. In determining the site-specific RPA boundary, the Zoning Administrator may render adjustments to the applicant's boundary delineation, in accordance with Section III-6.12, Plan of Development Process, of this Article. In the event the adjusted boundary delineation is contested by the applicant, the applicant may seek relief, in accordance with the provisions of Section III-6.12.C.

III-6.7 Use Regulations Permitted uses, special permit uses, accessory uses, and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein.

III-6.8 Lot Size Lot size shall be subject to the requirements of the underlying zoning district(s)), provided that any lot shall have sufficient area outside the RPA to accommodate an intended development, in accordance with the performance standards in Section III-6.10, Performance Standards, when such development is not otherwise allowed in the RPA.

III-6.9 Required Conditions

A. Development in RPAs may be allowed only when permitted by the Zoning Administrator and if it: (i) is water-dependent; or (ii) constitutes redevelopment. A new or expanded water-dependent facility may be allowed provided that:

1. It does not conflict with the Onley Town Comprehensive Plan;

2. It complies with the performance criteria set forth in Section III-6.10 of this Article;

3. Any non-water-dependent component is located outside of Resource Protection Areas;

4. Access will be provided with the minimum disturbance necessary. Where possible, a single point of access will be provided.

B. A water quality impact assessment shall be required for any proposed land disturbance, development, or redevelopment within RPAs and for any development within RMAs when required by the Zoning Administrator because of the unique characteristics of the site or intensity of development, in accordance with the provisions of Section III-6.11, Water Quality Impact Assessment, of this Article.

C. Redevelopment shall be permitted in the Resource Protection Area only if there is no increase in the amount of impervious cover and no further encroachment within the Resource Protection Area and it conforms to applicable stormwater management and erosion and sediment control criteria as set forth in Section III-6.10 of this Article.

III-6.10 Performance Standards

A. Purpose and Intent The performance standards establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxins, and maximize rainwater infiltration. Natural ground cover, especially woody vegetation, is most effective in holding soil in place and preventing site erosion. Indigenous vegetation, with its adaptability to local conditions without the use of harmful fertilizers or pesticides, filters stormwater runoff Minimizing impervious cover enhances rainwater infiltration and effectively reduces stormwater runoff potential.

The purpose and intent of these requirements are also to implement the following objectives: prevent a net increase in nonpoint source pollution from new development; achieve a 10% reduction in nonpoint source pollution from redevelopment; and achieve a 40% reduction in nonpoint source pollution from agricultural uses.

B. General Performance Standards for Development and Redevelopment in Chesapeake Bay Preservation Areas

1. All development exceeding 2,500 square feet of land disturbance shall be subject to a plan of development process, in accordance with Section III-6.12, Plan of Development Process, of this Article.

2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development.

a. In accordance with an approved site plan, the limits of land disturbance, including clearing or grading shall be strictly defined by the construction footprint. These limits shall be clearly shown on submitted plans and physically marked on the development site.

b. Impervious cover shall be minimized consistent with the use or development allowed.

c. Ingress and egress during construction shall be limited to one access point, unless otherwise approved by the Zoning Administrator.

3. Indigenous vegetation shall be preserved to the maximum extent practical consistent with the proposed use or development and in accordance with the Virginia Erosion and Sediment Control Handbook.

a. Existing trees over six (6) inches diameter at breast height (DBH) shall be preserved outside the construction footprint. Diseased trees or trees weakened by age, storm, fire, or other injury may be removed.

b. Clearing shall be allowed only to provide necessary access, positive site drainage, water quality BMPs, and the installation of utilities, as approved by the Zoning Administrator.

4. Land development shall minimize impervious cover to promote infiltration of stormwater into the ground consistent with the proposed use or development.

a. Pervious material shall be used for any required parking area, alley, or other low traffic driveway, unless otherwise approved by the Zoning Administrator.

5. Notwithstanding any other provisions of this Article or exceptions or exemptions thereto, any land disturbing activity exceeding 2,500 square feet, including construction of all single-family houses, septic tanks, and drain fields, shall comply with the requirements of the Accomack County Erosion and Sediment Control Ordinance.

6. All on-site sewage disposal systems not requiring a Virginia Pollutant Discharge Elimination System (VPDES) permit shall be pumped out at least once every five years.

7. A reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site shall be provided. This requirement shall not apply to any lot or parcel recorded prior to October 1, 1989 if such lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the local Health Department. Building or construction of any impervious surface shall be prohibited on the area of all sewage disposal sites or on an on-site sewage treatment system which operates under a permit issued by the State Water Control Board, until the structure is served by public sewer.

8. Any Chesapeake Bay Preservation Act land disturbing activity that results in a land disturbance equal to or greater than 2,500 square feet and less than one acre, as defined in Section 62.1-44.15:24 of the Code of Virginia, shall comply with the requirements of 9 VAC 25-870-51 and 9 VAC 25-870-103.

9. Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all wetlands permits required by federal, state, and local laws and regulations shall be obtained and evidence of such submitted to the Zoning Administrator, in accordance with Section III-6.12, Plan of Development Process, of this Article.

10. Land in CBPAs upon which agricultural activities are being conducted shall have a soil and water quality conservation assessment. Such assessments shall evaluate the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management and management of pesticides, and where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is accomplished consistent with this Article.

C. Buffer Area Requirements. To minimize the adverse effects of human activities on Resource Protection Areas, state waters, and aquatic life, a 100-foot buffer area of vegetation effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist. This 100-foot wide buffer area shall be the landward component of the Resource Protection Area as set forth in Section III-6.5.A. of this Article.

The 100-foot buffer area shall be deemed to achieve a 75 percent reduction of sediments and a 40 percent reduction of nutrients.

The buffer area shall be maintained to meet the following additional performance standards:

1. In order to maintain the functional value of the buffer area, existing vegetation may be removed, subject to approval by the Zoning Administrator, only to provide for reasonable sight lines, access paths, general woodlot management, and best management practices, including those that prevent upland erosion and concentrated flows of stormwater, as follows:

a. Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.

b. Any path shall be constructed and surfaced so as to effectively control erosion.

c. Dead, diseased, or dying trees or shrubbery and noxious weeds (such as Johnson grass, Kudzu and multiflora rose) may be removed and thinning of trees may be allowed pursuant to sound horticultural practices.

d. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.

2. When the application of the buffer areas would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, the Zoning Administrator may permit encroachment into the buffer area in accordance with the following criteria:

a. Encroachment into the buffer areas shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;

b. Where practicable a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel; and

c. The encroachment may not extend into the seaward 50 feet of the buffer area.

