

(n) Institutional use.

“Institutional use” means any development for institutional use of a site as defined under:

- (1) In the Glossary set forth as Appendix A to Title 18; or
- (2) The applicable zoning ordinance of a municipal corporation.

(o) Mixed-use development.

“Mixed-use development” means a new development consisting of both residential and non-residential uses, or one (1) or more different types of non-residential use, on the same site or part of the same new development.

(p) New development.

“New development” means any development or development activity for which a building permit or zoning certificate is issued after the effective date of this Subtitle, and which either increases the number of dwelling units or which increases total non-residential floor area.

(q) Nonresidential development.

“Nonresidential development” means any development for agricultural, commercial, industrial, or institutional use.

(r) Public facilities.

“Public facilities” means public improvements, facilities, or services necessitated by new development, including, but not limited to water resources, transportation, law enforcement facilities, public works, fire protection facilities, emergency service facilities, medical services, County facilities, water facilities, sewer facilities, flood control and drainage, solid waste disposal, open space, parks, utilities, and public schools.

(s) Public facilities expenditures.

“Public facilities expenditures” means funds appropriated in connection with the planning, design, engineering, and construction of public facilities; planning, legal, appraisal, and other costs related to the acquisition of land, financing, and development costs; the costs of compliance with purchasing procedures and applicable administrative and legal requirements; and all other costs necessary or incident to provision of the public facility.

(t) Public schools impact fee.

“Public schools impact fee” means a development impact fee imposed on residential development to fund the proportionate share of the costs of public schools; including land acquisition, buildings, equipment, and relocatable classrooms; and support buildings, vehicles, and major capital equipment.

(u) Residential development.

“Residential development” means any development for residential use, including commercial apartments.

(v) Residential use.

“Residential use” means any development for residential use of a site as defined under:

- (1) In the Glossary set forth as Appendix A to Title 18; or
- (2) The applicable zoning ordinance of a municipal corporation.

(w) Site-related improvement.

“Site-related improvement” means off-site capital improvements or facilities made necessary by new development; including but not limited to roadway construction, upgrades, or improvements, and traffic control devices or measures.

(x) Zoning certificate.

“Zoning certificate” means a permit:

(1) For the use or occupancy of a structure where a building permit is not required but the development of the structure will produce additional dwelling units or will increase non-residential floor area; and

(2) That is required under:

- (i) Section 18-1-138 of this Title; or
- (ii) The applicable zoning ordinance of a municipal corporation.

18-3-2 Purpose of Subtitle.

(a) Purpose.

The purpose of this Subtitle is to promote the health, safety, and general welfare of the residents of the County and its municipal corporations, by:

(1) Establishing uniform procedures for the imposition, calculation, collection, expenditure, and administration of development impact fees imposed on new development;

(2) requiring all new residential and nonresidential development to contribute its fair and proportionate share towards the costs of capital improvements reasonably necessitated by such new development;

(3) Providing a means of financing public facilities needed to accommodate new development in a safe and timely manner;

(4) ensuring that the new development paying development impact fees reasonably benefits from the appropriation of impact fee funds to public facilities provided to accommodate such new development;

(5) implementing the Queen Anne's County comprehensive plan and capital budget by ensuring that adequate public facilities are available in a timely and well-planned manner; and

(6) Ensuring that all applicable legal standards and criteria are properly incorporated in these procedures.

18-3-3 Effect on Other Subtitles.

(1) This Subtitle may not be construed to alter, amend, or modify any provision of Subtitle 1 of this Title. The provisions of Subtitle 1 of this Title shall be operative and remain in full force and effect notwithstanding any contrary provisions, definitions, or intentions that are or may be expressed or implied in this Subtitle.

(2) The payment of development impact fees shall not entitle the applicant to a building permit or zoning certificate unless all other applicable land use, zoning, planning, adequate public facilities, forest resource, platting, subdivision, and other related requirements, standards, and conditions have been met. Such other requirements, standards, and conditions are independent of the requirement for payment of a development impact fee.

(3) This Subtitle, including the specific development impact fee ordinances for particular public facilities, shall not affect, in any manner, the permissible use of property, density or intensity of development, design and improvement standards, or other applicable standards or requirements of the land development regulations of the County or any municipal corporation.

18-3-4 Establishment of Impact Fee Subareas.

An impact fee subarea is established for the purpose of ensuring that the collection of certain development impact fees is more directly tied to the expenditure of such fees, as set forth in the specific development impact fees ordinance, under this Subtitle. The impact fee subarea map is incorporated as part of this Subtitle by reference. The County Commissioners may amend the boundaries of the impact fee subareas at such times as may be deemed necessary to carry out the purposes and intent of this Subtitle and to comply with all applicable legal requirements for use of development impact fees.

18-3-5 Applicability of Development Impact Fees.

(a) Affected area.

This Subtitle shall apply to all new development within the County, including new development that takes place within the boundaries of any municipal corporation. Development impact fees for particular public facilities may apply to less than the entire County, as indicated herein.

(b) Type of development affected.

Except where specifically exempt by the provisions of this Subtitle, this Subtitle shall apply to all new development.

(c) Type of development not affected.

(1) No development impact fee shall be imposed on development for which a building permit or zoning certificate has been issued prior to the effective date of this Subtitle.

(2) No development impact fee shall be imposed on any new residential development that does not add a new dwelling unit; nor shall a development impact fee be imposed for alteration or expansion of an existing dwelling unit where no additional dwelling unit is created.

(3) No development impact fee shall be imposed on the alteration of existing non-residential uses where there is no increase in the non-residential floor area.

(4) No development impact fee shall be imposed on developments that are the subject of a valid development rights and responsibilities agreement containing provisions in conflict with this Subtitle, but only to the extent of the conflict or inconsistency.

(5) No development impact fee shall be imposed on the development of public facilities by the State of Maryland, the County, any municipal corporation, or the Federal government.

(d) Exempt development.

In accordance with the procedures set forth in Section 18-3-14 of this Subtitle, the following land use types may be exempt, either in whole or in part, from the requirements of this Subtitle as follows:

(1) No development impact fees shall be imposed on nonresidential development on a farm.

(2) No development impact fees shall be imposed upon any applicant for a building permit for residential housing units that are subsidized by any municipal corporation, County, State, or the federal government and are intended for low-income owners or tenants.

(3) No development impact fees shall be imposed on farm employee dwellings that:

(i) Are proposed within an AG zoning district; and

(ii) Are either subject to a MALPF easement or are located in a MALPF district.

(4) No public school impact fee shall be imposed on age-restricted adult or senior citizen housing, provided that each unit of housing shall contain a deed restriction recorded against the property, in form satisfactory to the County Attorney, which deed restriction shall provide that:

(i) The housing unit is restricted to occupancy by older persons, in compliance with the terms and provisions of the Federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. ' 3607;

(ii) No person under the age of eighteen (18) years shall reside within any such housing unit; and

(iii) The deed restriction shall provide that in the event the above restrictions are ever modified or violated, the owner of the property at the time the restrictions are modified or violated shall pay to the County the then-current Public School Impact Fee.

(5) Development impact fees imposed on non-residential development within a designated growth area or incorporated town shall be imposed in an amount that is fifty percent (50%) below that required pursuant to Section 18-3-16 of this Subtitle.

(6) Development impact fees imposed on non-residential development outside of a designated growth area or incorporated town shall be imposed in an amount that is twenty-five percent (25%) below that required pursuant to Section 18-3-16 of this Subtitle.

(e) Development impact fee subarea.

Impact fees for certain public facilities shall be collected and spent within a defined geographical area. The impact fee subareas are shown on the impact fee subarea map as incorporated by Section 18-3-4 of this Subtitle.

(f) Municipal corporations.

Development impact fees on new development within municipal corporations shall be collected by the County prior to issuance of a building permit or zoning certificate as required by this Subtitle. No municipal corporation shall issue a building permit or zoning certificate until the applicant demonstrates that all impact fees required by this Subtitle have been paid to the County.

18-3-6 Annual Review and Adjustments.

(a) Annual review.

(1) At least once every year not later than July 1st of each year, beginning July 1, 2003, and prior to County Commissioners adoption of the Annual Budget and capital improvements program, the Finance Director, or designee, shall coordinate the preparation and submission of an Annual Report to the County Commissioners on the subject of development impact fees.

(2) The Annual Report may include any or all of the following:

(i) Recommendations for amendments, if appropriate, to these procedures or to specific ordinances adopting development impact fees for particular public facilities;

(ii) Proposed changes to the Queen Anne's County capital improvements program, including the identification of additional public facility projects anticipated to be funded wholly or partially with development impact fees;

(iii) Proposed changes to the boundaries of impact fee subareas;

(iv) Proposed changes to development impact fee schedules as set forth in the ordinances imposing and setting development impact fees for particular public facilities;

(v) Proposed changes to any development impact fee calculation methodology; and

(vi) Any other data, analysis, or recommendations as the finance director, or designee, may deem appropriate, or as may be requested by the county commissioners.

