

**COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND**

**2005 Legislative Session**

**Legislative Day # \_\_\_\_\_**

**BILL NO. \_\_\_\_\_-2005**

**Introduced by: \_\_\_\_\_**

**AN ACT concerning**

**Cluster Developments**

**FOR the purpose of**

Amending the Charles County Zoning Ordinance in order to implement mandatory rural clustering and revisions to existing cluster regulations

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**Date introduced: \_\_\_ / \_\_\_ / \_\_\_**

**Public Hearing: \_\_\_ / \_\_\_ / \_\_\_**

**Commissioners Action: \_\_\_ / \_\_\_ / \_\_\_ \_\_\_\_\_**

**Commissioner Votes: WC: \_\_\_\_, RF: \_\_\_\_, EP: \_\_\_\_, CK: \_\_\_\_, AS: \_\_\_\_**

**Pass/Fail: \_\_\_\_\_**

**Effective Date: \_\_\_ / \_\_\_ / \_\_\_**

**Remarks: \_\_\_\_\_**

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NOTE: CAPITALS indicate matter added to existing text.

[Brackets] indicate matter deleted from existing law.

**COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND**

**2005 Legislative Session**

Bill No. \_\_\_\_\_

Chapter. No. \_\_\_\_\_

Introduced by \_\_\_\_\_

Date of Introduction \_\_\_\_\_

**BILL**

1 AN ACT concerning

2 **Cluster Developments**

3  
4 FOR the purpose of

5 Amending the Zoning Ordinance Regulations and zoning maps to implement mandatory  
6 rural clustering and revisions to existing cluster regulations

7  
8 BY adding:

9 Chapter 297 - Zoning Regulations

10  
11 *Code of Charles County, Maryland*  
12 (1994 Edition, 2000 Supplement)

13  
14 BY repealing and reenacting, with amendments:

15 Chapter 297-Zoning Regulations

16  
17 *Code of Charles County, Maryland*  
18 (1994 Edition, 2000 Supplement)

19  
20 **ARTICLE XIV**  
21 **CLUSTER DEVELOPMENT**

22  
23  
24 **§ 297-219. Purpose FOR SUBURBAN CLUSTER DEVELOPMENTS**

25  
26 A. **SUBURBAN** cluster development procedures are intended to permit residential development  
27 with better designs than could be provided under regulations applicable to conventional  
28 subdivisions. **SUBURBAN** cluster development approvals allow variations in the base zone  
29 regulations but are not intended as and do not constitute rezonings.

30  
31 B. In **SUBURBAN** cluster developments, the density may be distributed non-uniformly, with  
32 variations in bulk and dimensional requirements. Cluster developments allow variation in  
33 lot sizes if open space is provided.

1 C. **SUBURBAN** Cluster developments shall satisfy the following objectives:

- 2
- 3 (1) Preserve the county's rural character by conserving natural or cultivated open space,  
4 including but not limited to farmlands, woodlands, meadowlands, wetlands, steep  
5 slope areas, stream valleys, and wildlife habitat areas.
- 6
- 7 (2) Protect the natural environment in the county by preserving substantial open space  
8 areas for the enhancement and preservation of environmentally sensitive lands and  
9 significant environmental features.
- 10
- 11 (3) Provide recreational opportunities to county and cluster development residents by  
12 making available open space and facilities for active and passive recreation.
- 13
- 14 (4) Provide well-defined streetscapes and neighborhood parks within cluster  
15 developments and preserve trees and forested areas in and adjacent to cluster  
16 developments.
- 17
- 18 (5) Provide for more efficient and economical subdivision streets, lots, and utility  
19 layouts; and, reduce infrastructure and utility costs.
- 20
- 21 (6) Allow for a greater variety of residential housing types in the county.
- 22
- 23 (7) Enhance neighborhood security without compromising privacy by increasing the  
24 density of housing within neighborhoods on cluster tracts.
- 25
- 26 (8) Encourage pedestrian and bicycle circulation, rather than automobile circulation, by  
27 providing well-designed sidewalks and hiker-biker paths between cluster  
28 neighborhoods and related community areas.
- 29
- 30 (9) Further the goals, objectives, and strategies of the *Charles County Comprehensive*  
31 *Plan*.
- 32

33 **§ 297-220. General Requirements FOR SUBURBAN CLUSTER DEVELOPMENTS.**

34

35 A. **SUBURBAN** Cluster development shall be permitted in the [AC, RC,] RR, RV, RL, RM,  
36 and RH zones consistent with the requirements of this article.

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B. A **SUBURBAN** cluster development shall meet the following requirements for recreational facilities:

- (1) A **SUBURBAN** cluster development shall include open space, passive recreational areas, and active recreational facilities, see Figures XIV-1 and XIV-3 for minimum standards. **SUBURBAN** cluster developments shall include one or more active recreational facilities, consistent with the requirements of Figure XIV-3, as a central feature of the project design.
- (2) Active recreational facilities, whether intended for **SUBURBAN** cluster development residents or the general public, shall be designed and located so as to be easily accessible and highly visible from public rights-of-way. All recreational facilities, whether active or passive, shall be integrated fully with the layout of the units in the **SUBURBAN** cluster development so that all **SUBURBAN** cluster development residents have ready access to, and use of, all such facilities.
- (3) Active recreational facilities, which are to provide recreational or community group opportunities for **SUBURBAN** cluster development residents, may include but are not limited to the following: sports facilities, playgrounds, equestrian centers, country clubs, health clubs, marinas, golf courses, amphitheaters, community arts centers, community meeting centers, and community day care centers.
- (4) Passive recreational areas, which promote environmental preservation and enhancement, may include but are not limited to the following: nature parks, nature preserves, nature trails, wildlife habitat areas, equestrian trails, and hiking trails.
- (5) Where a recreational facility constitutes or includes a use required in this chapter to be approved by special exception, the applicant shall obtain a Special Exception for that use from the Board of Appeals.