3. On agricultural lands the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and appropriate measures may be taken to prevent noxious weeds from invading the buffer area. Agricultural activities may encroach into the buffer area as follows:

a. Agricultural activities may encroach into the landward 50 feet of the 100-footwide buffer area when at least on agricultural best management practice, which, in the opinion of the local soil and water conservation district board, addresses the more predominant water quality issue on the adjacent land — erosion control or nutrient management - is being implemented on the adjacent land, provided that the combination of the undisturbed buffer area and the best management practice achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100-foot wide buffer area. If nutrient management is identified as the predominant water quality issue, a nutrient management plan, including soil test, must be developed consistent with the "Virginia Nutrient Management Training and Certification Regulation (4 VAC 5-15 et seq.) administered by the Virginia Department of Conservation and Recreation.

b. Agricultural activities may encroach within the landward 75 feet of the 100-foot wide buffer area when agricultural best management practices which address erosion control, nutrient management, and pest chemical control, are being implemented of the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance level, referred to as "T." as defined in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the US. Department of Agriculture Natural Resource Conservation Service. A nutrient management plan, including soil test, must be developed consistent with the "Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15 et seq.) administered by the Virginia Department of Conservation and Recreation. In conjunction with the

remaining buffer area, this collection of best management practices shall be presumed to achieve water quality protection at least the equivalent of that provided by the 100-foot with buffer area.

c. The buffer area is not required to be designed adjacent to agricultural drainage ditches if adjacent agricultural land has in place at least on best management practices a considered by the local Soil and Water Conservation District to address the more predominant water quality issue on the adjacent land — either erosion control or nutrient management.

4. When agricultural or silvicultural uses within the buffer area cease, and the lands are proposed to be converted to other uses, the full 100-foot wide buffer area shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the buffer functions are maintained of established.

III-6.11 Water Quality Impact Assessment

A. Purpose and Intent The purpose of the water quality impact assessment is to identify the impacts of any proposed development on water quality and lands within Resource Protection Areas and other environmentally sensitive lands and to determine specific measures for mitigation of those impacts.; Where development does take place within Resource Protection Areas, the water quality impact assessment will ensure disturbance is located on those portions of a site and in a manner that will be least disruptive to the natural functions of Resource Protection Areas.

B. Water Quality Impact Assessment Required A water quality impact assessment, to be submitted during the zoning, plot plan, site plan, and/or subdivision review process, is required for:

1. Any proposed land disturbance or redevelopment within a Resource Protection Area, including any buffer area modification or encroachment as provided for in Section III-6.10.C of this Article.

2. Any proposed development or redevelopment in the RMA if deemed necessary by the Zoning Administrator due to unique characteristics of the site or intensity of the proposed development.

C. Contents of a Water Quality Impact Assessment The water quality impact assessment shall be of sufficient specificity to demonstrate compliance with this Article. The information required in this section shall be considered a minimum, unless the Zoning Administrator determines that some of the elements are unnecessary due to the nature and scope of the proposed use and development of land, however the Zoning Administrator shall not completely waive the water quality impact assessment requirement. The impact statement shall be prepared by qualified persons acting within the limits of their professional expertise and license, and shall include the following:

1. Location of the components of the RPA, including the 100-foot RPA buffer and the location

of any water body with perennial flow;

2. Location and nature of any proposed encroachments into the RPA buffer area including the type of paving material; areas of clearing or grading; and the location of any structures, driveways and other impervious cover;

3. Type and location of any proposed encroachments into the RPA buffer area including the type of paving material; areas of clearing or grading; and the location of any structures, driveways and other impervious cover;

4. Calculation of pre- and post-development pollutant loading in accordance with Section III-6.10.B(8));

5. Identification and status of any required wetlands permits from federal, state, or local agencies;

6. An erosion and sediment control plan in accordance with the requirements of Accomack County's Erosion and Sediment Control Ordinance.

D. Evaluation Procedure

1. The Zoning Administrator may request review of the water quality impact assessment by the Department of Environmental Quality (DEQ). Any comments by DEQ will be considered by the Planning Commission provided that such comments are provided by DEQ within 30 days of the request.

2. Upon the completed review of a water quality impact assessment, the Zoning Administrator will determine if any proposed modification or encroachment into the buffer area is consistent with the purpose and intent of this Article or if the proposed development is consistent with the purpose and intent of this Article. The Zoning Administrator will make a finding based on the following criteria in conjunction with Sec. III-6.12:

a. The necessity of the proposed encroachment into the buffer area and the ability to place improvements elsewhere on the site to avoid disturbance of the buffer area;

b. Within any RPA, the proposed development is water-dependent;

c. The disturbance of wetlands will be minimized;

d. Impervious surface is minimized;

e. The development, as proposed, meets the purpose and intent of this Article;

f. Proposed erosion and sediment control devices are adequate to achieve the reductions in runoff and prevent off-site sedimentation;

g. Proposed best management practices, where required, or proposed stormwater management facilities and practices are adequate to control the stormwater runoff to achieve the required standard for pollutant control;

h. The development will not result in unnecessary destruction of plant materials on site;

i. The cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.

III-6.12 Plan of Development Process Any development or redevelopment exceeding 2,500 square feet of land disturbance shall be accomplished through a plan of development process prior to any clearing or grading of a site or the issuance of any building permit, to assure compliance with all applicable requirements of this Ordinance. The plan of development process shall generally be satisfied by the approval of a site plan, or a plot plan in accordance with the provisions in III-6.12.A and any additional plans or studies as required by the Zoning Administrator.

A. Plot Plans One copy of a plot plan drawn to scale for individual single-family dwellings or accessory structures for single-family residences or for commercial development which results in a land disturbance less than 10,000 square feet and which will result in an area of impervious surface of less than 16 percent of any lot or parcel, shall be submitted to the designated authority for review and approval. Any encroachment into an RPA shall require an applicant to prepare a site plan as outlined in III-6.12.B below, including the submission of a water quality impact assessment in accordance with Article III-6.11 of this Article.