(3) The Finance Director shall submit the Annual Report to the County Commissioners, which shall receive the Annual Report and which may take such actions as it deems appropriate, including, but not limited to, requesting additional data or analyses and holding public workshops and public hearings.

(b) Annual adjustment.

(1) On July 1, 2003, and on July 1st of each year thereafter in which this Subtitle is in effect, the amount of any development impact fee may be automatically adjusted to account for inflationary increases in the cost of providing public facilities utilizing the most recent 20-city annual national average data from the Engineering News Record Construction Cost Index.

(2) The Finance Director shall make the automatic annual adjustment unless the County Commissioners have, in their Annual Review, determined an alternate adjustment.

(3) Nothing herein shall prevent the County Commissioners from electing to retain existing development impact fees or from electing to waive the inflation adjustment for any given fiscal year.

18-3-7 Imposition and Enforcement of Development Impact Fees.

(a) In general.

A building permit or zoning certificate shall not be issued by the County or a municipal corporation for a new development until the development impact fees required under this Subtitle have been calculated and paid. The amount of the development impact fee due is the amount of the fee in effect on the date of issuance of the building permit or zoning certificate.

(b) Lien.

In the event new development is undertaken without the payment of all applicable development impact fees, the development impact fees shall:

(1) Be a lien against the site of development;

(2) Be levied, collected, and enforced in the same manner as real property taxes imposed by the county; and

(3) Have the same priority and bear the same interest and penalties as real property taxes.

(c) Actions to recover.

In the event a development impact fee is not paid as required by this Subtitle, the County Attorney may institute an action to recover the fee and enjoin the use of the property until the fee is paid. The person who fails so to pay shall be responsible for the costs of such suit, including reasonable attorney's fees.

18-3-8 Calculation of Development Impact Fees - Fee Schedule.

(a) In General.

An applicant shall be notified by the County or by the municipal corporation within which new development is located of the applicable development impact fee requirements at the time of application for a building permit or zoning certificate. At such time, the development impact fees shall be calculated by the Planning Director, and shall be paid by the applicant prior to the issuance of a building permit or zoning certificate.

(b) Calculation.

(1) Upon receipt of an application for a building permit or zoning certificate, the Planning Director shall determine:

(i) Whether the proposed new development constitutes a residential or non-residential use;

(ii) The specific type of residential or non-residential development, if applicable;

(iii) If residential, the number of new dwelling units;

(iv) If non-residential, the number of additional square feet of floor area (rounded up to the nearest square foot) and the proposed use; and whether the proposed use is in the same type of non-residential development as the prior use; and

(v) If applicable, the development impact fee subarea or subareas in which the new development is located.

(2) For proposed new development for which no specific land use type is listed in Section 18-3-16 of this Subtitle, the Planning Director shall apply the land use type that is most similar to the proposed new development in terms of impact on public facilities, based on the predominant characteristics of the proposed new development.

(3) The calculation of development impact fees due from a mixed-use development shall be based upon the development impact fee for each public facility generated by each land use type in the mixed-use development.

(4) The calculation of development impact fees due from a phased new development shall be based upon the development impact fees due for each specific land use within the phase of development for which building permits or zoning certificates are requested.

(5) After making these determinations, the Planning Director shall calculate the applicable development impact fee by multiplying the demand added by the new development, measured by either the number of new dwelling units or new floor area, by the amount of the applicable development impact fee per unit of development, and incorporating any applicable credit made pursuant to Section 18-3-10 of this Subtitle.

18-3-9 Site Specific Analysis.

(a) If the type of land use proposed for new development is not expressly listed in the particular development impact fee ordinance and schedule, the Planning Director shall:

(1) Identify the most similar land use type listed and calculate the development impact fee based on that land use; or

(2) Identify the broader land use category within which the specified land use would apply and calculate the development impact fee based on that land use category; or

(3) At the option of the applicant, determine the basis used to calculate the fee pursuant to an independent impact analysis for development impact fee calculation. This option shall be requested by the applicant on a form provided by the county for such purpose. If this option is chosen, the following shall apply.

(i) The applicant shall be responsible, at its sole expense, for preparing the independent impact analysis, which shall be reviewed for approval by the Planning Director prior to payment of the fee.

(ii) The independent impact analysis shall measure the impact that the proposed development will have on the particular public facility for which the impact fee is being assessed, and shall be based on the same methodologies used in the development of this Subtitle, and shall be in accordance with standard methodologies for the evaluation of impacts upon public facilities created by new development; and shall be performed by a person or firm with sufficient professional training and experience in the preparation of such analyses.

(iii) After review of the independent impact analysis submitted by the applicant, the Planning Director shall accept or reject the analysis and provide written notice to the applicant of its decision within twenty (20) working days. If the independent impact analysis is rejected, the written notice shall provide an explanation of the insufficiencies of the analysis.

(4) If the proposed development site is located within a municipal corporation, the Planning Director shall consult with the Planning Director of the municipal corporation prior to making a final decision.

(5) Pursuant to either the analysis of the Planning Director or the independent impact analysis submitted by the applicant and accepted by the Planning Director, the Planning Director shall calculate the development impact fee accordingly.

(b) The Planning Director's decision under this Section shall constitute a final administrative decision from which an appeal as provided in Section 18-3-15 of this Subtitle may be filed.

18-3-10 Development Impact Fee Credits.

(a) Applicability.

(1) The Planning Director shall grant a credit against any development impact fee imposed by this Subtitle upon any new development where the applicant has entered into a credit agreement with the County Commissioners to construct capital improvements or dedicate land, which:

(i) Are consistent with and implement the County capital improvements program,

(ii) Are funded by development impact fee revenue,

(iii) Are of the same category of public facility impacted by the proposed new development, and

(iv) Will be constructed or dedicated in accordance with the timing schedule set forth in the capital improvement program.

(2) No credit shall exceed development impact fees imposed by this Subtitle for the proposed new development.

(b) Procedure.

(1) The determination of the credit shall be undertaken through the submission of a proposed credit agreement to the Planning Director which agreement shall include the following:

(i) A proposed plan of specific capital improvements, specifically outlining the capital improvements that will be constructed in lieu of the required development impact fee and the time by which the capital improvements will be constructed; and

(ii) The projected costs for the suggested capital improvements, which shall be based on local information for similar capital improvements, along with a construction timetable for the completion thereof. Such estimated costs shall include the cost of construction, labor and materials, lands, easements and rights, surveys, plans and specifications, engineering and legal services, and all other expenses necessary or incident to determining the feasibility of such construction.

(2) The proposed plan and cost estimates shall be prepared by a person or persons qualified in the provision of the particular capital improvement, impact analysis, and economics.

(3) If the development site or the land or dedication of any structure for credit is located within a municipal corporation, the Planning Director of the municipal corporation shall be consulted regarding the proposed conveyance or dedication.

(4) Within twenty (20) working days of the submission of the proposed credit agreement, the Planning Director shall determine if the proposed agreement is complete. If it is determined that the proposed credit agreement is not complete, the Planning Director shall send a written statement to the applicant outlining the deficiencies and no further action shall be taken until all deficiencies have been corrected.

(5) Once the Planning Director determines the proposed credit agreement is complete, within twenty (20) working days, the Planning Director shall approve the agreement if it is determined that the proposed capital improvements are consistent with and implement the capital improvement program, as it applies to the specific category of capital improvement. If, within this time period, the Planning Director determines that either the suggested capital improvements are not consistent with or do not implement the capital improvement program, or that the proposed costs are not acceptable, the Planning Director shall propose changes to the agreement that are consistent with this Section.

(6) If the Planning Director approves the proposed credit agreement, or if the changes proposed by the Planning Director are acceptable to the applicant, the credit agreement shall be prepared and forwarded to the County Commissioners for final approval and execution.

(7) Upon execution of the credit agreement, the balance of development impact fees due, if any, shall be paid in accordance with this Subtitle and any land dedicated pursuant to the credit agreement shall be conveyed in fee simple to the County Commissioners free and clear of all leases and encumbrances.

(8) In the event the credit agreement contemplates the dedication of structures, the person required to pay development impact fees shall execute such easements and other instruments as may be necessary to authorize the County Commissioners to use the structures for public purposes.

(9) Any person may appeal the Planning Director's decision to approve or deny a proposed credit agreement under this Section, by filing an appeal in accordance with Section 18-3-14 of this Subtitle.

(c) Circumstances when credit not available.

Credit may not be given for conveyance of land or construction of facilities required as part of the Planning Commission approval of the project, or any conveyance or construction otherwise required for development under any other provision of State or County law.

(d) Timing of conveyance.