**§ 297-221: Residential Dwelling Types**

Residential dwelling types are permitted as shown in the Table of Permissible Uses. Dwelling types shown as PC in the Table of Permissible Uses shall be permitted subject to the requirements in Figures XIV-1, and XIV-2 and other sections of this Article.

1  
2  
3 **§ 297-222. Design requirements FOR SUBURBAN CLUSTER DEVELOPMENTS.**  
4

5 A. Dwellings near the periphery of the project shall provide adequate transition in density and  
6 type from neighboring areas or provide a buffer meeting the standards of Subsection **B [C(2)]**  
7 below.  
8

9 B. A bufferyard shall be landscaped to screen incompatible uses in accordance with one of the  
10 following:  
11

12 (1) A planting strip of at least 15 feet wide at or near the property line which shall  
13 include two canopy trees, four understory trees of mixed plant material (deciduous  
14 and evergreen) and 10 shrubs per 100 linear feet of buffer;  
15

16 (2) Landscaped, rolling, earth berm of at least four feet in height; or  
17

18 (3) A solid fence or wall of a minimum of five feet in height without advertising when  
19 designed with durable materials, texture and colors compatible with adjacent  
20 residential development.  
21

22 C. All lots shall be configured as to be contained completely outside all wetlands, floodplains,  
23 required wetland buffers and the resource protection zone. **], with the following exceptions:**  
24

25 **(1) Lots on cluster subdivisions in the AC and RC Zones may contain the resource**  
26 **protection zone if the lots can meet all minimum yard requirements outside the**  
27 **resource protection zone.]**  
28

29 D. The Planning Commission may require buffering and screening in excess of these minimum  
30 standards when adjacent uses are commercial or industrial.  
31

32 **§ 297-223. SUBURBAN Cluster open space.**  
33

34 A. The amount of open space for a **SUBURBAN** cluster development shall be in an amount in  
35 accordance with Figure XIV-1.  
36

37 B. **SUBURBAN** Clustering requirements.

- 1 (1) **SUBURBAN** Cluster open space shall be in areas usable for recreational or  
2 community purposes, including passive recreational purposes. It may also include  
3 permitted agricultural uses, as described below in Subsection B(5).  
4 (2) Lands set aside for public rights-of-way and tidal wetlands may not be designated as  
5 required open space.  
6  
7 (3) Up to 50 percent of the required **SUBURBAN** cluster open space may be designated  
8 on floodplains, non-tidal water bodies, or non-tidal wetlands if the cluster open space  
9 includes a hiker/equestrian trail system or other passive recreational area approved  
10 by the Planning Commission.  
11  
12 (4) Floodplains or wetland areas which have been filled may not be designated as  
13 required **SUBURBAN** cluster open space.  
14  
15 (5) **SUBURBAN** cluster open space may include permitted agricultural uses. Use of  
16 agricultural lands to meet open space requirements shall be encouraged when the site  
17 contains few significant natural features. Where the minimum residential lot size in  
18 the development is 40,000 square feet or greater, the required open space may be  
19 retained in agricultural use. The open space in agricultural use may be divided into  
20 parcels of 25 acres or more with one dwelling unit located on each parcel. Dwellings  
21 so located within required open space will count in calculating the overall density of  
22 the cluster subdivision.

23  
24 C. Public open space. **SUBURBAN** cluster open space shall be made available for the benefit  
25 of all county residents and dedicated to the state or county, unless the Planning Commission,  
26 after referral to the appropriate state or county agency, finds that the size, location, or type  
27 of development, the cost of development or maintenance of such **SUBURBAN** cluster open  
28 space or the availability of other public open space would make use by all county residents  
29 of the **SUBURBAN** cluster open space undesirable or unnecessary. All areas which are  
30 indicated for acquisition in the County Recreation and Open Space Plan or an equivalent  
31 state-approved plan shall be required by the Planning Commission to be dedicated. If the  
32 Planning Commission finds that the **SUBURBAN** cluster open space is not suitable for  
33 dedication based on the above standards, it shall be managed thru the premises applicable  
34 to private open space in Subsection D below.

35  
36 D. Private open space. Private **SUBURBAN** cluster open space shall be protected by legal  
37 arrangements satisfactory to the Planning Commission or its designee to assure the

1 maintenance and preservation of open space for its intended purposes. Covenants or other  
2 legal arrangements shall specify ownership of the **SUBURBAN** cluster open space; the  
3 method of maintenance; maintenance fee and insurance arrangements; and compulsory  
4 membership and compulsory assessment requirements. Such legal arrangements shall  
5 guarantee that any association formed to own and maintain cluster open space shall not be  
6 dissolved without the consent of the Planning Commission. The legal arrangements shall  
7 also include any other matters deemed necessary to carry out the purposes of **SUBURBAN**  
8 cluster development.