1. Required Information At a minimum, the plot plan shall be drawn to scale and contain the following information:

a. A boundary survey of the site drawn to scale or site drawing showing the north arrow and property line boundaries and distances;

b. Area of the lot/parcel;

c. Location, dimensions, and use of proposed and existing structures including marine and temporary structures. In the case of temporary structures, the date when the structures will be removed must be indicated;

d. Location of all building restriction lines, setbacks, easements, covenant restrictions, and rights-of-way;

e. Dimensions and location of all existing driveways, parking areas, or other impervious surfaces;

f. Location of all existing and proposed septic tanks and drain field areas including reserve areas required according to III-6.10.B(6) and the location of all existing and proposed wells;

g. Limits of clearing and grading;

h. Specifications for the protection of existing trees and vegetation during clearing, grading, and all phases of construction;

i. Location of Resource Protection Area and Resource Management Area boundaries, as specified in III-6.6 of this Article;

j. Location of all erosion and sediment control devices;

k. Amount of impervious surface proposed for the site;

l. Plat notes

(i) All plans or plats submitted for approval subject to the CBPA Overlay District that include onsite sewage treatment systems shall include the following notations, as applicable: i) "Lots or parcels recorded on or after October 1, 1989, must have a 100% reserve drain field site for onsite sewage treatment systems located outside of the RPA;" and ii) "Onsite sewage treatment system(s) shall have pump out accomplished at least once every five years."

(ii) All plans or plats depicting a Resource Protection Area shall include a notation stating: "The Resource Protection Area (RPA) is to retain an undisturbed and vegetated 100-foot wide buffer area as specified in Section III-6.10.C of the Chesapeake Bay Preservation Area Overlay District of the Town Zoning Ordinance. Only water dependent facilities or redevelopment are permissible in the RPA, including the 100-foot wide buffer area."

B. Site Plan A site plan for any proposed development which will result in 10,000 square feet of land disturbance or greater, or any industrial development proposal shall be submitted to the designated authority for review and approval. Any encroachment into an RPA shall require an applicant to submit a water quality impact assessment in accordance with Section III-6.11 of this Article.

1. Required Information The applicant shall submit six (6) prints at a scale of 100 feet to the inch of the site plan to the designated authority. At a minimum, the site plan shall contain the information required for a plot plan above and the following additional information:

a. The proposed title of the project and the names and addresses of the professional(s)) preparing the plan, the owner or owners of record, and the applicant, if different, and a signature panel for the designated authority's approval;

b. Site boundaries, north arrow, scale, the present zoning, and current use of the property and all contiguous or abutting parcels;

c. Existing topography with a maximum contour interval of two (2) feet;

d. All wetlands permits required by law;

e. Limits of existing floodplains;

f. Existing natural land features, trees, water features and all proposed changes to these features shall be indicated on the site plan, including the location of all wooded areas before development, the proposed limits of clearing and all trees to be preserved in accordance with Section III-6.10.B(2) of this Article;

g. Public sanitary sewer system, public water mains, and fire hydrants;

h. Slopes, terraces, retaining walls, fencing and screening within required yards, and any shoreline stabilization structures;

i. Plans for collecting and depositing stormwater and method of treatment of natural and artificial watercourses, including a delineation of proposed limits of floodplains, if any, as created or enlarged by the proposed development;

j. Stormwater management plan which shows the following:

1. Location and design of all planned stormwater control devices;

2. Procedures for implementing non-structural stormwater control practices and techniques;

3. Pre- and post-development nonpoint source pollutant loadings with supporting documentation of all utilized coefficients and calculations;

4. For facilities, verification of structural soundness, including a Professional Engineer or Class MB Surveyor Certification;

5. The plan shall include a guarantee from the property owner that he or she and subsequent owners shall be responsible for any necessary maintenance or repairs.

C. Review by Zoning Administrator The Zoning Administrator shall review plot plans, site plans, and subdivision plans for compliance with all requirements of this Ordinance. Within 60 days of submission of a plot plan, site plan, or subdivision plan, the applicant shall be advised in writing, by formal letter or by legible markings on the plan, of any additional data that may be required or improvements that need to be made for compliance with this Ordinance.

D. Denial of Plan, Appeal of Conditions or Modifications In the event the plot plan or site plan is disapproved and recommended conditions or modifications are unacceptable to the applicant, the applicant may appeal such administrative decision to the Town Council. In granting an appeal, the Town Council must find such plan in accordance with all applicable ordinances and include necessary elements to mitigate any detrimental impact on water quality and upon adjacent property and the surrounding area, or such plan meets the purpose and intent of this

Ordinance. If the Town Council finds that the applicant's plan does not meet the above stated criteria, they shall deny approval of the plan.

III-6.13 Nonconformities The lawful use of a building or structure which existed on the effective date of this Article or which exists at the time of any amendment of this Article, and which is not in conformity with new provisions of this Overlay District may be continued in accordance the following provisions and the provisions in this Ordinance for Nonconforming Uses.

A. No change or expansion of use of an existing nonconforming structure shall be allowed with the exception that the Zoning Administrator may grant an application for existing structures on lots or parcels to provide for remodeling and alterations or additions to such nonconforming structures in accordance with Article VI of this Ordinance, provided that:

1. The alteration, use, improvement, or minor expansion of an existing structure does not increase the non-point source pollution load or degrade the quality of surface waters;

2. Any development, redevelopment, or land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of the Accomack County Erosion and Sediment Control Ordinance.

B. Unimproved nonconforming lots of record at the time of the effective date of this Ordinance which are of insufficient size to meet the minimum requirements of this Ordinance regarding area, frontage, setbacks, width, depth, side and rear yards, or Buffer Area requirements may be used as permitted by this Article or the regulations for the underlying district in which the lot is located, subject to the following:

1. Lots must comply with all minimum zoning requirements, provisions, and other applicable ordinances in effect on the date such lot was recorded, and

2. When the application of the full 100-foot wide buffer area would result in the loss of buildable area on a lot or parcel recorded prior to October 1, 1989 the Zoning Administrator may permit encroachments into the buffer area in accordance with the following:

a. Encroachments into the buffer area shall be the minimum necessary to achieve a reasonable buildable area for the principle structure and necessary utilities;

b. Where practicable a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel; and

c. The encroachment may not extend into the seaward 50 feet of the buffer area.