Any land awarded credit under this Section shall be conveyed no later than the time at which development impact fees are required to be paid. The portion of the development impact fee represented by a credit for construction shall be deemed paid when the construction is completed and accepted by the County for maintenance or when adequate security for the completion of the construction has been provided.

18-3-11 Administration of development impact fees.

(a) Collection.

(1) The Planning Director shall collect all applicable development impact fees at the time of issuance of a building permit or zoning certificate unless:

(i) The applicant is determined to be entitled to a full credit, pursuant to Section 18-3-10 of this Subtitle;

(ii) The applicant has been determined to be not subject to the payment of a development impact fee; or

(iii) The applicant has filed an appeal and has posted with the County a letter of credit in the amount of the development impact fee, as calculated by the Planning Director. Such letter of credit must first be approved by the County Attorney and Finance Director.

(2) The person required to pay development impact fees shall provide the Department with an accounting of the amount of development impact fees required under this Subtitle for each category of public facility.

(b) Development impact fee accounts.

A development impact fee account shall be established by the County Commissioners for each category of public facilities for which development impact fees are imposed. Such account shall clearly identify the category, account, or fund for which the development impact fee has been imposed. Subaccounts may be established for individual impact fee subareas. All development impact fees collected by the County or a municipal corporation shall be deposited in the appropriate development impact fee account or subaccount, which shall be interest bearing. All interest earned on funds deposited to such account shall be credited to and considered funds of the account. The funds of each such account shall be capable of being accounted for separately from all other County funds, over time. The County shall establish and implement necessary accounting controls to ensure that the development impact fee funds are properly deposited, accounted for, and appropriated in accordance with this Subtitle, and any other applicable legal requirements.

(c) Duties of Finance Director.

The Finance Director shall maintain and keep accurate financial records for each of the development impact fee accounts that:

- (i) Show the source and disbursement of all revenues; and
- (ii) Account for all fees received.

(2) The Finance Director shall make its financial records available for public inspection at reasonable times and under reasonable circumstances.

18-3-12 Appropriation of development impact fees.

(a) In General.

Development impact fee funds may be appropriated for public facilities, for public facility expenditures, and for the payment of principal, interest, and other financing costs on contracts, bonds, notes, or other obligations issued by or on behalf of the County or other applicable local governmental entities to finance such public facilities and public facility expenditures. All appropriations from development impact fee accounts shall be detailed in a budget adopted by the County Commissioners.

(b) Restrictions on appropriations.

Development impact fees shall be appropriated only:

(1) For the particular category of public facilities for which they were imposed, calculated, and collected. Development impact fees shall not be appropriated for funding any expenditure that would be classified in an accounting as a maintenance or repair expense or for operational or personnel expenses associated with the provision of a public facility;

(2) Where applicable, within the impact fee subarea where collected, unless the development impact fee funds will be appropriated for a public facility necessitated by or serving the new development as provided in Subsection (c) below; and

(3) Within six (6) years of the beginning of the fiscal year immediately succeeding the date of collection, unless the development impact fee funds will be appropriated in accordance with Subsection (d) below.

(c) Appropriation of development impact fee funds outside of subarea where collected.

Notwithstanding Section 18-3-12(b)(2) of this Subtitle, where the County is divided into impact fee subareas for the payment and expenditure of a particular development impact fee, development impact fee funds may be appropriated for a public facility located outside of the subarea where collected only if the demand for the public facility is generated in whole or in part by the new development or if the public facility will actually serve the new development. However, development impact fees may only be appropriated for a public facility located outside of the subarea where collected, if the benefits to property owners not paying the fee are incidental.

- (d) Appropriation of development impact fee funds beyond six (6) years of collection.

Notwithstanding Section 18-3-12(b)(3) of this Subtitle, development impact fee funds may be appropriated beyond six (6) years from the beginning of the fiscal year immediately succeeding the date of collection if the appropriation is for a public facility or capital improvement that requires more than six (6) years to plan, design, and construct, and the demand for the public facility is generated in whole or in part by the new development; or if the public facility will actually serve the new development; or where the capital improvements program prepared by the County for a particular category of public facility has used a longer time frame. The County shall document such appropriations.

18-3-13 Refund of Development Impact Fees.

- (a) Expiration or revocation of building permit or zoning certificate.

An applicant who has paid a development impact fee for a new development for which the necessary building permit or zoning certificate has expired or for which the building permit or zoning certificate has been revoked prior to construction shall be eligible to apply for a refund of development impact fees.

- (b) Failure of County to use or appropriate development impact fee funds within time limit.

The current property owner may apply for a refund of development impact fees paid by an applicant if the County has failed to use or appropriate the development impact fees collected from the applicant within the time limit established in Section 18-3-12(b)(3) of this Subtitle, unless such funds are used or appropriated in accordance with Section 18-3-12(d) of this Title.

- (c) Abandonment of development after initiation of construction.

An applicant who has paid a development impact fee for a new development for which a building permit or zoning certificate has been issued and pursuant to which construction has been initiated, but which construction is abandoned prior to completion and issuance of a certificate of occupancy, shall not be eligible for a refund unless the uncompleted building is completely demolished.

- (d) Administrative fee.

A 2% administrative fee, not to exceed \$500, shall be deducted from the amount of any refund granted and shall be retained by the County to defray the administrative expenses associated with the processing of a refund application.

- (e) Procedure and submittal requirements.

(1) Applications for a refund shall be made on a form provided by the County for such purposes and shall include all information required below. Upon receipt of a complete application for a refund, the Planning Director shall review the application and documentary evidence submitted by the applicant as well as such other information and evidence as may be deemed relevant, and make a determination as to whether a refund is due. Refunds by direct

payment shall be made following an affirmative determination by the Planning Director. No interest shall be paid by the County in calculating the amount of a refund.

(2) Applications for refunds due to abandonment of a new development prior to completion or due to expiration or revocation of a building permit or zoning certificate shall be made within sixty (60) days following expiration or revocation of the building permit or zoning certificate, or within sixty (60) days following the issuance of a valid County-issued demolition permit. The applicant shall submit:

(i) Evidence of the amount of the development impact fees paid by public facilities category and receipts evidencing such payments; and

(ii) Documentation evidencing the expiration or revocation of the building permit or zoning certificate prior to construction, or the approval of demolition of the structure pursuant to a valid county-issued demolition permit.

(3) Applications for refunds due to the failure of the County to appropriate development impact fees collected from the applicant within the time limits established in Section 18-3-12(b)(3) of this Subtitle, shall be made by the current property owner on forms provided by the County and shall be made within one hundred eighty (180) days of the expiration of such time limit. If a portion of the impact fees collected during a fiscal year have been expended or encumbered before the end of the sixth year following collection, the designated County office shall distribute refunds to the eligible property owner on a pro rata basis. The refund applicant shall submit:

(i) Evidence that the refund applicant is the property owner or the designated agent of the property owner;

(ii) The amount of the development impact fees paid by public facility category and receipts evidencing such payments; and

(iii) Documentation of the county's failure to appropriate development impact fee funds for relevant public facilities within the time limits established in Section 18-3-12(b)(3) of this Subtitle.

(f) Forfeiture of fees.

Failure to apply for a refund within the deadlines set forth in this Section shall constitute a forfeiture of any fees available for refund to the property owner or applicant.

(g) Method of refund payment.

The County may, at its option, make refunds of development impact fees by direct payment, by offsetting such refunds against other development impact fees due for the same category of public facilities for new development on the same property, or by other means subject to agreement with the property owner or applicant.

(h) Appeal.

The decision of the Planning Director shall be a final administrative decision from which an appeal as provided in Section 18-3-15 of this Subtitle may be taken.

18-3-14 Exemptions of Development Impact Fees.

(a) Application for exemption.

Pursuant to Section 18-3-5(d) of this Subtitle, applications for exemptions to the provisions of this Subtitle shall be filed with the Planning Director on forms provided by the County.

(b) Review of an application for exemption.

Upon receipt of a complete application for exemption, the Planning Director shall determine whether the proposed new development qualifies for an exemption pursuant to the provisions of Section 18-3-5(d) of this Subtitle. In determining whether an exemption is appropriate, the Planning Director shall consider only whether the proposed new development constitutes one of the land uses described in Section 18-3-5(d) of this Subtitle, and whether covenants, easements, and other required documentation, in a form satisfactory to the County Attorney, have been submitted where necessary to demonstrate conformance with Section 18-3-5(d) of this Subtitle.

(c) Notification to appropriate departments.

If the Planning Director determines that the proposed development qualifies for an exemption, the Planning Director shall notify the Building Official of the amount of the impact fee, if any, that should be imposed on the new development prior to issuance of a building permit or zoning certificate, and shall notify the Finance Director that the exemption has been approved and that a funding source other than development impact fees or other development exactions shall be used to fund public facilities in accordance with the adopted capital improvements program.

(d) Effect of grant of exemption.