9  
10 **§ 297-224. Review procedures for SUBURBAN cluster developments.**

11  
12 An application for a suburban cluster development shall be reviewed and approved by the Planning  
13 Commission under the procedures applicable to a preliminary plan of subdivision. The following  
14 requirements shall also apply:

- 15
- 16 A. An application shall include a description of the size, location, and use of the open space  
17 areas and recreational facilities to be provided.
  - 18
  - 19 B. A **SUBURBAN** cluster development shall meet the minimum tract open space requirements  
20 in Figure XIV-1 and shall meet all required findings for a cluster development in § 297-226.  
21
  - 22 C. An application shall identify the differences sought from the height, bulk, and dimensional  
23 requirements of this chapter and the design standards of the Subdivision Regulations. Any  
24 such difference shall remain within the standards established in Figure XIV-2 and is subject  
25 to Planning Commission approval. The Board of Appeals shall have no jurisdiction to grant  
26 variances from any zoning regulation in a **SUBURBAN** cluster development, except for  
27 variances on individual building lots which have been developed and continuously occupied  
28 for a minimum of two years.
  - 29
  - 30 D. The Planning Commission may add conditions to the approval of any suburban cluster  
31 development to protect adjacent properties and the neighborhood. All such conditions shall  
32 meet the purposes of cluster development in § 297-219. Violation of any condition shall  
33 constitute a violation of this Ordinance and shall be cause for revocation of the **SUBURBAN**  
34 cluster development approval or for the revocation or withholding of building, grading, or  
35 use and occupancy permits.
  - 36

37 **§ 297-225. Required findings FOR SUBURBAN CLUSTER DEVELOPMENTS.**

1 A. The Planning Commission shall find that the following requirements are met, in approving  
2 any **SUBURBAN** cluster development:

3  
4 (1) The **SUBURBAN** cluster development plan and the preliminary plan of subdivision  
5 provides for a total environment and design which are superior, in the reasonable  
6 judgment of the Planning Commission, to that which would be allowed under the  
7 regulations for conventional subdivisions.

8  
9 (2) The **SUBURBAN** cluster development plan meets all requirements in §§ 297-220  
10 and 297-221 and the approved design code, if any.

11  
12 (3) Public facilities available to the **SUBURBAN** cluster development, including sewer  
13 facilities, water facilities, school facilities, utilities, police facilities, fire and rescue  
14 facilities, transportation facilities, and parks and recreation facilities, will be adequate  
15 to serve the development.

16  
17 (4) Under the **SUBURBAN** cluster development plan, the natural environment of the  
18 subject property and any historic or archeological resources will be well protected  
19 and preserved.

20  
21 B. The Planning Commission may require modification of a proposed **SUBURBAN** cluster  
22 development plan, if it finds that by reasonable modification of proposed cluster open space,  
23 lots, or buildings, the plan will more fully meet the purposes in § 297-219 and the applicant's  
24 approved design code, if any.

25  
26 **§ 297-226. (Reserved)**

27  
28 **§ 297-227. Amendment of Approved Cluster Developments**

29  
30 A cluster development may be amended after initial approval without being processed as a new  
31 cluster development, subject to the following:

32  
33 A. If an approved cluster development is to be amended by varying the layout of cluster open  
34 space, community or recreational facilities, lot or block sizes, or other features, without  
35 amending the approved design code, if there is a design code, then the applicant may submit  
36 an amendment request in writing to the Zoning Officer. The Zoning Officer shall review and  
37 present the amendment request to the Planning Commission. The amendment request may

1 be approved unless the Planning Commission finds that the original cluster development is  
2 superior in its design or its relationship to surrounding properties or the natural environment.  
3  
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8 B. If an approved mixed residential cluster development is to be amended by altering the  
9 approved design code and varying the layout of cluster open space, community or  
10 recreational facilities, lot or block sizes, or other features, the amendment request shall be  
11 processed under the procedures for the initial approval of a mixed residential cluster  
12 development.  
13

14 C. If a property with an approved cluster development is re-zoned, in whole or in part, then an  
15 amendment may be filed to conform to the densities allowed in the new zone. If the  
16 amendment will require changes to the approved design code, then the application shall be  
17 reviewed under the same procedures applicable to an initial approval. If no changes to the  
18 approved design code are required, then the cluster development may be amended in  
19 accordance with the procedures in Subsection (a).  
20

21 **§ 297-228. Cluster Development Requirement Charts** [Amended 3-1-1999 by Ord. No. 99-16]  
22

23 See the figures included at the end of this article:

24 A. Figure XIV-1: Requirements for Suburban Cluster Developments.

25 B. Figure XIV-2: Schedule of Dimensional Requirements: Cluster Developments.

26 C. Figure XIV-3: Minimum Acceptable Facilities for Active Recreation.  
27

28 **§ 297-229. PURPOSE FOR RURAL CLUSTER DEVELOPMENT**  
29

30 **A. RURAL CLUSTER DEVELOPMENT PROCEDURES ARE INTENDED TO**  
31 **PERMIT RESIDENTIAL DEVELOPMENT WITH DESIGNS THAT INTEGRATE**  
32 **EXISTING RURAL LANDSCAPES IN A MANNER THAT WILL RETAIN THE**  
33 **LAND'S CAPACITY TO GROW CROPS, PRODUCE TIMBER, PROVIDE**  
34 **WILDLIFE HABITAT, PREVENT SOIL EROSION, CONTRIBUTE TO**  
35 **MAINTAINING CLEAN WATER AND AIR AND PRESERVE RURAL**  
36 **CHARACTER.**  
37