C. An application to alter or expand a nonconforming use shall be made to and upon forms

furnished by the Zoning Administrator and shall include for the purpose of proper enforcement of this Article the following information:

1. Name and address of applicant and property owner;

2. Legal description of the property and type of proposed use and development;

3. A sketch of the dimensions of the lot or parcel, location of buildings and proposed additions relative to the lot lines, and boundary of the Resource Protection Area;

4. Location and description of any existing private water supply or sewage system.

D. Approved applications shall become null and void 12 months from the date issued if no substantial work has commenced.

E. An application for the expansion of an existing legal principal nonconforming structure with a Resource Protection Area may be approved by the Zoning Administrator provided that the following findings are made:

1. The request for the waiver is the minimum necessary to afford relief;

2. Granting the waiver will not confer upon the applicant any specific privileges that are denied by this Article to other property owners in similar situations;

3. The waiver is in harmony with the purpose and intent of this Article and does not result in water quality degradations;

4. The waiver is not based on conditions or circumstances that are self-created of self-imposed;

5. In no case shall this provision apply to accessory structures.

III-6.14 Exemptions

A. Exemptions for Utilities, Railroads, and Public Roads

1. Construction, installation, operation, and maintenance of electric, natural gas, fiber optic and telephone transmission lines, railroads, and public roads and their appurtenant structures, including sidewalks and lighting, in accordance with (i) regulations promulgated pursuant to the Erosion and Sediment Control Law (Section 62.1-44.15:51 et seq. of the Code of Virginia) and the Stormwater Management Act (Section § 62.1-44.15:24 et seq. of the Code of Virginia), (ii an erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of Conservation and Recreation, or (iii) local water quality protection criteria at least as stringent as the above state requirements will be exempt from the Overlay District requirements. The exemption of public roads is further conditioned on the following:

a. Optimization of the road alignment and design, consistent with other applicable requirements, to prevent or otherwise minimize (i) encroachment in the Resource Protection Area and (ii) adverse effects on water quality;

b. Public roads as defined in Section 11 of this article are exempt from Overlay District requirements.

B. Construction, installation, and maintenance of water, sewer, natural gas and underground telecommunication and cable television lines owned, permitted or both by the Town of Onley shall be exempt from the Overlay District provided that:

1. To the degree possible, the location of such utilities and facilities shall be outside RPAs;

2. No more land shall be disturbed than is necessary to provide for the proposed utility installation;

3. All construction, installation, and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and permits and designed and conducted in a manner that protects water quality; and

4. Any land disturbance exceeding an area of 2,500 square feet complies with all Accomack County erosion and sediment control requirements.

C. Exemptions for Forestry Activities. Silvicultural activities are exempt from the requirements of this Article provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the January 1997 edition of "Forestry Best Management Practices for Water Quality in Virginia Technical Guide."

D. Exemptions in Resource Protection Areas. The following land disturbances in Resource Protection Areas may be exempted from the Overlay District: (i) water wells; (ii) passive recreation facilities such as boardwalks, trails, and pathways; and (iii) historic preservation and archaeological activities, provided that it is demonstrated to the satisfaction of the Zoning Administrator that:

1. Any required permits, except those to which this exemption specifically applies, shall have been issued;

2. Sufficient and reasonable proof is submitted that the intended use will not deteriorate water quality;

3. The intended use does not conflict with nearby planned or approved uses; and

4. Any land disturbance exceeding an area of 2500 square feet shall comply with all Accomack County erosion and sediment control requirements.

III-6.15 Exceptions.

A. A request for an exception to the requirements of Sections III-6.9 and III-6.10.C shall be made in writing to the Board of Zoning Appeals. It shall identify the impacts of the proposed exception on water quality and on lands within the RPA through the performance of a water quality impact assessment which complies with the provisions of Section III-6.11.

B. The Town of Onley shall notify the affected public of any such exception requests and shall consider these requests in a public hearing in accordance with 15.2-2204 of the Code of Virginia, except that only one hearing shall be required.

C. The Board of Zoning Appeals shall review the request for an exception and the water quality impact assessment and may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of this Article if the Board of Zoning Appeals finds:

1. Granting the exception will not confer upon the applicant any special privileges that are denied by this Article to other property owners in the Overlay District;

2. The exception request is not based upon conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels;

3. The exception request is the minimum necessary to afford relief;

4. The exception request will be in harmony with the purpose and intent of the Overlay District, and not injurious to the neighborhood or otherwise detrimental to the public welfare or substantial detriment to water quality; and

5. Reasonable and appropriate conditions are imposed which will prevent the exception request from causing a degradation of water quality.

D. If the Board of Zoning Appeals cannot make the required findings or refuses to grant the exception, the Board of Zoning Appeals shall return the request for an exception together with rationale for the decision to the applicant.

E. A request for an exception to the requirements of provisions of this Article other than Sections III-6.9 and III-6.10.C shall be made in writing to the Zoning Administrator. The Zoning Administrator may grant these exceptions provided that:

1. Exceptions to the requirements are the minimum necessary to afford relief; and

2. Reasonable and appropriate conditions are placed upon any exception that is granted, as necessary, so that the purposed and intent of this Article is preserved.

3. Exceptions to Section III-6.10.B may be made provided that the findings noted in Section III-6.15.C are made.

Article IV - Sign Regulations

IV-1 Statement of Purpose The following sign regulations are established to assure compatibility of signs with surrounding land usage, to enhance the economy of the Town, to protect the public investment in streets and highways, to promote the safety and recreational value of public travel, to preserve natural beauty and to promote the reasonable, orderly, and effective display of outdoor advertising.

IV-2 Outdoor Advertising Regulations No person except a public officer or employee in performance of a public duty, shall paste, post, paint, print, nail, tack, erect, place, maintain, or fasten any sign, pennant, flags, outdoor advertising signs, billboard, or notice of any kind, or cause the same to be done, facing or visible from any public street or public open space, except as provided herein.

IV-3 Height Regulations Signs shall not exceed a height of 20 feet above ground level or the street pavement surface to which it is oriented, whichever is higher.

IV-4 General Regulations

IV-4.1 Except for authorized traffic signs, no sign shall be erected at the intersection of any streets in such a manner as to create a traffic hazard by obstructing vision between heights of two and one-half (2 1/2) and eight (8) feet; or at any location where it may interfere with, obstruct the view of, or be confused with any authorized traffic sign.

IV-4.2 No sign will be erected which imitates or resembles any official traffic sign, signal or device or uses the words "Stop" or "Danger" prominently displayed or presents or implies the need or requirement of stopping or the existence of danger on any highway.

IV-4.3 No sign will be erected which advertises any activities which are illegal under State or Federal law or regulations in effect at the location of such sign or at the location of such activities.

IV-4.4 No sign will be erected which is inconsistent with State law or the provisions of this ordinance.

IV-4.5 No sign or display will be erected or placed either permanently or temporarily which involves noise, motion, scrolling messages, intermittent or video images, or rotation of any part of the structure or displays intermittent or flashing lights, without a Special Use Permit from the governing body.