If the County Commissioners grant an exemption of development impact fees otherwise due, the Finance Director shall transmit funds equal in amount to those exempted, from a source other than impact fees into the appropriate development impact fee account no later than the beginning of the fiscal year following the calendar year in which the exemption was granted.

18-3-15 Appeals.

An appeal may be taken by any person aggrieved by a final decision of a County Official or the County Commissioners. Appeals from decisions of a County Official shall be to the County Board of Appeals and shall be filed and administered in accordance with the provisions of Section 18-1-119 of this Title. Appeals from decisions of the County Commissioners shall be to the Circuit Court for Queen Anne's County.

18-3-16 Amount of impact fees.

As required by this Subtitle 3, residential and non-residential development impact fees shall be paid in the amounts set forth in (a) and (b) below, or as amended pursuant to Section 18-3-6 of this Subtitle.

(a) Residential impact fees.

Residential new development shall be subject to the following development impact fees.

Land Use by Type	Capital Improvement by Type		TOTAL (per d.u.)
	Public Schools (per d.u.)	Fire Protection (per d.u.)	
Single Family Detached	\$4,730	\$1,014	\$5,744
Residential other than Single Family Detached ¹	\$2,569	\$828	\$3,397

¹ Includes mobile homes

(b) Non-residential impact fees.

Non-residential new development shall be subject to the following development impact fees.

Land Use by Type	Capital Improvement by Type		TOTAL (per s.f.)
	Public School	Fire Protection (per SF)	
Comm/Shop. Ctr.			
50,000 SF or less	N/A	\$1.08	\$1.08
50,001-100,000 SF	N/A	\$0.95	\$0.95
100,001-200,000 SF	N/A	\$0.84	\$0.84
200,001 SF or greater	N/A	\$0.76	\$0.76
Office			
25,000 SF or less	N/A	\$1.53	\$1.53
25,001-50,000 SF	N/A	\$1.44	\$1.44
50,001-100,000 SF	N/A	\$1.35	\$1.35
100,001 or greater	N/A	\$1.27	\$1.27
Business Park	N/A	\$1.20	\$1.20
Light Industrial	N/A	\$0.87	\$0.87
Warehousing	N/A	\$0.48	\$0.48
Institutional	N/A	\$0.30	\$0.30

18-3-17 Public School Impact Fee - Service Area.

The applicable service area for imposition of a Public School Impact Fee is the entire County, including all municipal corporations.

18-3-18 Same - Amount of Impact Fee.

All new residential development in the service area shall be subject to the payment of a Public School Impact Fee payable at the time of issuance of a building permit or zoning certificate by the County or a municipal corporation, pursuant to Section 18-3-16 of this Subtitle, or as amended pursuant to Section 18-3-6 of this Subtitle.

18-3-19 Fire Protection Impact Fee - Service Area.

(1) The applicable service areas for imposition of a Fire Protection Impact Fee is the entire County, including all municipal corporations.

(2) The Fire Protection Impact Fee shall be collected and applied in accordance with the Impact Fee Subarea Map.

18-3-20 Same - Amount of Impact Fee.

All future residential and non-residential development in the service area shall be subject to the payment of a Fire Protection Impact Fee at the time of issuance of the building permit or zoning certificate by the County or a municipal corporation, pursuant to Section 18-3-16 of this Subtitle, or as amended pursuant to Section 18-3-6 of this Subtitle.

SUBTITLE 4. DEVELOPMENT RIGHTS AND RESPONSIBILITY AGREEMENT

18-4-1 Authority.

The County Commissioners for Queen Anne's County shall exercise the authority granted by Section 13.01 of Article 66B, Zoning and Planning, of the Annotated Code of Maryland to enter into development rights and responsibility agreements.

18-4-2 Definitions.

In this Subtitle, unless otherwise indicated, words and terms shall have the meaning assigned to them in the Glossary set forth as Appendix A to Title 18.

18-4-3 Applicability.

Any person having a legal or equitable interest in real property in Queen Anne's County may petition the County Commissioners for Queen Anne's County to enter into an agreement.

18-4-4 Contents of Development Rights and Responsibilities Agreement.

(a) At a minimum a development rights and responsibilities agreement shall contain the following:

- (1) A lawyer's certification that the petitioner has either a legal or equitable interest in the property;
- (2) The names of all parties having an equitable or legal interest in the property, including lien holders;
- (3) A legal description of the property subject to the agreement;
- (4) The duration of the agreement;
- (5) The permissible uses of the real property;
- (6) The density or intensity of use;
- (7) The maximum height and size of structures;
- (8) Description of the permits required or already approved for the development of the property;
- (9) A statement that the proposed development is consistent with applicable development regulations, the Comprehensive Plan and Growth Area Plan;
- (10) A description of the conditions, terms, restrictions or other requirements determined by the County Commissioners, or their designees, to be necessary to ensure the public health, safety and welfare; and

- (11) To the extent applicable, provisions for:
- (i) Dedication of a portion of the real property for public use;
 - (ii) Protection of sensitive areas;
 - (iii) Preservation and restoration of historic structures;
 - (iv) Construction or financing of public facilities; and
 - (v) Responsibility for attorney's fees, costs and expenses incurred by the County Commissioners in the event an agreement is abandoned or breached by the petitioner.

(b) An agreement may fix the period in and terms by which development and construction may commence and be completed, as well as provide for other matters consistent with this Title.

(c) Where a petitioner agrees to construct capital improvements with excess capacity, the agreement may provide for the reimbursement by future users, if such capacity will be used within ten (10) years of the agreement by a property owner whose development impacts are mitigated by the facilities provided by the petitioner. If a petitioner seeks reimbursement by future users of the improvements, the agreement shall:

(1) set forth the estimated cost of the capital improvements, based on a bidding process approved by the County;

(2) provide a schedule for initiation and completion of the capital improvements;

(3) identify the means of ensuring compliance with County construction requirements;

(4) identify all properties, other than the petitioner's, that may benefit from the provision of excess capacity by the petitioner and may be required to reimburse the petitioner for those improvements at some point in the future;

(5) Establish the level of impact that a future user must impose on the proposed facility in order to incur liability for a reimbursement under this paragraph;

(6) provide for notice, by certified mail, of the proposed agreement and the public hearing required below, to owners of property that may be required to reimburse the petitioner for those improvements at some point in the future; and

(7) describe the means of assessing and collecting future reimbursements for the proposed improvements.

18-4-5 Referral to Planning Commission.

Upon receipt of a petition to enter an agreement, the County Commissioners shall refer such petition to the Planning Commission for a determination whether the proposed agreement is

consistent with the Comprehensive Plan and, where applicable, the Growth Area Plan. The County Commissioners may not enter into an agreement unless the Planning Commission determines whether the proposed agreement is consistent with the Comprehensive Plan and, where applicable, the Growth Area Plan.

18-4-6 Public Hearing

Before an agreement may be executed by the County Commissioners, the County Commissioners shall hold a public hearing on the agreement. Notice of the hearing shall be published in a County newspaper of general circulation once each week for two (2) consecutive weeks, with the first such publication of notice appearing at least fourteen (14) days prior to the hearing. The notice shall contain the name of the petitioner, a brief description sufficient to identify the property involved, a fair summary of the contents of the petition and the date, time and place of the public hearing.

18-4-7 Amendment of Agreements.

(a) Subject to paragraph (b) of this Subsection and after a public hearing, the parties to an agreement may amend the agreement by mutual consent.

(b) The parties may not amend an agreement unless the Planning Commission determines whether the proposed amendment is consistent with the Comprehensive Plan and, where applicable, the Growth Area Plan.

18-4-8 Termination of Agreements; Suspension.

(a) The parties to an agreement may terminate the agreement by mutual consent.

(b) After a public hearing, the County Commissioners may suspend or terminate an agreement if the County Commissioners determine that suspension or termination is essential to ensure the public health, safety or welfare.

18-4-9 Applicable Laws, Regulations and Policies.

(a) Except as provided in paragraph (b) of this Subsection, the laws, rules, regulations and policies governing the use, density or intensity of the real property subject to the agreement shall be the laws, rules, regulations and policies in force at the time the County Commissioners and the petitioner execute the agreement.

(b) An agreement may not prevent compliance with the laws, rules, regulations and policies enacted after the date of the agreement, if the County Commissioners determine that imposition and compliance with these laws and regulations is essential to ensure the public health, safety or welfare of residents of all or part of Queen Anne's County.

18-4-10 Recording.

(a) An agreement shall be void if not recorded in the land records of Queen Anne's County within twenty (20) days after the day on which the County Commissioners and the petitioner execute the agreement.

(b) When an agreement is recorded, the County Commissioners and the petitioner, and their successors in interest, are bound to the agreement.

18-4-11 Enforcement by Interested Parties.

Unless terminated under Section 18-4-8 of this Subtitle, the County Commissioners or the petitioner, and their successors in interest, may enforce the agreement.

