

The Rural Development Reform Amendments of 2005

PROPOSED TITLE 18 TEXT AMENDMENTS SUBMITTED BY DR.
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FEBRUARY 4, 2005

NOTE: This text amendment only proposes supplemental language to Title 18; it does not propose any deletions. The supplemental language on the original text amendment as submitted to the Queen Anne's County Commissioners is identified with a yellow background and also outlined in block. Subsequent photocopies will only show the language outlined in block.

Chapter 18:1: ZONING AND SUBDIVISION REGULATIONS

Part 6 Development Alternatives and Bonuses

ARTICLE XVIII General Requirements

§ 18:1-96. Purposes and Standards.

The development Alternatives and Bonuses, described in this Part 6, supplement and expand the conventional "by-right" development techniques described elsewhere in this Chapter. Property owners eligible to utilize these Alternatives and Bonuses are afforded unique and special rights that are not available to all property owners in Queen Anne's County. In recognition of the foregoing, when reviewing and approving or denying projects designed and submitted utilizing these Part 6 Development Alternatives and Bonuses, the Planning Commission shall make specific findings with respect to the project's compliance with the Purposes and Standards enumerated below and, where applicable, with the Purposes and Standards established for each technique:

- A. Encourage and to provide flexibility in the protection of farmland and *open space* in conjunction with increased development intensities within designated *growth areas* where *public services* and facilities can be more efficiently provided;
- B. Encourage the creation of larger contiguous areas of protected lands and to provide flexibility in the protection of open space and farmland in resource conservation areas of the *Chesapeake Bay Critical Area*; and

C. Encourage infill *development* with existing urbanized and *growth areas*.

D. Encourage and assure that the proposed *use* and development pursuant to this Part 6 at the proposed location shall be consistent with the general purpose, goals, objectives, and standards of the *Comprehensive Plan*, this Chapter 18:1, and/or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the *County*;

E. Encourage and assure that the proposed *use* and development pursuant to this Part 6 at the proposed location will not result in a substantial or undue adverse impacts on adjacent property, the character of the neighborhood, traffic conditions, *parking*, *public improvements*, *public sites* or rights-of-way, and/or other matters affecting the public health, safety, and general welfare; and

F. Encourage and assure that the proposed *use* and development pursuant to this Part 6 at the proposed location will be adequately served by, and will not impose an undue burden on, any of the *required improvements* referred to in this Chapter 18:1, Part 7. Where any such improvements, facilities, utilities, or services are not available or adequate to service the proposed *use* at the proposed location, the applicant shall, as part of the application and as a condition of approval of the development alternative, be responsible for establishing ability, willingness, and binding commitment to provide such improvements, facilities, utilities, and services in sufficient time and in a manner consistent with the *Comprehensive Plan*, this Chapter 18:1, and other plans, programs, maps, and ordinances adopted by the *County*.

ARTICLE XIX Noncontiguous Development

§ 18:1-97. Scope and Parcel Standards.

- A. This article applies only within the AG District, the noncritical area CS District and to *subdivisions* utilizing the noncontiguous *development* technique after the adoption of this Chapter 18.
- B. For approved *subdivisions* utilizing noncontiguous *development* prior to July 25, 1999, refer to § 18:1-7H.

C.

Standards: The standards set forth below are expected to encourage contiguous and compact areas for commercial agriculture and for rural residential development, while avoiding incompatible intermixing of the two uses:

- (1) Preservation of the non-contiguous parcel must be found to expand and consolidate the county's commitment to farmland and rural preservation, giving priority to parcels with prime agricultural soils, significant natural resources, which are adjacent to established scenic corridors or which infill the current land preservation pattern in the AG zone.
- (2) The developed parcel must be found to create no significant adverse impacts to commercial agricultural operations on adjacent and nearby farms and found to not adversely impact adjacent and nearby residential properties.
- (3) Specific affirmative findings by the Planning Commission are required for (1) and (2) above in order to utilize this Development Alternative.

§ 18:1-98. Application and standards.

- A. *Development plan.* A landowner or group of landowners whose lots are in the same zoning district, but are not contiguous, may file a *development plan* under Part 7 of this Chapter 18:1 in the same manner as the owner of a single lot. The decision to use the noncontiguous *development* technique must be made at the time of the initial *major subdivision* application. [Amended 9-7-2004 by Ord. No. 04-28]
- B. *Open space.*
 - (1) The *open space* ratio of the appropriate district shall apply to all land within the overall *development plan*, rather than separately to the *developed parcel* and *noncontiguous parcel*. [Amended 9-7-2004 by Ord. No. 04-28]
 - (2) The minimum *open space ratio* for the *developed parcel* is .50.