IV-4.6 Signs that are larger or higher than provided in this ordinance may be allowed with a Special Use Permit granted by the governing body, with the exception of First Amendment signs as defined in Article II -Definitions.

IV-4.7 No signs shall be attached in any manner on any utility pole.

IV-5 Nonconforming Signs Any sign lawfully in existence at the time of the effective date of this ordinance may be maintained although it does not conform with the provisions of this ordinance. Such nonconforming signs shall comply in all respects with the requirements of Article VI relating to nonconforming uses.
If such nonconforming sign is destroyed, demolished, or removed due to any reason, it shall not be replaced without complying with all provisions of Article IV.

IV-6 Temporary Signs – Temporary signs may be up for 15 days free of charge and then pay the fee for the next 60 days. Temporary signs must be on the property where the activity occurs, except for non-profits.

IV-6.1 Feather Flags for Businesses – They are considered temporary and can be displayed for a period of 28 continuous days. They may be used for grand openings, short-term promotions or special events. They are limited to one every 20 feet of road frontage outside of public right of way with a maximum total of four flags. Size cannot exceed a maximum height of 10 feet and 2.5 feet in width overall and are to maintain a like new appearance. Faded, torn, weathered, damaged flags must be removed. The flags are allowed by permit, obtained at the Onley Town Office, and are limited to four events per year.

IV-6.2 Pennants for Businesses – They are considered temporary and can be displayed for a period of 28 continuous days. Size cannot exceed more than 10 linear feet in one direction and not more than 40 linear feet in total and are limited to 12" in length. They may be used for grand openings, short term promotions or special events. No pennant shall be erected so as to prevent free ingress or egress from any window, door, or fire escape. Pennants can only be located on-site of the business that is doing the advertising. Pennants must be adequately secured to either a structure, vehicle, or the ground. The pennants are allowed by a permit obtained from the Onley Town Office and are limited to four events per year.

IV-6.3 Commercial Real Estate Signage – Commercial Real Estate "For Sale" signs for business tracts abutting Rt. 13 not to exceed 16 square feet (example 4'X 4'). All other Commercial Real Estate signs not abutting Rt. 13 must not exceed 4 sq. fee (example 2'X 2').

Article V - Off-Street Parking

V-1 Statement of Intent The schedule below shall control the provision of parking spaces in the various Town zoning districts. The purpose of off-street parking provisions is to insure adequate access to any part of the Town by fire and emergency medical services, and to promote the economic well-being of the Town by creating a pleasant shopping climate.

V-2 Parking Space Size Parking space size shall be a minimum of 180 square feet with a width of nine (9) by 20 feet, with the exception of the Residential Zoned Districts, in which parking space size shall be a minimum of 91 square feet with a width of 7 (seven) feet and a length of 13 feet. Parking spaces required for the handicapped shall be 200 square feet with a width of 10 feet and a length of 20 feet.

Each space shall be unobstructed and shall be so arranged that any automobile may be moved without moving another, except in the case of parking for one- and two-family dwellings and in the case of parking for employees on the premises.

Minimum aisle widths required for parking areas shall be according to the following table.

	Minimum Aisle Width (in feet)	
Parking Angle (in degrees)	One Way	Two Way
45	13.5	18
60	17.5	18
90	22	22

V-3 Schedule of Off-Street Parking

Districts	Off-Street Parking Requirements
R-1	A minimum of three (3) parking spaces per dwelling unit (house).
B-G	One (1) parking space for each 200 square feet of gross floor area or fraction thereof, except as follows: Retail establishments - One space for each 200 square feet of gross floor area for buildings of 50,000 square feet or less in size; one (1) space for each 250 square feet of gross floor area for buildings of 50,000 square feet to 100,000 square feet in size; one (1) space for each 300 square feet of gross floor area for buildings of 100,001 to 400,000 square feet in size; one (1) space for 350 square feet of gross floor area for buildings larger than 400,000 square feet.

V-4 Additional Requirements The following uses are controlled separately from the above district-wide off-street parking regulations.

V-4.1 For churches, high schools, theaters, general auditoriums, and other similar places of assembly, at least one (1) parking space for every five (5) fixed seats provided in said building.

V-4.2 For medical, dental, and professional offices, and health care facilities, at least 10 parking spaces. Three (3) additional parking spaces shall be furnished for each doctor or dentist in such offices in excess of three (3) doctors or dentists.

V-4.3 For fraternal lodges, hunting clubs, golf courses, and country clubs, at least 25 parking spaces shall be provided. Additional parking may be required by the Zoning Administrator.

V-4.4 For post offices, at least one (1) for each 50 box holders but not less than 10 spaces.

V-4.5 For restaurants, at least one (1) parking space per table or booth plus six (6) for employees.

V-4.6 For motels, at least one (1) parking space for each accommodation shall be provided on the premises.

V-5 Parking space as required in the foregoing shall be on the same premises with the main building, except that in the case of buildings other than dwellings, spaces may be located as far away as 600 feet. Every parcel of land hereafter used as public parking areas shall be surfaced with gravel, stone, asphalt, or concrete. It shall have appropriate guards where needed as determined by the Zoning Administrator.

V-6 Minimum Requirements for Handicapped Access.

Total Parking Spaces in Lot	Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total

Parking spaces for handicapped persons shall comply with the most current Virginia Uniform Statewide Building Code as adopted by the Commonwealth of Virginia and shall be clearly marked "Handicapped Parking Only."

V-7 Lighting Regulations The following exterior lighting standards shall apply to all off-street parking areas required pursuant to this chapter.

1. All exterior lighting fixtures shall be designed, located, and arranged so as not to direct glare on adjoining streets or residential properties. Lighting fixtures shall be located no closer than nine and one-half feet from adjoining streets or residential property lines.

2. All exterior lighting fixtures shall comply with the shielding requirements of the table below. Excepted from these requirements are: Roadway and airport lighting, lighting activated by motion sensor devices, civic uses, construction or emergency

lighting, temporary event or seasonal lighting, and lighting associated with agricultural pursuits.

3. For the purposes of this chapter, a fully shielded fixture shall be defined as an outdoor lighting fixture that is shielded or constructed so that all light emitted is projected below a horizontal plane running through the lowest part of the fixtures.

TABLE OF SHIELDING REQUIREMENTS	
FIXTURE LAMP TYPE	**SHIELDING**
Low/High Pressure Sodium, Mercury	Fully Shielded
Metal Halide and Florescent - Over 50	Fully Shielded
Incandescent over 160 watts	Fully Shielded
Incandescent 160 watts or less	None required
Any light source of 50 watts or less	None required
LED lights	Fully Shielded
Note: "Incandescent" includes tungsten-halogen (quartz) lamps.	