1 **B. CLUSTER DEVELOPMENTS SHALL SATISFY THE FOLLOWING OBJECTIVES:**

2  
3 (1) **PRESERVE THE COUNTY'S RURAL CHARACTER BY CONSERVING**  
4 **CROPLAND WHILE MINIMIZING IMPACTS TO FARMLANDS,**  
5 **WOODLANDS, MEADOWLANDS, WETLANDS, STEEP SLOPE AREAS,**  
6 **STREAM VALLEYS, AND WILDLIFE HABITAT AREAS.**

7  
8  
9  
10 (2) **PROTECT THE NATURAL ENVIRONMENT IN THE COUNTY BY**  
11 **PRESERVING SUBSTANTIAL OPEN SPACE AREAS FOR THE**  
12 **ENHANCEMENT AND PRESERVATION OF ENVIRONMENTALLY**  
13 **SENSITIVE LANDS AND SIGNIFICANT ENVIRONMENTAL FEATURES.**

14  
15 (3) **PROTECT PRODUCTIVE AGRICULTURAL SOILS FOR THE**  
16 **CONTINUED PRODUCTION OF FOOD AND FIBER.**

17  
18 (4) **MAINTAIN AND ENHANCE THE COUNTY'S HISTORIC FEATURES BY**  
19 **PROTECTING HISTORIC STRUCTURES AND ASSOCIATED**  
20 **VIEWSHEDS.**

21  
22 (5) **PROVIDE FOR MORE EFFICIENT AND ECONOMICAL SUBDIVISION**  
23 **STREETS, LOTS, AND UTILITY LAYOUTS; AND, REDUCE**  
24 **INFRASTRUCTURE AND UTILITY COSTS.**

25  
26 (6) **FURTHER THE GOALS, OBJECTIVES, AND STRATEGIES OF THE**  
27 ***CHARLES COUNTY COMPREHENSIVE PLAN.*(RESERVED)**

28  
29 **§ 297-230: GENERAL REQUIREMENTS FOR RURAL CLUSTER DEVELOPMENTS**  
30 **CONTAINING SIX OR MORE LOTS**

31  
32 **A. APPLICABILITY**

33  
34 **THE PROVISIONS OF THIS SECTION APPLY TO ALL SINGLE-FAMILY**  
35 **DETACHED SUBDIVISIONS WITHIN THE AC AND RC ZONES WITH**  
36 **THE FOLLOWING EXCEPTIONS:**

1           1.     **IN CASES WHERE THE NUMBER OF LOTS IS TO BE LIMITED**  
2                   **TO NO MORE THAN FIVE, THE REQUIREMENTS IN SECTION**  
3                   **297-231 SHALL APPLY.**

4  
5           2.     **IN CASES WHERE ALL PROPOSED LOTS ARE A MINIMUM OF**  
6                   **25 ACRES, CLUSTERING IS NOT REQUIRED, PROVIDED THAT**  
7                   **A NOTE IS RECORDED ON THE PLAT STATING THAT NO**  
8                   **FURTHER SUBDIVISION OF SUCH LOTS IS PERMITTED.**

9  
10  
11  
12   **B.     RURAL CLUSTER DEVELOPMENT IS MANDATORY IN THE AC AND RC**  
13           **ZONES FOR SUBDIVISIONS CREATING SIX OR MORE LOTS FROM A PARCEL**  
14           **THAT WAS IN EXISTENCE ON (DATE OF ADOPTION OF THIS AMENDMENT).**

15  
16   **C.     THE MINIMUM OPEN SPACE REQUIREMENT FOR RURAL CLUSTER**  
17           **DEVELOPMENT IS SIXTY-FIVE PERCENT (65%).**

18  
19   **D.     IN RURAL CLUSTER DEVELOPMENTS, THE DENSITY MAY BE DISTRIBUTED**  
20           **NON-UNIFORMLY, WITH VARIATIONS IN BULK AND DIMENSIONAL**  
21           **REQUIREMENTS.**

22  
23   **E.     RURAL CLUSTER DEVELOPMENTS SHALL BE DESIGNED TO FIT INTO THE**  
24           **EXISTING LANDSCAPE IN A MANNER THAT WILL RETAIN THE LAND'S**  
25           **CAPACITY TO GROW CROPS, PRODUCE TIMBER, PROVIDE WILDLIFE**  
26           **HABITAT, PREVENT SOIL EROSION, CONTRIBUTE TO MAINTAINING**  
27           **CLEAN WATER AND AIR AND PRESERVE RURAL CHARACTER. NEW**  
28           **BUILDINGS AND ROADS SHALL BE DESIGNED TO ENHANCE RATHER THAN**  
29           **TO REPLACE THESE IMPORTANT EXISTING FEATURES. SITE**  
30           **DISTURBANCE SHALL BE HELD TO A MINIMUM.**

31  
32   **§ 297-231: Residential Dwelling Types**

33  
34   Residential dwelling types are permitted as shown in the Table of Permissible Uses. Dwelling types  
35   shown as PC in the Table of Permissible Uses shall be permitted subject to the requirements in  
36   Figures XIV-1, and XIV-2 and other sections of this Article.