(3) *Net buildable area and open space.*

- (a) After the date of adoption of this Chapter 18, if a landowner proposes a noncontiguous *development*, pursuant to this article, the *net buildable area* and *open space* on the *developed parcel* may be identified and set aside only in accordance with the following two-step phasing schedule:

	<i>Developed Parcel — Net Buildable Area</i>	<i>Developed Parcel — Open Space</i>
Phase 1	Not to exceed 0.30	Minimum of 0.50
Phase 2	Not to exceed 0.50	Minimum of 0.50

- (b) The *open space* provided on the *developed parcel* during Phase 1 of the *development* shall be labeled "Noncontiguous Open Space Phase 1" and may be reduced and administratively reconfigured during Phase 2 of the project as necessary.

C. *Base site area.* For the purpose of computing *base site area*, the area of the *noncontiguous parcel* and the *developed parcel* shall be combined.

D. *Density and lot line setbacks.*

- (1) The *developed parcel* shall use a *density* of no more than 0.9 of a *dwelling unit per acre*.

- (2) For any *developed parcel* 50 acres in area or less, all new *lots* shall be located at least 100 feet from the property lines of the *developed parcel* as they existed prior to submittal of the *development plan*.

- (3) All new *lots* on a *developed parcel* shall be located at least 50 feet from the nearest public *road* that exists prior to submittal of the *development plan*.

E. *Resource protection land.* Natural resources shall be protected at the required percentage on the *developed parcel* and *noncontiguous parcels*. [Amended 9-7-2004 by Ord. No. 04-28]

- (1) Total resource protection land shall be calculated for the *developed parcel* and *noncontiguous parcel*, as if combined.

- (2) Natural resources shall be protected at the required percentage on the *developed parcel* and *noncontiguous parcels*, as if combined.

F. *Noncontiguous parcel.*

- (1) May be less than all of a *lot of record*, however, the area of the *noncontiguous parcel* used must be at least 40 acres in size or constitute at least ½ of the total area of the *lot of record*, whichever is less.

- (2) Meets the following soils criteria as per the 1966 Soils Survey of Queen Anne's County: **[Amended 9-7-2004 by Ord. No. 04-29]**
 - (a) At least 50% of the land shall classify as Class I, II or III soils; or
 - (b) If the land is wooded, 50% of the land is classified as *woodland* Group 1 or 2; or
 - (c) If there is an insufficient percentage of Class I, II or III soils alone and there is an insufficient percentage of *woodland* Group 1 or 2 soils alone, the land must have a combination of the classifications that meets or exceeds 60%.
- (3) Plats of the *noncontiguous parcel* must provide the location of all existing *buildings*.
- (4) Upon approval of a *development plan*, the *noncontiguous parcel*:
 - (a) May not be subdivided or reconfigured;
 - (b) Shall be deemed *open space* and shall be limited to only those *uses* allowed pursuant to Column A of the *open space* table in § 18:1-12 of this Chapter 18:1; and
 - (c) Shall not be used in connection with any determination of *site area* or *density*, except as may be necessary in determining the amount of deed restricted *open space* required by the *development plan*.

G.

Setbacks from "Public Trust" Lands

- (1) As used herein the phrase "Public Trust Properties" shall mean properties that have been preserved and protected from further development for the public benefit. There are two (2) types of Public Trust Properties:
 - (a) State or Federal parks (such as Tuckahoe State Park and Wye Island); and
 - (b) areas which have been preserved with funds provided by the Maryland Rural Legacy and/or Public Open Space programs (such as the "Lands End" Rural Legacy Areas" and the "Chino Farms/Grasslands Plantation Rural Legacy Areas".
- (2) There shall be no non-contiguous development of any parcel all or a portion of which exists as of January 1, 2005 which includes lands all or a portion of which are located within 1000' of the boundary of a Public Trust Property.

H.

Locations for *Developed Parcels*. In order to qualify for the receipt of non-contiguous development rights, a *developed parcel* must satisfy (G).(2) above and the following test. At least thirty percent (30%) of the entire boundary of the developed property must be in common with the boundary of either;

- (1) an incorporated town or municipality,
- (2) another property which has already received final site plan and subdivision approval as a *developed parcel* with non-contiguous development and density, and/or
- (3) lands which are zoned under this Title 18 as either Estate (E), Suburban Estate (SE), Suburban Residential (SR) and/or Neighborhood Conservation (NC).

§ 18:1-99. Requirements for approval; covenants.

- A. *Duties of property owner.* In addition to any other requirements of this Chapter 18, including those relating to required improvements, guarantees and other *covenants*, a *property owner* involved in an application shall, prior to any approval of a *development plan*, provide *covenants* by which land required to remain in *open space* is restricted to the *uses* allowed in § 18:1-12 of this Chapter 18:1.
- B. *Covenants.* The *covenants* shall conform to the requirements of Chapter 18:1, Part 7, Article XXVII.