Article VI - Nonconforming Lots

VI-1 Statement of Intent Unimproved nonconforming lots of record at the time of the effective date of this Ordinance which are of insufficient size to meet the minimum requirements of this ordinance regarding area, frontage, setbacks, width, depth, side and rear yard requirements may be used as permitted by this Article or the regulations for the underlying district in which the lot is located, subject to certain conditions.

VI-2 Lots must comply with all minimum zoning requirements and other applicable ordinances in effect on the date of recordation.

VI-3 The use of such nonconforming lots shall be subject to the requirements of the Board of Zoning Appeals as to setbacks, side yards and rear yards for same, and other provisions of this ordinance pertaining thereto.

VI-4 Procedure

VI-4.1 An application for a permit for the use of a nonconforming lot shall be made to the Board of Zoning Appeals through the Zoning Administrator, which application shall contain information as follows:

A. name and address of applicant and property owner

B. legal description of the property and a copy of the plat of survey thereof, showing date of recordation, if any

C. type of use proposed for the property

D. a sketch of the lot showing dimensions thereof and proposed location of structures thereon, in relation to streets, lot lines, Chesapeake Bay Preservation Areas (if applicable), structures on adjoining properties, and the location of proposed water supply and septic system the lot and the location of such systems on adjoining lots

VI-4.2 The Board of Zoning Appeals shall consider the application as it would an application for a variance, and after holding a public hearing following due advertisement thereof, the Board may grant the right to use said lot subject to reasonable requirements imposed by it relative to setback, side yard, rear yard, and other provisions of this ordinance pertaining thereto.

Article VII - Nonconforming Uses

VII-1 Continuation

VII-1.1 If at the time of enactment of this ordinance, any legal activity is being pursued, or any lot or structure is being legally utilized in a manner or for a purpose which does not conform to the provisions of this ordinance, such manner of use or purpose may be continued as herein provided.

VII-1.2 If any change in title of possession or non-renewal of a lease of any such lot or structure occurs, the use existing may not be continued.

VII-1.3 If any nonconforming use (structure or activity) is discontinued for a period exceeding two (2) years, that use shall be deemed abandoned and any subsequent use shall conform to the requirements of this ordinance.

VII-2 Procedure

VII-2.1 An application for a nonconforming use permit shall be made to and upon forms furnished by the Zoning Administrator and shall include for the purpose of proper enforcement of this Article, the following information:

A. name and address of applicant and property owner;

B. legal description of the property and type of proposed use and development;

C. a sketch of the dimensions of the lot or parcel, location of buildings and proposed additions relative to the lot lines, and boundary of the Resource Protection Area for

any lot or parcel located within a Chesapeake Bay Preservation Area;

D. location and description of any existing private water supply or sewage system.

VII-2.2 Upon determining that same is proper, a nonconforming use permit shall be issued by the Zoning Administrator.

VII-3 Repairs and Maintenance On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs provided that the cubic content of the structure as it existed at the time of passage or amendment of this ordinance shall not be increased. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

VII-4 Expansion or Enlargement

VII-4.1 A nonconforming structure to be extended or enlarged shall conform with the provisions of this ordinance.

VII-5 Restoration or Replacement

VII-5.1. If a nonconforming activity is destroyed or damaged in any manner, it shall be restored only if such use complies with the requirements of this ordinance, provided any such restoration is started within 6 months and completed within 18 months from the date of damage or destruction.

VII-5.2. If a nonconforming structure is destroyed or damaged in any manner, it shall be restored only within the existing construction footprint. If such a nonconforming structure can be made conforming during reconstruction, then it shall comply with the requirements of this ordinance.

VII-5.3. When a conforming or nonconforming structure, regardless of use, is damaged to any extent, either may be repaired or restored, provided any such repair or restoration is started within 6 months and completed within 18 months from the date of partial destruction.

Article VIII Administration and Enforcement

VIII-1 Zoning Administrator This ordinance shall be administered by the Zoning Administrator who shall be appointed by the Town Council and shall be assisted by such other persons as the Town Council may direct. The Zoning Administrator shall have all necessary authority to administer and enforce the provisions of this ordinance.

The Zoning Administrator is hereby empowered to enter and go upon any private or public property in the Town for the purpose of inspecting for compliance with this ordinance and of administration and enforcement hereof, provided that any and all such entries shall be in accordance with the general requirements of due process and nothing herein shall authorize or purport to authorize any unlawful search or seizure.

VIII-2 Zoning Permits

VIII-2.1 Buildings or other structures shall be erected, constructed, reconstructed, enlarged, demolished, relocated, or altered only after a zoning permit has been obtained from the Zoning Administrator. Fees shall be charged in accordance with Section VIII-6 of this Article. The zoning permit shall state that the proposed construction, use, or other activity is in accord with all provisions of this Zoning Ordinance. The Zoning Administrator may promulgate rules determining any additional information that may be required to accompany each application for a permit herein.

VIII-2.2 The Zoning Administrator shall act on any application received within 45 days after receiving the application, unless the property is located in the Chesapeake Bay Preservation Area. For property located within the Chesapeake Bay Preservation Area, the Zoning Administrator shall act within 90 days upon receipt of the application. If formal notice in writing is given to the applicant, the time for action may be extended as reasonably necessary.

VIII-3 Certificate of Compliance Land may be used or occupied, and buildings structurally altered or erected may be used or changed in use only after a certificate of compliance has been issued by the Zoning Administrator. Such a permit shall state that the building or the proposed use, or the use of the land, complies with the provisions of this ordinance. A similar certificate shall be issued for the purpose of maintaining, renewing, changing, or extending a nonconforming use. A certificate of compliance either for the whole or part of a building shall be applied for simultaneously with the application for a zoning permit. The permit shall be issued within 10 days after the erection or structural alteration of such building or part has conformed with the provisions of this ordinance.

VIII-4 Required Information Each application for a zoning permit shall be accompanied by three (3) copies of a scale drawing. The drawing shall show the size and shape of the parcel of land on which the proposed building is to be constructed, the nature of the proposed use of the building or land, and the location of such building or use with respect to the property lines of said parcel of land and to the right of way or any street or highway adjoining said parcel of land. Any other information which the Zoning Administrator may deem necessary for consideration of the application may be required. If the proposed building or use is in conformity with the provisions of this ordinance, a permit shall be issued to the applicant by the Zoning Administrator. One copy of the drawing shall be returned to the applicant with the permit.