1 § 297-232. DESIGN REQUIREMENTS FOR RURAL CLUSTER DEVELOPMENTS

2  
3 A. ALL OF THE REQUIREMENTS LISTED IN THE CHARLES COUNTY  
4 SUBDIVISION REGULATIONS SHALL BE MET. WHERE THERE IS A  
5 DISCREPANCY BETWEEN MINIMUM STANDARDS OR DIMENSIONS NOTED  
6 HEREIN AND OTHER OFFICIAL REGULATIONS, THE MORE RESTRICTIVE  
7 SHALL APPLY.

8  
9  
10 B. PRELIMINARY PLAN

11  
12 1. A PRELIMINARY PLAN SHALL BE SUBMITTED SHOWING  
13 EXISTING FEATURES AND ALL POTENTIAL BUILDING LOTS,  
14 ROADS, AND OTHER SITE IMPROVEMENTS LOCATED IN  
15 ACCORDANCE WITH THE PROVISIONS OF THIS ORDINANCE.  
16 THE PURPOSE OF THIS APPROACH IS TO RESOLVE PROBLEMS  
17 BEFORE EXTENSIVE ENGINEERING BEGINS. IN THE EVENT  
18 THAT ANY OF THE INDIVIDUAL PROVISIONS OF THIS  
19 ORDINANCE, OR THE CHARLES COUNTY SUBDIVISION  
20 REGULATIONS, CONFLICT WITH EACH OTHER AS APPLIED TO  
21 A GIVEN SITE, THESE CONFLICTS SHALL BE NOTED IN  
22 WRITING BY THE APPLICANT AS PART OF THE PRELIMINARY  
23 PLAN SUBMITTAL.

24  
25 2. WAIVERS OR REDUCTIONS SHALL BE GRANTED BY THE  
26 PLANNING COMMISSION ON A CASE BY CASE BASIS AND  
27 LIMITED TO MINOR SUBDIVISIONS WHERE THE PROPOSAL  
28 DOES NOT SIGNIFICANTLY IMPACT THE FUTURE LAYOUT  
29 AND DEVELOPMENT OF THE PARENT TRACT (SUCH AS THE  
30 CREATION OF A LOT CONTAINING AN EXISTING HOUSE OR  
31 CREATION OF A SINGLE LOT ON A LARGE PARENT TRACT).

32 3. THE CONCEPT PLAN SUBMITTAL SHALL BE ACCOMPANIED  
33 BY A SOILS MAP (AS DEFINED BY THE SOIL SURVEY OF  
34 CHARLES COUNTY, MARYLAND, PREPARED BY THE U.S.  
35 DEPARTMENT OF AGRICULTURE NATURAL RESOURCES  
36 CONSERVATION SERVICE) ONE INCH EQUALS 600 FEET (1" =  
37 600'), AN AERIAL PHOTOGRAPH ONE INCH EQUALS 600 FEET

1 (1" = 600'), AND A TOPOGRAPHIC MAP ONE INCH EQUALS 600  
2 FEET (1" = 600'), EACH SHOWING THE BOUNDARIES OF THE  
3 PROPOSED LOTS, THE BOUNDARIES OF THE PARENT TRACT  
4 AND THE LOCATIONS AND BOUNDARIES OF ANY LOTS  
5 CREATED FROM THE PARENT TRACT SINCE JUNE 15, 1976.  
6 THE PLAN SHALL ALSO INDICATE ALL APPLICABLE ZONING  
7 DISTRICTS AND OVERLAY ZONES WITH ACREAGES FOR  
8 EACH.

9  
10 4. THE PRELIMINARY PLAN SHALL BE REVIEWED BY  
11 APPLICABLE COUNTY REVIEWING AGENCIES AND IN  
12 ACCORDANCE WITH ALL APPLICABLE PROVISIONS OF THE  
13 CHARLES COUNTY SUBDIVISION REGULATIONS.  
14

15 **C. EXISTING FEATURES**

16  
17 **THE PRELIMINARY PLAN SHALL SHOW EXISTING LAND USES AS**  
18 **IDENTIFIED BELOW:**

19  
20 (1) **FORESTED AREA: FORESTED AREAS SHALL BE IDENTIFIED GIVING**  
21 **ACREAGES FOR EACH.**

22  
23 (2) **CROPLAND, PASTURE, MEADOW: ALL LANDS THAT HAVE BEEN**  
24 **CLEARED FOR USE AS CROPLAND, PASTURE OR MEADOW AND**  
25 **WHICH SHOW UP AS SUCH ON THE MOST RECENT AERIAL**  
26 **PHOTOGRAPHS.**

27  
28 (3) **CONSERVATION AREA: TIDAL AND NON-TIDAL WETLANDS,**  
29 **FLOODPLAINS, STEEP SLOPES, STREAMS AND THEIR BUFFERS**  
30 **SHALL BE IDENTIFIED GIVING ACREAGES FOR EACH.**

31  
32 (4) **BUILDINGS, ROADS, OVERHEAD POWER LINES AND RIGHTS-OF-WAY**  
33 **FOR GAS, ELECTRIC, TELEPHONE AND CABLE LINES, ABANDONED**  
34 **RAILROAD RIGHTS-OF-WAY, CEMETERIES, TRAILS, TRASH DUMPS**  
35 **AND HAZARDOUS WASTE DUMPS AND FENCES SHALL BE SHOWN.**  
36 **BUILDINGS OLDER THAN 50 YEARS SHALL BE DESIGNATED AS**  
37 **SUCH.**