Title 18. Land Use and Development

Appendix A - Glossary

(a) In general.

In Title 18, the following words have the meanings indicated.

(1) Abut.

“Abut” means having a common border with, or being separated from such a common border by an alley, easement, or right-of-way.

(2) Access Lot.

“Access lot” means the lot that is the sole access to an adjacent lot and by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use.

(3) Accessory building.

(i) “Accessory building” means a structure that:

1. Is subordinate to and serves a principal building or a principal use;
2. Is subordinate in area, extent and purpose to the principal building or use served;
3. Is located on the same lot as the principal building or use served except as otherwise expressly authorized by provisions of this Title; and
4. Is customarily incidental to the principal building or use.

(ii) “Accessory building” does not include any portion of a principal building devoted or intended to be devoted to an accessory use.

(4) Accessory dock.

“Accessory dock” means a dock for not more than ten (10) boats that:

- (i) Is accessory to a restaurant or other commercial use that is adjacent to the water;
and
- (ii) Provides docking for patrons of the establishment for which no rent is charged.

(5) Accessory use.

“Accessory use” means a use that:

- (i) Is subordinate to and serves a principal structure or a principal use;
- (ii) Is subordinate in area, extent and purpose to the principal structure or use served;
- (iii) Is located on the same lot as the principal structure or use served except as otherwise expressly authorized by this Title; and
- (iv) Is customarily incidental to the principal structure or use.

(6) Acre.

“Acre” means an area of land equal to 43,560 square feet.

(7) Administrative subdivision.

“Administrative subdivision” means the adjustment, movement or elimination of a common property line between two (2) or more existing lots of record as authorized by this Title.

(8) Agency.

“Agency” means the County Commissioners, the Planning Commission, the Department of Planning and Zoning, the Department of Public Works and any other agency or department of the United States, the state or the county that participates in any review or approval authorized by this Title.

(9) Agency employee.

“Agency employee” means any elected or appointed official of an agency, any salaried or contractual employee of an agency and any attorney or agent of an agency.

(10) Agricultural easement.

“Agricultural easement” means a nonpossessory interest in land recorded among the Land Records of Queen Anne’s County that restricts land to agricultural uses and has been approved by MALPF, MET, Eastern Shore Land Conservancy, or similar government or nonprofit land conservancy agency or group.

(11) Agricultural employment.

“Agricultural employment” means a service or activity performed in connection with the:

- (i) Cultivation of soil or the raising, harvesting, handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market or to a carrier for transportation to market an agricultural or horticultural commodity in its unmanufactured state;
- (ii) Raising, sharing, feeding, caring for, training and management of livestock, bees or poultry; or

(iii) Operation and maintenance of ditches, canals, waterways or reservoirs used exclusively for supplying or storing water for farming purposes.

(12) Agricultural support.

(i) "Agricultural support" means a commercial facility that stores or sells only agricultural equipment or products (e.g., fertilizer, grain, or seed) or processes agricultural products not grown on site.

(ii) "Agricultural support" includes, but is not limited to, agricultural tourism (e.g. farm tours, summer camps and bird watching), grain elevators, seed-drying operations, heavy farm equipment sales, and seed, fertilizer, and agricultural chemical supply stores.

(13) Agriculture.

"Agriculture" means all methods of production or management of livestock, poultry, crops, vegetation and soil, other than commercial logging and timber harvesting operations; and includes:

(i) Tillage, plowing, seeding, fertilization, pest control, harvesting, installation of best management practices, and marketing;

(ii) Feeding, housing, grazing, raising, and maintaining animals such as cattle, dairy cows, sheep, hogs and poultry and the handling of their by-products;

(iii) Orchards, nurseries, vineyards, cheese making, and "U pick" operations; and

(iv) Silviculture, sod production, and aquaculture.

(14) Alley.

"Alley" means a service way providing a secondary means of access to abutting property and not intended for general traffic circulation.

(15) Amendment.

"Amendment" means any change, addition or modification to the provisions of this Title or the official Zoning Maps.

(16) Amenity.

"Amenity" means a natural or man-made feature that enhances a site.

(17) Apartment unit.

"Apartment unit" means a dwelling unit in a building containing three (3) or more dwelling units that the occupants rent or lease from the owner of the dwelling unit.

(18) Appeal.

“Appeal” means a procedure for obtaining review of a decision, determination, order or failure to act pursuant to the terms of this Title as expressly authorized by Subtitle 1, Part VII, Subpart 1 of this Title.

(19) Arcade.

“Arcade” means a continuous, semi-covered area, adjacent to public pedestrian areas.

(20) Arterial highway.

(i) “Arterial highway” means a road intended to provide for high-speed travel between or within communities or to and from collectors and expressways. Access is controlled so that only regionally significant land uses may take direct access to these streets.

(ii) Arterial highways” are designated in the Queen Anne’s County Comprehensive Plan.

(21) Arterial road.

“Arterial road” means a road that:

(i) Serves traffic movement between urban and regional areas;

(ii) Is characterized by limited/controlled access, channelized grade crossings and signals at major intersections; and

(iii) Is designated in the Transportation Element of the Comprehensive Plan.

(22) Arterial street.

“Arterial street” has the same meaning as arterial road.

(23) Attic.

“Attic” means the space between the ceiling beams of the top story and the roof rafters.

(24) Auction.

“Auction” means the offering for sale of new and used goods by means of a request or invitation for bids, but does not include retail stores.

(25) Authorized surety.

(i) “Authorized surety” means a performance guarantee and/or a maintenance guarantee in a form required by this Title.

(ii) “Authorized surety” includes, to the extent authorized by this Title:

1. A bond issued by a company authorized to provide surety in Maryland;
2. A letter of credit issued by a financial institution authorized to do business in Maryland; or
3. A cash deposit.

(26) Auxiliary sign.

“Auxiliary sign” means a sign that provides special information such as direction, tenant directions, hours of operation, or warnings and that does not include names, brand names or information regarding product lines or services.

(27) Average ground elevation.

“Average ground elevation” means the average level of the finished surface of the ground within twenty (20) feet of a building or structure.

(28) Base site area.

“Base site area” means the total site area less any portion of the site located in another zoning district.

(29) Basement.

“Basement” means the portion of a building located partially underground, having less than fifty-percent (50%) of its clear floor-to-ceiling height below grade and a floor-to-ceiling height of not less than 6 ½ feet.

(30) Bed-and-breakfast.

“Bed-and-breakfast” means a residential building:

- (i) That contains a permanently occupied dwelling unit;
- (ii) That contains no more than five (5) guest rooms, which may not have individual exterior entrances;
- (iii) That provides overnight lodging not exceeding thirty (30) consecutive days; and
- (iv) Where guests may receive only one (1) meal per day, to be served between the hours of 6:00 a.m. and 11:00 a.m.

(31) Bedroom.

“Bedroom” means a room in a residence marketed, designed or otherwise likely to function primarily for sleeping.

(32) Best management practices (BMPs).

(i) “Best management practices” (BMPs) mean conservation practices or systems of practices and management measures that control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxic substances and sediment.

(ii) Agricultural BMP’s include, but are not limited to, strip cropping, terracing, contour stripping, grass waterways, animal waste structures, ponds, minimal tillage, grass and naturally vegetated filter strips, and proper nutrient application measures.

(33) Buffer yard.

“Buffer yard” means a landscaped area of land along certain zoning district boundaries and streets, and between certain uses, designed to eliminate or minimize potential nuisances and to ensure desired character along public streets.

(34) Building.

(i) “Building” means a structure built, maintained, or intended for use for the shelter or enclosure of persons, animals, or property of any kind.

(ii) “Building” includes any part of the structure.

(iii) Where independent units with separate entrances are divided by party walls, each unit is a building.

(35) Building Code.

“Building Code” means the Building Code of Queen Anne’s County, adopted by the County Commissioners on January 3, 1984, as amended.

(36) Building front.

“Building front” means:

(i) The exterior wall of a building that faces the primary access point of the property;

or

(ii) The wall that contains the primary access into the building.

(37) Building height.

“Building height” means the vertical distance as measured from the average ground elevation to the highest point of the structure, except as otherwise provided herein.

(38) Business day.

“Business day” means a day of the week, excluding Saturday, Sunday and designated holiday observances, on which the office of the Clerk to the County Commissioners is open during its customary hours of 8:00 a.m. through 4:30 p.m.

(39) Business directional sign.

“Business directional sign” means an off-premises sign that provides information on one or more businesses intended to provide locational information to travelers on designated arterial roads.

(40) Camouflaged.

“Camouflaged” means a telecommunications facility that is disguised, hidden, or integrated within a structure that is not a tower, or is mounted within trees so as to be screened from view. Examples of camouflaged facilities include, but are not limited to, those incorporated into a flagpole with a flag, steeple, chimney, or similar structure.