VIII-5 Violations and Penalties Any person who violates any provision of the zoning ordinance or any amendment thereto, or who fails to perform any act required hereunder or does any prohibited

act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than $50.00 nor more than $250.00 for the first offence with each business day during which the same violation occurs, constituting a separate offence, up to a total of not more than $5000.00 in a twelve (12) month period. If the violation is uncorrected at the time of conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than $50.00 nor more than $1,000, and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of not less than $100 nor more than $1,500. Any violation of this ordinance is hereby declared to be a public nuisance per se and shall be enjoined to cease.

VIII-6 Fee Schedule Fees shall be imposed as follows:

Zoning Ordinance (copy)	$100.00
Zoning Permits:	
R-1 Residential District	$50.00
B-G Business, General District	$0.10 sq. ft.
M-1 Industrial, Limited District	$0.10 sq. ft.
Certificate of Compliance	
R-1 Residential District	$ 20.00
B-G Business, General District	$ 100.00
M-1 Industrial, Limited District	$ 100.00
Nonconforming Use Permit	$ 500.00
Change of Use Permit	$ 500.00
Special Use Permit	$ 500.00
Variance/BZA Application	$ 500.00
Rezoning	$ 1000.00
Water Quality Impact Assessment Review	$ 500.00
Signs	$ 150.00
Temporary Sign Permit	$ 50.00

In addition to the foregoing fees, the applicant for any permit, Special Use Permit, variance, rezoning, or water quality impact assessment review shall pay all costs of any required advertisements and notices. All fees and costs paid shall be non-refundable.

Article IX Special Use Permits

IX-1 Statement of Intent It is recognized in this ordinance that certain uses are not necessarily incompatible with the uses traditionally associated with standard zoning districts, if the proper mitigating conditions are enacted along with the proposed use. Therefore, such uses have been designated as special uses, and have been included in Article III. Such uses are allowed in the associated districts upon the issuance of a Special Use Permit by the Onley Town Council.

IX-2 Procedure An application for a Special Use Permit may be submitted by the property owner, contract owner, or optionee of the property affected. Procedures for application and review shall be as follows:

A. The applicant shall submit an application to the Zoning Administrator. Such application shall be accompanied by evidence that the specific criteria set forth in the ordinance for the special use requested will be met. Accompanying maps showing the site of the proposed use may be required.

B. The Zoning Administrator shall review the application, visit the site, request additional information or review by other agencies, and formulate and transmit a recommendation to the Town Council.

C. The Town Council shall hold a public hearing in accordance with Section 15.2-2204 of the Code of Virginia, in order to receive public comment and to decide upon the Special Use Permit application. Such public hearing shall be scheduled to coincide with the regularly scheduled Town Council meeting that most closely follows the Council's receipt of the Special Use Permit application. If the requirement for proper notice for a public hearing makes such regularly scheduled Town Council meeting impractical, the public hearing shall be scheduled for the Town Council meeting one meeting hence from the meeting most closely following receipt of the application by the Town Council.

D. If the Town Council requests a recommendation from the Planning Commission regarding the issuance of the Special Use Permit, a joint public hearing shall be held. The Planning Commission recommendation shall be transmitted to the Town Council by the Town Council's first meeting after the date the public hearing is held.

IX-3 Conditions and Bonds The Town Council may impose conditions, limitations, or other special requirements as it deems necessary to protect the public health, safety, and general welfare, such as, but not limited to, the following:

A. abatement or restriction of noise, smoke, dust, vibration, odors, wastes, or other elements that may affect surrounding properties;

B. establishment of setback, side, front, and rear yard requirements necessary for orderly expansion and for preventing traffic congestion;

C. provision for adequate parking and ingress and egress to public streets and roads necessary to prevent traffic congestion;

D. provision for adjoining property with a buffer or shield from view of the proposed use and/or structure;

E. limitation on signage or other structures to be placed upon property that may affect

surrounding properties;

F. establishment of a time limit for expiration after which the permit shall no longer be valid or shall require renewal; and

G. requiring a bond, in a reasonable amount determined by the Council, to be payable to the Zoning Administrator to insure compliance with the terms and conditions of any Special Use Permit.

IX-4 Review Standards The Zoning Administrator and Town Council shall consider the following in reviewing a special use application:

A. The proposed use and/or structure is allowed in the district in question with a Special Use Permit.

B. The proposed use and/or structure is consistent with the Town of Onley Comprehensive Plan.

C. The proposed use and/or structure will not tend to change the character and established pattern of development of the district in which it will be located.

D. The proposed use and/or structure, and accompanying parcel development, are in harmony with the uses permitted by right in the zoning district and with the intent of the zoning district regulations and will not adversely affect the use of neighboring property or impair the value thereof.

IX-5 Notification to Applicant After due consideration, the Town Council shall make a decision and promptly notify the applicant of its decision in writing, along with a justification for denial or special conditions.

IX-6 Effect of Approval The issuance of a Special Use Permit shall authorize the applicant to construct only such structure or conduct only such uses as are specifically made part of the Special Use Permit. No deviations, expansion, or other changes whatsoever shall be made from the term of the Special Use Permit without the express written consent of the Town Council.

IX-7 Implementation of Proposed Use and/or Structure and Accompanying Development

A. The proposed use and/or structure, and accompanying parcel development must be completed and operational within one year of the issuance of the Special Use Permit. An extension may be granted by the Zoning Administrator.

B. The Zoning Administrator shall review all Special Use Permits annually in March to ensure that all specifications of the Special Use Permit continue to be met. This review shall include a premises inspection for compliance. Any and all documentation required by governing agencies of Virginia and Accomack County (i.e., the Health Department) must be reviewed and current. These documents shall also include business licenses.

Article X Provisions for Appeal

X-1 Board of Zoning Appeals

X-1.1 A board of zoning appeals, which shall consist of no more than seven (7) and no fewer than five (5) residents of the Town but shall always be an odd number, shall be appointed by the Circuit Court of Accomack County according to the provisions of the Code of Virginia, Section 15.2-2308. Members of the Board may receive such compensation as may be authorized by the governing body. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.

X-1.2 The term of office shall be for five (5) years, except that original appointments shall be made for such terms that the term of one member shall expire each year. Members of the Board shall hold no other public office in the County or Town except that one may be a member of the local planning commission.

X-1.3 Any member of the Board shall be disqualified to act upon a matter before the Board with respect to property in which the member has a legal interest.