1 **D. PLACEMENT OF LOTS AND ROADS**

2  
3 **(1) THE CONCEPT PLAN SHALL SHOW THE PROPOSED SIZE AND**  
4 **LOCATIONS OF BUILDING LOTS WITH APPROVED SEWAGE**  
5 **DISPOSAL SITES. LOTS AND ROADS SHALL BE LOCATED IN AREAS**  
6 **THAT WILL MINIMIZE IMPACTS ON CROPLANDS, FORESTS, AND**  
7 **ENVIRONMENTALLY SENSITIVE AREAS AND WHERE THEY WILL**  
8 **CONTRIBUTE TOWARD PRESERVING AND MAINTAINING EXISTING**  
9 **FARM STRUCTURES AND HISTORIC STRUCTURES, AS WELL AS**  
10 **SCENIC AND RURAL CHARACTER OF THE COUNTY.**

11  
12 **(2) PROTECTION OF EXISTING CROPLAND, PASTURE AND MEADOW**

13  
14 **a. BUILDINGS AND ROADS SHALL BE LOCATED IN A MANNER**  
15 **THAT WILL RETAIN EXISTING CROPLAND, PASTURE AND**  
16 **MEADOW AND AVOID DIVIDING EXISTING CROPLAND.**

17  
18 **b. IF THE EXISTING CROPLAND, PASTURE OR MEADOW HAS**  
19 **CLASS I, CLASS II, AND OR III SOILS (AS DEFINED BY THE SOIL**  
20 **SURVEY OF CHARLES COUNTY, MARYLAND, PREPARED BY**  
21 **THE U.S. DEPARTMENT OF AGRICULTURE NATURAL**  
22 **RESOURCES CONSERVATION SERVICE), THE BUILDABLE**  
23 **AREA MAY INCLUDE UP TO 20 PERCENT OF THE TOTAL AREA**  
24 **OF CROPLAND, PASTURE AND MEADOW EXISTING PRIOR TO**  
25 **SUBDIVISION. THE PORTION OF THE OPEN LAND THAT IS**  
26 **RETAINED SHOULD BE DETERMINED WITH REFERENCE TO**  
27 **THE LOCATION OF CROPLAND ON ADJACENT PROPERTIES SO**  
28 **AS TO MAINTAIN CONTIGUITY WHERE FEASIBLE.**

29  
30 **c. IF THE CROPLAND, MEADOW OR PASTURE DOES NOT HAVE**  
31 **CLASS I, CLASS II, AND/OR CLASS III SOILS, UP TO 100% OF**  
32 **THE AREA MAY BE CONVERTED TO BUILDABLE AREA,**  
33 **PROVIDED ALL OF THE OTHER CONDITIONS IN THIS**  
34 **ORDINANCE ARE MET.**

35  
36 **(3) PROTECTION OF FARM STRUCTURES AND HISTORIC STRUCTURES**  
37

- a. IN THE EVENT EXISTING FARM STRUCTURES (SUCH AS BARNs, OUTBUILDINGS AND FENCES) ARE LOCATED ON THE SITE, THEY SHALL BE RETAINED AND INCLUDED TOGETHER WITH CROPLAND, PASTURE AND/OR MEADOW AS PART OF THE OPEN SPACE.
- b. IN THE EVENT ANY BUILDING ON THE SITE IS 50 YEARS OLD OR OLDER, THE COUNTY'S HISTORIC PRESERVATION PLANNER SHALL BE NOTIFIED TO DETERMINE WHETHER THE BUILDING IS ELIGIBLE FOR LISTING ON THE NATIONAL REGISTER OR IS A LOCAL HISTORIC LANDMARK.
- c. IN THE EVENT THE COUNTY'S HISTORIC PRESERVATION PLANNER DETERMINES THAT THE BUILDING HAS HISTORIC MERIT, THE BUILDING SHALL BE RETAINED AND INCORPORATED INTO THE SITE WHERE FEASIBLE, AND VIEWS OF THE BUILDING FROM ROADS, ADJACENT PROPERTIES AND PROPOSED BUILDING SITES SHALL BE PROTECTED.
- d. THE PLANNING COMMISSION MAY REQUIRE SCREENING BETWEEN EXISTING FARM AND/OR HISTORIC STRUCTURES AND NEW HOUSES.

**(4) PROTECTION OF RURAL CHARACTER, SCENIC VISTAS AND IMPACT ON ADJACENT PROPERTIES**

a. BUILDINGS AND ROADS SHALL BE LOCATED IN A MANNER THAT WILL MAINTAIN AND ENHANCE A VISUALLY ATTRACTIVE RURAL LANDSCAPE.

b. PUBLIC ROADWAY BUFFER

BUILDING SITES SHALL BE DESIGNED TO AFFORD THE LEAST VISIBILITY OF THE DEVELOPMENT FROM EXISTING PUBLIC ROADS. A FRONT ROADWAY BUFFER SHALL BE PROVIDED ALONG ALL PUBLIC ROADS IN THE AC AND RC ZONES,

1 EXCEPT ALONG THOSE ROADS THAT ARE INTERNAL TO THE  
2 SUBDIVISION. THE FRONT ROADWAY BUFFER SHALL MEET  
3 ONE OR MORE OF THE FOLLOWING REQUIREMENTS:  
4