(41) Campground.

“Campground” means a commercial, for-profit area used for camping and/or recreational vehicles, limited to tenancies of not more than thirty (30) calendar days.

(42) Canopy tree.

(i) “Canopy tree” means a tree that would occupy the upper canopy of a forest in a natural ecological situation, often referred to as a shade tree.

(ii) “Canopy tree” includes a beech, hickory, oak, sassafras, tulip tree, etc..

(43) Capacity

“Capacity” means the maximum number of individuals that may be accommodated by the use as determined by its design or by fire code regulations, whichever is greater.

(44) Capital budget.

“Capital budget” means the budget adopted by the County Commissioners from time to time, dedicated to identifying and financing needed capital improvements.

(45) Capital improvements.

“Capital improvements” means land acquisition, site development, site-related improvements, purchase of equipment, or construction of structures necessary for the expansion or construction of public schools and emergency service facilities in the County; and includes all related costs.

(46) Capital improvements program.

“Capital improvements program” means the schedule of capital improvements to be undertaken by the County as determined from time to time by the County Commissioners or as set forth in the capital budget.

(47) Caretaker dwelling’.

“Caretaker dwelling’” means a dwelling unit that is used exclusively by either the caretaker, manager, or operator of a principal permitted use and that is located on the same parcel as the principal use.

(48) Carry-out food service.

“Carry out food service” means an establishment in which the design of the physical facilities, the serving or packaging procedures permit or encourage the purchase of prepared, ready to eat food intended to be consumed off the premises, and where the consumption of foods in motor vehicles is neither permitted nor encouraged.

(49) Cellar.

“Cellar” means the portion of a building located partially underground having more than fifty percent (50%) of its clear floor-to-ceiling height below grade and with a floor-to-ceiling height of less than 6 ½ feet.

(50) Chesapeake Bay Critical Area.

“Chesapeake Bay Critical Area” means all land and waters defined in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland, including:

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

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

(51) Church.

“Church” means a building wherein persons regularly assemble for religious worship.

(52) Citation.

“Citation” means the description of an instrument or writing by reference to the names of all parties to the instrument, the date of the instrument and the place where the instrument is recorded among the land records.

(53) Cluster subdivision.

“Cluster subdivision” means a residential subdivision in which single-family residential dwelling units are concentrated in a discrete area of the existing lot such that significant open space is created and protected in accordance with the District Regulations set forth in Subtitle 1, Part III, Subpart 2 of this Title.

(54) Coastal floodplain.

“Coastal floodplain” means an area inundated by a 100-year storm as designated on the FEMA flood insurance maps whose surface elevation is seven (7) feet or less based on the national geodetic vertical datum of 1929.

(55) Coffee Shop

“Coffee shop” means an establishment that is engaged in serving food that is primarily not prepared on the premises and beverages.

(56) Collector highway.

“Collector highway” means a road that connects residential streets to the highway system and high-speed arterial roads or provides access to nonresidential uses and arterial streets.

(57) Collector road or street.

“Collector road” and “collector street” means a road that:

(i) Serves traffic movements between arterial and local roads and serves through traffic within local areas; and

(ii) Is designated in the Transportation Element of the Queen Anne’s County Comprehensive Plan.

(58) Co-location.

“Co-location” or “Co-located” means placement of an antenna on an existing tower, building, or other structure capable of supporting more than one antennas, dishes, or similar devices.

(59) Commercial apartment.

“Commercial apartment” means a dwelling unit located above the first floor of a commercial building.

(60) Commercial forestry.

“Commercial forestry” means commercial logging operations and/or selective cutting or clearing primarily for commercial purposes.

(61) Commercial stable.

“Commercial stable” means a building or land where horses are kept for remuneration, hire, sale or boarding.

(62) Commercial use.

“Commercial use” means any development approved by the County or a municipal corporation that involves the retail or wholesale marketing of goods and services. “Commercial uses” shall be categorized as follows:

(i) “High commercial uses” include the following and other similar uses of comparable intensity, scope, character, and impact: bowling alleys; package stores/ stores selling liquor, beer or soft drinks (in sealed containers, not for consumption on premises); retail sales or stores; recreational vehicle sales; convenience stores; convenience stores with gas pumps; fast-food restaurants; gasoline service stations; taverns; bars; shopping centers; regional shopping centers; new and used vehicle sales/service and repair with exterior storage and/or repair areas; light manufacturing and assembling of goods in conjunction with retail or wholesale sales (provided that all manufacturing and assembling activities are conducted indoors and such activities are clearly subordinate to the principal commercial use of the property).

(ii) “Medium commercial uses” include the following and other similar uses of comparable intensity, scope, character, and impact: auto accessory stores; commercial or trade schools (e.g., dance studios, schools for martial arts); grocery stores and supermarkets (excluding convenience stores); laundries; theaters and auditoriums (indoor); boat sales and repair; furniture sales; garden centers, garden supplies and greenhouses; lawnmower and garden equipment sales; auto repair with repair areas; warehouses with no exterior storage; and non-fast-food restaurants.

(iii) “Low commercial uses” include the following and other similar uses of comparable intensity, scope, character, and impact: business or professional offices; medical offices and clinics; veterinary offices; all other office uses; barbershops and hairdressers; ice cream stores and stands; dry cleaners; light mechanical repair stores (e.g., watch, camera, bicycle, television); photography; tailoring; upholstering and upholstery stores; print/ copy shop; banks and other financial facilities; service businesses; and travel agencies.

(63) Common area.

(i) “Common area” means any open space, private road, or other land, structure, or improvement that is designed or reserved for the common use or benefit of the property owners in any subdivision of two (2) or more lots or other planned residential development of two (2) or more units.

(ii) “Common area” does not include any public road or other land, structure, or improvement owned by the County or the State of Maryland or any other governmental agency.

(64) Community pier.

(i) “Community pier” means a boat docking facility used by owners and tenants of land within subdivisions and their guests, or owners and tenants of condominiums, apartments and other multiple-family residential uses and their guests.

(ii) “Community pier” does not include a private pier or commercial marina.

(65) Comprehensive Plan.

“Comprehensive Plan” means the Queen Anne’s County Comprehensive Plan text and all accompanying maps, charts and explanatory material adopted by the County Commissioners on May 21, 2002, and all amendments to the Comprehensive Plan.

(66) Conference center.

“Conference center” means a facility designed for the primary purpose of conducting training, discussions, meetings, conferences or seminars with attendant amenities required for such purposes and for the care of the participants, including facilities for lodging, food service and recreation.

(67) Convenience store.

“Convenience store” means an establishment where food, tobacco, drugs, periodicals, or similar items of household convenience are kept for retail sale, and which typically is open to the public beyond the normal sales hours of other retail establishments.

(68) Corner lot.

“Corner lot” means the lot abutting two (2) or more streets or roads at their intersection.

(69) Country inn.

“Country inn” means a building containing not more than twenty (20) individual rooms or suites of rooms for the purpose of providing overnight lodging facilities not to exceed thirty (30) consecutive days to the general public for compensation which also offers dining facilities for guests.

(70) Country store.

“Country store” means a small-scale, rural store providing a limited range of retail uses designed to serve surrounding agricultural and rural residential needs and tourists.

(71) County.

“County” means the County of Queen Anne’s in the State of Maryland.

(72) County road.

“County road” means a road or street that is maintained by the Department of Public Works, Roads Division and is a component of the County Road system.

(73) County road system.

“County road system” means those roads that are listed by the Department of Public Works, Roads Division as an official County road on the Annual Highway Mileage Report as approved by the Maryland Department of Transportation.

(74) County Commissioners.

“County Commissioners” means the Queen Anne's County Board of Commissioners.

(75) County Roads Ordinance.

“County Roads Ordinance” means Title 23 of the County Code.

(76) Covenant.

“Covenant” means a written undertaking by an owner that is required by this Title or imposed by the Planning Commission in accordance with authorization contained in this Title.

(77) Covenantor.

(i) “Covenantor” means a person who owns legal or equitable title to any land that is affected in any manner by a covenant.

(ii) “Covenantor” includes a person who holds any mortgage, deed of trust, or other lien or encumbrance on the land.

(78) Cutoff.

“Cutoff” means the point at which all light rays emitted by a lamp, light source or luminaire are completely eliminated (cutoff) at a specific angle above the ground.

(79) Cutoff angle.

“Cutoff angle” means the angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source, above which no light is emitted.

(80) Cutoff-type luminaire.

“Cutoff-type luminaire” means a luminaire with elements such as shields, reflectors or refractor panels that direct and cut off the light at a cutoff angle that is less than ninety degrees (90°).

(81) Day-care center.

“Day-care center” means a building that provides day care for children or adults on a regular basis.

(82) Dedication.

“Dedication” means the transfer of property interests from private to public ownership for a public purpose. The transfer may be fee-simple interest or of a less-than-fee interest, including an easement.