X-1.4 The Board shall choose annually its own chairman, vice-chairman, and secretary. The vice-chairman shall act in the absence of the chairman.

X-2 Powers of the Board of Zoning Appeals The Board of Zoning Appeals shall have the following powers and duties:

A. to hear and decide appeals from any order, requirements, decision or determination made by an administrative officer or Zoning Administrator in the administration or enforcement of this ordinance;

B. to authorize upon appeal in specific cases such variances from the terms of the ordinance as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed and substantial justice done, as follows:

When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of specific piece of property at the time of the effective date of the ordinance or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the use of the property or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the

applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance.

No such variance shall be authorized by the Board unless it finds:

1. that the strict application of the ordinance would produce undue hardship; and

2. that such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and

3. that the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

No such variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.

In authorizing a variance the Board may impose such conditions regarding the location, character and other features of the proposed structure for use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

X-2.3 Interpretation The Board of Zoning Appeals shall have the authority to hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by any such question, and after public hearing with notice as required by Section 15.2-2204 of the Code of Virginia, the Board may interpret the map in such a way as to carry out the intent and purpose of the ordinance for the particular section or district in question. The Board shall not have the power to change substantially the location of district boundaries as established by ordinance.

X-3 Applications for Variances Applications for variances may be made by any property owner, tenant, governmental official, department, Board, or bureau. Such applications shall be made to the Zoning Administrator in accordance with rules and regulations adopted by the Board. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the Board who shall place the matter on the docket to be acted upon by the Board. No such variances shall be authorized except after notice and hearing as required by Section 15.2-2204 of the Code of Virginia. The Zoning Administrator may also transmit a copy of the application to the Planning Commission which may send a recommendation to the Board or appear as a party at the hearing.

X-4 Appeal to the Board of Zoning Appeals An appeal to the Board of Zoning Appeals may be taken by any person aggrieved or by any office, department, Board, or bureau of the county or

municipality affected by any decision of the Zoning Administrator. Any written notice of a zoning violation or a written order of the Zoning Administrator shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days, and that the decision shall be final and unappealable if not appealed within 30 days. The appeal period shall not commence until such statement is given. Such appeal shall be taken within 30 days after the decision appealed from by filing with the Zoning Administrator, and with the Board, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise, than by a restraining order granted by the Board or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown. No such appeal shall be heard until after notice and hearing as required by Section 15.2-2204 of the Code of Virginia.

X-4.1 Appeals shall be mailed to the Board of Zoning Appeals c/o the Zoning Administrator, and a copy of the appeal mailed to the secretary of the planning commission. A third copy should be mailed to the individual official, department or agency concerned, if any.

X-5 Rules and Regulations

X-5.1 The Board of Zoning Appeals shall adopt such rules and regulations as it may consider necessary.

X-5.2 The meeting of the Board shall be held at the call of its chairman or at such times as a quorum of the Board may determine.

X-5.3 The chairperson, or, in their absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

X-5.4 The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall keep records of its examination and other official actions, all of which shall be immediately filed in the Town Hall and shall be a public record.

X-5.5 All meetings of the Board shall be open to the public.

X-5.6 A favorable vote of the majority of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which the Board is required to pass.

X-6 Public Hearing The Board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and decide the same

within 90 days. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of an administrative officer, or may decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or may affect any variance from the ordinance. The Board shall keep minutes of its proceedings and other official actions which shall be filed in the Town office and shall be public record. The chairman of the Board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

X-7 Decision of the Board of Zoning Appeals

X-7.1 Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer or any officer, department, Board, or bureau of the county or municipality, may present to the Circuit Court of the county a petition specifying the grounds on which aggrieved within 30 days after the filing of the decision in the Town Hall.

X-7.2 Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the Board of Zoning Appeals and shall prescribe therein the time within which a return thereto must be made and served upon the realtor's attorney, which shall not be less than 10 days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and on due cause shown, grant a restraining order.

X-7.3 If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

X-7.4 Costs shall not be allowed against the Board, unless it shall appear to the court that it acted in bad faith or with malice in making the decision from which appealed.

Article XI Amendments

XI-1 General Provisions The regulations, restrictions, and boundaries established in this Ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed by the governing body, provided:

XI-1.1 The Planning Commission shall hold at least one (1) public hearing on such proposed amendment after notice as required by law, and may make appropriate changes in the proposed amendment as a result of such hearing. Upon completion of its work, the commission shall present the proposed amendment to the governing body together with its recommendations and appropriate explanatory materials. Such public hearing may be held jointly with the governing body at its public hearing.

XI-1.2 Before approving and adopting any amendment, the governing body shall hold at least one (1) public hearing thereon, pursuant to public notice as required by law after which the governing body may make appropriate changes or corrections in the proposed amendments; provided, however, that no additional land may be zoned to a different classification than was contained in the public notice without an additional public hearing after notice required by law. An affirmative vote of at least a majority of the members of the governing body shall be required to amend the Zoning Ordinance.

XI-2 Effect of Repeal, Amendments, or Recodification of any Part of this Ordinance on prior Proceedings, Acts or Offenses The repeal, amendment, or recodification of any part of this Ordinance shall not affect any act, or offense done or committed, or any penalty incurred, or any right established, accrued or accruing on or before the effective date of such repeal, amendment or recodification, nor enlarge any such right or privilege, except as specifically provided by such repeal, amendment or recodification. Neither shall the repeal, amendment, or recodification of any part of this ordinance affect any proceeding, prosecution, suit, or action which may be pending, said prior laws being continued in full force and effect for those purposes.

Town of Onley Zoning Ordinance as duly adopted by the Onley Town Council in regular session on 2 May 2022

Certification: _____
Matthew D. Hart, Mayor

TESTE: _____
Jamye Salazar, Town Clerk

VOTE:

Corbin	yes	
Custis	yes	
Ferguson	yes	
Harmon	yes	
Pierson	yes	
Zember	yes	

Town of Onley Zoning Ordinance as duly amended by the Onley Town Council in Regular Session on November 6, 2023

Certification: _____
Henry E. Finney, Mayor

TESTE: _____
Jamye Salazar, Clerk

VOTE:

Bloxom	no	
Corbin	yes	
Ferguson	yes	
Hill	yes	
Lang	no	
Zember	no	
Finney	yes	(tie-breaker)

The effective date of this ordinance shall be from and after its adoption and amendment by the Onley Town Council and its provisions shall be enforced thereafter until repealed or amended.