5 i. A NATURALLY VEGETATED BUFFER AT A MINIMUM OF  
6 100 FEET IN WIDTH FROM THE RIGHT-OF WAY LINE  
7 INTO THE PARCEL, OR  
8

9 ii. IF A NATURALLY VEGETATED BUFFER DOES NOT  
10 EXIST, THE APPLICANT SHALL HAVE THE OPTION OF  
11 PLANTING A 100-FOOT WIDE WOODED BUFFER. IN  
12 INSTANCES WHERE ONLY PART OF A NATURALLY  
13 WOODED BUFFER EXISTS, THE EXISTING BUFFER CAN  
14 BE ENHANCED TO A 100-FOOT WIDE WOODED BUFFER  
15 WITH ADDITIONAL PLANTINGS AS APPROVED BY THE  
16 PLANNING COMMISSION OR ITS DESIGNEE, OR  
17

18 iii. IF OPEN SPACE IS CREATED ALONG THE ROADSIDE, NO  
19 PLANTINGS ARE REQUIRED. SUCH OPEN SPACE SHALL  
20 BE A MINIMUM DEPTH OF 200 FEET FROM THE EDGE OF  
21 THE ROAD RIGHT-OF-WAY. HOUSES ADJOINING THE  
22 OPEN SPACE SHALL BE ARRANGED SO THAT THE  
23 REARS OF THE HOUSES ARE NOT VISIBLE FROM THE  
24 ROAD.  
25

26 iv. EXCEPTIONS:

27 (A) THE PLANNING COMMISSION OR ITS DESIGNEE  
28 MAY REDUCE OR WAIVE THE FROM ROADWAY  
29 BUFFER FOR LOTS CONTAINING EXISTING  
30 HOUSES.  
31

32  
33 c. SOME FORM OF ADEQUATE BUFFERING AND SEPARATION OF  
34 USES SHALL BE REQUIRED ADJACENT TO ALL ACTIVE FARMS  
35 AND AGRICULTURAL PRESERVATION DISTRICTS.  
36 ADDITIONALLY, THE PLANNING COMMISSION OR ITS  
37 DESIGNEE MAY ALSO REQUIRE BUFFERING IN THE FORM OF

1                                   **FOREST CONSERVATION EASEMENT AND/OR FOREST BUFFER**  
2                                   **PLANTINGS FOR SUBDIVISIONS ADJACENT TO ACTIVE FARMS.**

3  
4  
5   **§ 297-233: RURAL CLUSTER OPEN SPACE, DESIGNATION, PRESERVATION AND**  
6                                   **OWNERSHIP**

7  
8   **OPEN SPACE SHALL BE PROTECTED BY LEGAL ARRANGEMENTS WHICH ARE**  
9   **ADEQUATE TO ASSURE THE PRESERVATION AND CONTINUED MAINTENANCE**  
10 **OF THE OPEN SPACE FOR ITS INTENDED PURPOSES IN PERPETUITY. COVENANTS**  
11 **OR OTHER LEGAL ARRANGEMENTS SHALL SPECIFY OWNERSHIP OF THE OPEN**  
12 **SPACE. THE LEGAL ARRANGEMENTS SHALL ALSO INCLUDE ANY OTHER**  
13 **MATTERS DEEMED NECESSARY TO CARRY OUT THE PURPOSES OF THE**  
14 **DEVELOPMENT.**

15  
16   **A.     DESIGNATION OF OPEN SPACE**

17  
18                                   **TO QUALIFY AS PART OF THE 65 PERCENT OPEN SPACE, LAND SHALL BE**  
19 **CAPABLE OF MEETING THE CRITERIA OF ONE OR SEVERAL OF THE**  
20 **FOLLOWING CATEGORIES AND SHALL BE LABELED AS SUCH ON THE**  
21 **PRELIMINARY PLAN. LAND THAT DOES NOT FIT WITHIN ANY OF THESE**  
22 **CATEGORIES SHALL BE INCLUDED IN THE BUILDABLE AREA. LAND THAT**  
23 **IS DESIGNATED AS OPEN SPACE WITHIN ANY OF THESE CATEGORIES**  
24 **SHALL BE RETAINED AS PART OF AN UNDIVIDED OPEN SPACE PARCEL. IN**  
25 **NO CASE MAY DESIGNATED OPEN SPACE BE ELIGIBLE FOR FUTURE**  
26 **SUBDIVISION OR DEVELOPMENT BEYOND ONE DWELLING UNIT.**

- 27  
28                                   **1.     FARM RESERVE: LAND THAT HAS BEEN CLEARED FOR USE AS**  
29 **CROPLAND, PASTURE OR MEADOW AND WHICH SHOWS UP AS**  
30 **CLEARED AREA ON THE 1990 OR MOST RECENT AERIAL**  
31 **PHOTOGRAPHY AND WHICH IS OF ADEQUATE SIZE AND**  
32 **CONFIGURATION TO CONTINUE TO FUNCTION AS CROPLAND,**  
33 **PASTURE OR MEADOW AS DETERMINED UPON RECOMMENDATION**  
34 **BY THE AGRICULTURE PRESERVATION ADVISORY BOARD.**
- 35  
36                                   **2.     WOODLAND RESERVE: THE PORTION OF A PRE-EXISTING AND/OR**  
37 **AFFORESTED FOREST THAT IS TO REMAIN CONTIGUOUS AND**