(83) Density.

“Density” means the number of dwelling units allowed per acre of base site area, rounded to the next lowest whole number.

(84) Department.

“Department” means the Queen Anne’s County Department of Planning and Zoning.

(85) Developed parcel.

“Developed parcel” means a lot on which residential density will be increased by deed restricting open space on a noncontiguous parcel.

(86) Developer.

“Developer” means the legal or beneficial owner or owners of a lot or parcel of any land proposed for development, including the option or contract purchaser.

(87) Development or development activities.

“Development or development activities” means:

- (i) The division of a parcel of land into two (2) or more parcels;
- (ii) The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structures;
- (iii) Any use or change in use of any structures or land;
- (iv) Any extension of any use of land; or
- (v) Any clearing, grading or other movement of land for which permission may be required pursuant to this Title.

(88) Development plan.

“Development plan” means a comprehensive development plan containing information pertaining to the developed parcel and its associated noncontiguous parcels.

(89) Development sign.

“Development sign” means a sign that, by symbol or name, identifies a residential, commercial or industrial development. A development sign may also provide an index of tenants or others in the development.

(90) Diameter at breast height (DBH).

“Diameter at breast height” (DBH) means a measurement of the size of a tree equal to the diameter of its trunk measurement at 4 ½ feet above the natural grade.

(91) Directional sign.

“Directional sign” means a sign that:

(i) Provides off-site directional information following a standard format for important municipal, emergency or educational uses; or

(ii) Identifies general commercial areas or places.

(92) District open space.

“District open space” means land that is restricted under Subtitle 1, Part III of Title 18 to open spaces and ancillary agricultural and recreational uses intended to preserve the rural and suburban character of the community.

(93) Double frontage lot.

“Double frontage lot” means a lot whose front and rear yards abut public or private roads or streets.

(94) Double-wide manufactured home.

“Double-wide manufactured home” means a manufactured home contained in at least two (2) premanufactured components designed to be joined into one integral component.

(95) Duplex.

“Duplex” means a two- (2) family dwelling, either stacked or sharing a common wall, designed for and occupied exclusively as the residence of not more than two (2) families, whether as renters or owners, each living as an independent house keeping unit.

(96) Drive thru food/ beverage stand

“Drive thru food/beverage stand” means an establishment that by design, physical facilities, and service permits customers to receive food and beverages offered for sale to the public while remaining in their vehicles.

(97) Dwelling.

“Dwelling” means a building or portion of a building that is designated or used for residential purposes.

(98) Dwelling unit.

“Dwelling unit” (DU) means a principal building, room or group of rooms providing, or intended to provide, living quarters for not more than one (1) family.

(99) Easement.

“Easement” means the authorization by a property owner for the use by another and for a specified purpose of any designated part of the property.

(100) Effluent Disposal.

“Effluent Disposal” means the disposal or treatment of sewage, water, or other liquid, either partially or completely treated, or in its natural state, whether generated on-site or off-site; including, spray irrigation facilities, sewage treatment plants, berm infiltration ponds, and other state and county approved facilities and activities.

(101) Effluent Disposal Use.

“Effluent disposal uses” means spray irrigation facilities; sewage treatment plants; community septic fields; berm infiltration ponds; and other state and county approved effluent treatment facilities that dispose of or treat effluent that is generated on or off site.

(102) Electronic sign.

“Electronic sign” means a sign whose message may be changed at intervals by electronic process or by remote control, including a device known as a “commercial electronic variable message sign.”

(103) Employee(s) on the largest work shift.

“Employee(s) on the largest work shift” means the maximum number of employees working at the facility during a single given day, regardless of the time period during which this occurs and regardless of whether any employee is a full-time employee. The largest work shift may occur on any particular day of the week, or a lunch or dinner period in the case of a restaurant.

(104) Erosion hazard area.

“Erosion hazard area” means an area designated as having moderate to high historic erosion rates on the Historical Shorelines and Erosion Rates Maps prepared by the Maryland Geological Survey, 1975.

(105) Existing lot.

“Existing lot” means a lot of record that exists at the time when an application is submitted for administrative, sliding scale, large lot, or any subdivision under this Title.

(106) Existing principal building.

“Existing principal building” means the principal building on the lot at the time when a residential accessory structure is erected.

(107) Exterior storage.

(i) “Exterior storage” means outdoor storage of fuel, raw materials, products, and equipment.

(ii) In the case of lumberyards, “exterior storage” includes all impervious materials stored outdoors.

(iii) In the case of truck terminals, “exterior storage” includes all trucks, truck beds, and truck trailers stored outdoors.

(108) Façade.

“Façade” means the exterior walls of a building exposed to public view.

(109) Family.

“Family” means one (1) or more persons related by blood, marriage, adoption or guardianship, or not more than five (5) persons not so related, occupying a dwelling unit and living as a single housekeeping unit.

(110) Family day-care center.

“Family day-care center” means a day-care center that, including any relatives of the care provider, cares for no more than eight (8) children or adults.

(111) Farm.

(i) “Farm” means a parcel or combination of parcels under the same ownership that is:

1. Classified as an agricultural use by the Maryland Department of Assessment and Taxation; and

2. Used for agricultural purposes, including farming, dairying, pasturing, agriculture, horticulture, floriculture, viticulture, aquaculture, silviculture and animal and poultry husbandry.

(ii) "Farm" includes necessary accessory uses for packing, treating or storing produce that are purely secondary to and support normal agricultural activities conducted on the parcel.

(iii) "Farm" does not include the business of garbage feeding of hogs or other animals or the raising of such animals as rats, mice, monkeys and the like for use in medical or other tests and experiments.

(112) Farm employee

"Farm employee" means a person who:

(i) Is employed full-time, on a permanent basis in the operation of a farm on which a farm employee dwelling is located; or

(ii) Is a member of the immediate family of the owner of the farm.

(113) Farm employee dwelling.

"Farm employee dwelling" means a dwelling on a farm that is used solely as a dwelling for farm employees and includes single-wide manufactured homes, but does not include migrant labor camps.

(114) Farm field.

"Farm field" means:

(i) Any five (5) acres or more in agricultural production of food or fiber for two (2) out of the last five (5) years; and

(ii) Any land that is fallow or set aside due to Soil Conservation Service best management practices, crop rotation or federal, state or local government programs.

(115) Farm stand.

"Farm stand," or "produce stand" means a structure or vehicle temporarily used by no more than two (2) growers in the sale of farm products, fifty percent (50%) or more of which have been grown within Queen Anne's County.

(116) Farmers market.

"Farmers market" means an establishment or premises used by more than two (2) growers in the sale of farm products, fifty percent (50%) or more of which have been grown within Queen Anne's County.

(117) Fast-food restaurant.

“Fast-food restaurant” means an establishment whose:

(i) Principal business is the sale of food and/or beverages in a ready-to-consume state for consumption:

1. Within the restaurant building;
2. Within a motor vehicle parked on the premises; or
3. Off the premises as a carry-out order; and

(ii) Principal method of operation usually involves serving food and/or beverages in paper, plastic or other disposable containers.

(118) Final certificate.

“Final certificate” means an occupancy certificate or a zoning certificate.

(119) First floor commercial apartment.

“First floor commercial apartment” means a dwelling unit located on the first floor of a building used primarily for commercial purposes.

(120) Floor area.

(i) “Floor area” means the sum of the gross area for each floor of a building’s stories measured from the exterior limits of the faces of the structure.

(ii) “Floor area” includes:

1. Habitable basement floor area; and
2. If the attic meets the Queen Anne’s County Building Code standards for habitable floor area, attic floor area.

(iii) “Floor area” does not include:

1. Cellars, unenclosed porches, or arcades;
2. Any floor space in an accessory structure or in a principal structure that is designed for the parking of motor vehicles in order to meet the parking requirements of this Title;
3. Floor space associated with a group day-care center that is an accessory to a principal commercial or industrial use, and is provided as a service to patrons or employees of the principal commercial or industrial use;

4. Floor space in structures that require only the issuance of a zoning certificate;
or

5. Floor space associated with commercial apartments.

(121) Floor area ratio (FAR).

“Floor area ratio” (FAR) means the total floor area of a building divided by the base site area. Where the lot is part of a larger development and has no buffer yard, that lot area may be used instead of the base site area.

(122) Footcandle.

“Footcandle” means a unit of illumination produced on a surface one (1) square foot in area on which there is a uniformly distributed flux of one (1) lumen.

(123) Fraternal organization.

Fraternal organization means a group of people formally organized for a common interest, usually cultural, religious, or entertainment with regular meetings, rituals and formal written membership requirements.

(124) Freestanding sign.

“Freestanding sign” means a sign not attached to a building, resting on or supported by poles, standards or any other type of base on the ground.

(125) Front lot line.

“Front lot line” means a lot line that separates a lot from a public or private street or road.