1           **UNDISTURBED BY ROADS, BUILDINGS, AND LAWNS AND WHICH IS**  
2           **OF SUFFICIENT ACREAGE TO ALLOW FOR TIMBER PRODUCTION OR**  
3           **WILDLIFE MANAGEMENT AS DETERMINED BY A FORESTER**  
4           **LICENSED IN THE STATE OF MARYLAND.**

5  
6           **3.     CONSERVATION OPEN SPACE: WETLANDS, FLOODPLAINS, STEEP**  
7           **SLOPES, STREAMS AND THEIR BUFFERS.**

8  
9           **B.     PRESERVATION OF OPEN SPACE**

10  
11           **1.     CONSERVATION EASEMENTS FOR THE RETENTION OF OPEN SPACE.**

12  
13           **CONCURRENT WITH THE RECORDING OF A SUBDIVISION, A**  
14           **CONSERVATION EASEMENT ON ANY LAND DESIGNATED AS OPEN**  
15           **SPACE UNDER THE PROVISIONS OF THIS SECTION OF THE CHARLES**  
16           **COUNTY ZONING ORDINANCE SHALL BE DEEDED TO THE COUNTY**  
17           **OR A COUNTY-APPROVED DESIGNEE TO FURTHER ENSURE THAT**  
18           **THE DESIGNATED OPEN SPACE WILL REMAIN UNDEVELOPED IN**  
19           **PERPETUITY. THE CONSERVATION EASEMENT SHALL BE SOLELY**  
20           **FOR THE PURPOSE OF ENSURING THAT THE LAND REMAINS**  
21           **UNDEVELOPED AND SHALL NOT, IN ANY WAY, IMPLY THE RIGHT OF**  
22           **ACCESS ONTO THE PROPERTY OR ANY OTHER RIGHT OR**  
23           **OBLIGATION NOT EXPRESSLY DEFINED UNDER THE TERMS OF THE**  
24           **EASEMENT.**

25  
26           **§ 297-234: REVIEW PROCEDURES FOR RURAL CLUSTER DEVELOPMENTS**

27  
28  
29           **§ 297-235: RURAL CLUSTER REQUIRED FINDINGS**

30  
31           **A.     THE PLANNING COMMISSION SHALL FIND THAT THE FOLLOWING**  
32           **REQUIREMENTS ARE MET, IN APPROVING RURAL CLUSTER**  
33           **DEVELOPMENT:**

34  
35           **1.     THE RURAL CLUSTER DEVELOPMENT PLAN PROVIDES FOR A**  
36           **TOTAL ENVIRONMENT AND DESIGN WHICH PROTECTS EXISTING**  
37           **CROPLAND, PASTURE AND MEADOW, FARM STRUCTURES AND**

1 HISTORIC STRUCTURES, AS WELL AS RURAL CHARACTER AND  
2 SCENIC VISTAS.

- 3  
4 2. THE RURAL CLUSTER DEVELOPMENT PLAN MEETS ALL  
5 REQUIREMENTS IN §§297- 229 AND 297- 230 AND THE APPROVED  
6 DESIGN CODE, IF ANY.  
7

8  
9  
10  
11  
12  
13 **§ 297-236: RURAL CLUSTER DESIGN REQUIREMENTS FOR SINGLE-FAMILY**  
14 **COMMUNITIES CONTAINING FIVE OR FEWER LOTS**  
15

16 THIS SECTION APPLIES TO SUBDIVISIONS CREATING FIVE OR FEWER LOTS  
17 FROM A PARCEL THAT WAS IN EXISTENCE ON (DATE OF ADOPTION OF THIS  
18 AMENDMENT). FOR SUBDIVISIONS CONTAINING SIX OR MORE LOTS, SEE  
19 SECTION 297-332. SUCH RESIDENTIAL COMMUNITIES SHALL BE DESIGNED TO  
20 FIT INTO THE EXISTING RURAL LANDSCAPE IN A MANNER THAT WILL RETAIN  
21 THE LAND’S CAPACITY TO GROW CROPS, PRODUCE TIMBER, PROVIDE  
22 WILDLIFE HABITAT, PREVENT SOIL EROSION, CONTRIBUTE TO MAINTAINING  
23 CLEAN WATER AND AIR AND PRESERVE RURAL CHARACTER. NEW BUILDINGS  
24 AND ROADS SHALL BE DESIGNED TO ENHANCE RATHER THAN TO REPLACE  
25 THESE IMPORTANT EXISTING FEATURES. SITE DISTURBANCE SHALL BE HELD  
26 TO A MINIMUM.  
27

28 A. BUILDING LOTS  
29

- 30 1. THE MAXIMUM NUMBER OF PERMITTED LOTS WITHOUT  
31 MANDATORY CLUSTERING SHALL BE LIMITED TO FIVE LOTS FROM  
32 A PARCEL THAT WAS IN EXISTENCE ON (DATE OF ADOPTION OF  
33 THIS AMENDMENT). PARCELS WITH CERTAIN ENVIRONMENTAL  
34 CONSTRAINTS (WETLAND, CONSERVATION AREAS, ETC.) MAY NOT  
35 BE ABLE TO ACCOMMODATE THE MAXIMUM NUMBER OF LOTS.  
36  
37  
38