(126) Funeral home.

“Funeral home” means a service providing for the temporary interment, preparation, visitation and memorial of the dead.

(127) Garden center.

(i) “Garden center” means a place of business:

1. Where retail and wholesale garden products and produce are sold to the retail consumer; and

2. That imports most of the items sold, which may include plants, nursery products and stock, fertilizers, potting soil, hardware, power equipment and machinery, hoses, rakes, shovels and other garden and farm tools and utensils.

(ii) “Garden center” includes a greenhouse or nursery.

(128) Gas station.

“Gas station” means an establishment providing sales of vehicle fuel and services such as lubrication, oil and tire changes and minor repairs.

“Gas station” does not include an establishment providing paint spraying or body repair.

(129) Glare.

“Glare” means the brightness of a light source that causes eye discomfort.

(130) Graded road.

“Graded road” means a roadway or embankment located at or adjacent to ground level.

(131) Greenhouse.

“Greenhouse” means an enclosed structure, permanent or portable, that is used for the growth of small plants.

(132) Group day-care center.

“Group day-care center” means a day-care center that, including any relatives of the care provider, cares for nine (9) or more children or adults.

(133) Growth areas.

“Growth areas” means those lands designated and identified as most appropriate for future growth and residential density. The growth areas have been designated as follows: Stevensville, Chester, Kent Narrows, Grasonville, Centreville, and Queenstown.

(134) Habitable attic.

“Habitable attic” means the portion of an attic, accessible by a stairway, which has a ceiling height of at least 7 ½ feet above the attic floor.

(135) Hedgerow.

“Hedgerow” means an area typically occurring as a band approximately twenty (20) feet wide and dominated by smilax, black cherry, poison ivy, ailanthus, sumac and other forms of successional vegetation.

(136) Helipad.

“Helipad” means a landing pad for use by one (1) helicopter.

(137) Home occupation.

“Home occupation” means a business, profession, occupation, or trade conducted within a residential building or accessory structure for gain or support by a resident of the dwelling.

(138) Hotel.

“Hotel” means a building or group of buildings:

(i) Containing individual rooms or suites of rooms, each having a private bathroom, for the purpose of providing overnight lodging facilities for periods not to exceed thirty (30) days to the general public for compensation with or without meals; and

(ii) Which have common facilities for reservations and cleaning services and on-site management.

(139) Impact fee.

“Impact fee” means any charge, fee, or assessment that is:

(i) Levied as a condition of issuance of a building permit or development approval;
and

(ii) Intended to fund any portion of the costs of capital improvements or any public facilities.

(140) Impact fee subareas.

“Impact fee subarea” means a geographically defined area in the County that has been designated by the County Commissioners as an area in which new development will create the need for specified capital improvements to be funded in part or in whole by impact fees.

(141) Impact fee subarea map.

“Impact fee subarea map” means the map of development subareas adopted by the County Commissioners in which impact fees for specified capital improvements are imposed.

(142) Impervious surface.

“Impervious surface” means any man-made surface that is resistant to the penetration of water. “Impervious surface” includes areas of stored lumber, outdoor storage or display, and junkyards.

(143) Impervious surface ratio.

“Impervious surface ratio” means the total impervious surface area of a lot or site divided by the base site area.

(144) Incidental accessory structure.

“Incidental accessory structure” means an accessory structure that is:

- (i) So designed that it may be dismantled or moved with minimum labor and expense;
and
- (ii) Does not itself, or in combination with other incidental accessory structures, occupy more than five percent (5%) of the area of any yard.

(145) Industrial use.

(i) “Industrial use” means any development approved by the County or a municipal corporation that have the following characteristics and include the following categories of use.

1. “Light industrial uses” include wholesale distribution and manufacturing activities generally conducted indoors where nuisances associated with the use, such as noise, odor, smoke and dust are minimal; blacksmith shops; boat building; miniwarehouses (with and without outdoor storage); materials sales or storage yards (excluding asphalt or concrete mixing); bulk materials or machinery storage (fully enclosed); carpet and rug cleaning plants; contractors offices and equipment storage yards; dry-cleaning and laundry plants serving more than one outlet; extermination shops; food processing and packing plants; fuel oil (storage and sales); furniture cleaning plants; furniture refinishing shops; lumberyards; manufacturing (including the production, processing, cleaning, testing and distribution of materials, goods, foodstuffs and products) in plants with fewer than 500 employees on a single shift; mirror supply and refinishing shops; monument works; ornamental iron workshops; pilot plants; printing plants; scientific (e.g., research, testing or experimental) laboratories; trade shops (including cabinet, carpentry, planing, plumbing, refinishing and paneling); truck terminals; wholesale business and storage; showrooms; incidental retail stores associated with building and plumbing supply distribution operations.

2. “Heavy industrial uses” have severe potential for negative impacts on any uses located relatively close to them; differ from light industrial uses in that they require unenclosed structures that are large, tall and unsightly, such as concrete batching plants; have severe potential for generation of odor and may involve large amounts of exterior storage; and because of their scale, are likely to have a regional impact.

3. “Heavy industrial uses” include public airports and public heliports; manufacturing activities (including outdoor storage), a significant part of which may be conducted outdoors, where nuisances associated with the use such as noise, odor, smoke and dust are significant; asphalt or concrete mixing plants; bulk material or machinery storage (unenclosed); motor or rail terminals; and manufacturing (including the production, processing, cleaning, testing and distribution of materials, goods, foodstuffs and products) in plants with 500 or more employees on a single shift.

4. “Extraction and disposal uses” create major disruptions to the area’s environment, even when carefully regulated and are not acceptable as a neighbor in a residential environment. Dust, dirt, noise and unsightly conditions can be anticipated.

5. “Extraction and disposal uses” include junk, scrap or salvage yards; landfills (including rubble landfills); sludge disposal or storage; resource recovery facilities, trash compaction, waste or trash transfer stations and any other form of waste management facilities; all extraction operations that disturb more than five acres; dredge disposal uses that disturb more than ten (10) acres of land; and all non-lateral oil and gas drilling and extraction.

6. “Extraction and disposal uses” do not include extraction associated with aquaculture.

7. “Minor extraction and dredge disposal uses” include dredge disposal sites that disturb less than ten (10) acres; gravel, sand or similar extraction; lateral oil and gas drilling and extraction; and storage operations that disrupt five (5) or less acres of land.

8. “Minor extraction and dredge disposal uses” does not include extraction associated with aquaculture.

(146) Institutional use.

“Institutional use” means uses approved by the County or a municipal corporation, including:

(i) Outdoor recreational uses;

(ii) Institutions such as aquariums, youth camps, cemeteries, churches, conference centers associated with nonprofit institutions, community or recreational centers, gymnasiums, privately owned libraries or museums, indoor recreational centers, public or private schools, indoor skating rinks (ice or roller), indoor swimming pools, tennis, racquetball, handball courts, rural country clubs and all other indoor recreational uses;

(iii) Institutional residential uses such as convents or monasteries, group-care facilities, nursing homes, protective living facilities, rooming houses and sheltered-care homes;

(iv) Public services;

(v) Public utilities;

(vi) Family day-care centers; and

(vii) Group day-care centers.

(147) Institutional residential use.

“Institutional residential use” includes convents or monasteries, group care facilities, rooming houses, migrant labor camps, and shelter care homes.

(148) Institutional use, for-profit.

“Institutional use, for-profit” means an institutional use that is operated by a group, agency, foundation, corporation or organization that is not recognized by the Internal Revenue Service of the United States Government as having nonprofit status.

(149) Institutional use, nonprofit.

“Institutional use, nonprofit” means an institutional use which is either operated by an agency of government or is operated by a group, agency, foundation, corporation or organization which is recognized by the Internal Revenue Service of the United States Government as having nonprofit status.

(150) Instrument of transfer.

“Instrument of transfer” means an instrument, in the form required by this Title, by which one or more development rights are transferred.

(151) Junkyard.

“Junkyard” means any land or structure used for a salvaging operation, including, but not limited to, the storage and sale of wastepaper, rags, scrap metal and discarded materials and the collection, dismantlement, storage, and salvage of one(1) or more untagged, inoperative vehicle.

(152) Kennel.

“Kennel” means any structure in which dogs or cats are kept for sale, boarding, grooming or breeding, for which any fee is charged.

(153) Landscape surface area.

“Landscape surface area” means the surface area of land not covered by any impervious surface or used for outside storage or display that is maintained to support plant life.

(154) Landscape surface ratio

“Landscape surface ratio” means the total landscape surface area of a lot or site divided by the base site area.

(155) Large-lot subdivision.

“Large-lot subdivision” means a residential subdivision in which single-family residential lots are of sufficient size such that on-site lands are protected and the character of the entire community is preserved in accordance with the District Regulations set forth in Subtitle 1, Part III, Subpart 2 of this Title.