

# Code of Ordinances



ADOPTED APRIL 11, 2006

**City of Brunswick, Maryland**

# **CODE OF ORDINANCES**

ADOPTED APRIL 11, 2006.  
REVISED APRIL 28, 2015.

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This document was prepared with the assistance of the  
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## **GENERAL PROVISIONS**

### **Article 1. Codification**

#### Title 1. Designation

##### Section 1-1101. Citations

The ordinances embraced in the following chapters shall constitute and be designated as the “City of Brunswick Code of Ordinances (2006)”, and may be so cited. This Code may also be cited as the “Brunswick City Code”.

##### Section 1-1102. Titles of Sections

The titles of the several sections of this Code are intended as mere catchwords to indicate the contents of the sections and shall not be taken to be a part of such sections.

##### Section 1-1103. Revisor’s Notes

Revisor’s Notes appearing at the end of some sections are advisory only and are not included within the designation of this Code.

#### Title 2. Organization

##### Section 1-1201. Numbering System

(A) Every number assigned to identify a section of this Code shall indicate the position of that section within the Code and, except as provided in Subsection (B) of this section, shall be consistent with the following system:

- (1) First digit indicates the Chapter.
- (2) Second digit indicates the Article within the Chapter.
- (3) Third digit indicates the Title within the Article.
- (4) Fourth and fifth digits indicate sequence of the Section within the Title.

For example, this Section 1-1201 is located in Chapter 1 at Article 1, Title 2 and is the first Section within the Title.

(B) Ordinances pertaining to development policies of the City of Brunswick, including but not limited to the Zoning Ordinance, Subdivision Regulations, Floodplain Ordinance, and Adequate Public Facilities Ordinance, which are included in this Code by reference may employ a simplified numbering system as follows:

- (1) Digit(s) before the decimal point indicate the Article within the Ordinance.
- (2) Digit(s) after the decimal point indicate the Section within the Article.

##### Section 1-1202. New Ordinances

All ordinances passed subsequent to this Code of Ordinances which amend, repeal or in any

way affect this Code of Ordinances, shall be numbered in accordance with the numbering system of this Code, shall be maintained in the permanent Mayor and Council records, and shall from time to time be prepared for publication as supplementary pages for insertion into this Code.

All ordinances passed subsequent to this Code of Ordinances which do not amend, repeal or in any way affect this Code of Ordinances, or which do not have the effect of an enduring or continuously applicable law, shall be designated “Special Ordinances” and shall not be codified. An index and copy of each such Special Ordinance shall be maintained in the City offices for public inspection; a full index of such Special Ordinances shall be prepared for publication from time to time.

#### Section 1-1203. Adding New Subject Matter to this Code

When the Mayor and Council of Brunswick desires to enact an ordinance of a general and permanent nature on a subject not heretofore existing in the Code, a section in substantially the following language should be made a part of the ordinance: “Section \_\_\_\_\_. It is the intention of the Mayor and Council of Brunswick and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, and the sections of this ordinance may be renumbered to accomplish such intention.” If necessary, new subject matter sections may be organized into one or more new Titles within an existing Article. In the event that such subject matter does not fit into the general subject matter of an existing Article, a new Article and if necessary, a new Chapter may be created.

#### Section 1-1204. Amending and Repealing Sections of this Code

All sections of this Code desired to be amended or repealed should be specifically amended or repealed by section number. Amendments to any of the provisions of this Code should be made by amending such provisions with specific reference to the section of this Code in substantially the following language: “That section \_\_\_\_\_ of the Code of Ordinances is hereby amended to read as follows: (set out new provisions in full) \_\_\_\_\_”.

#### Section 1-1205. Adoption

The City of Brunswick Code of Ordinances (2006) as compiled, codified, edited and published by The Institute for Governmental Service, University of Maryland, in consultation with the Mayor and Council of Brunswick, is adopted as the Code of Laws of general application and continuing force in the City of Brunswick from and after April 11, 2006.

### **Article 2. Legal Construction**

#### Title 1. General Rules of Construction

#### Section 1-2101. Express Language

In the construction of this Code, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of this Code:

(A) All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

(B) The singular always includes the plural, and vice versa, except where such construction would be unreasonable.

(C) Unless otherwise provided in a particular section, all words in this Code importing one gender include and apply to the other gender as well.

(D) The term “may” is permissive; the term “shall” is mandatory.

(E) The term “person” shall include a Corporation, Company, Partnership, Association, or Society, as well as a natural person.

#### Section 1-2102. References to the Laws of Other Jurisdictions

Whenever a provision of this Code refers to any portion of a State or County law, the reference applies to any subsequent amendment to that law, unless the referring provision expressly provides otherwise.

#### Section 1-2103. Computation of Time

In computing any period of time prescribed or allowed by any applicable provision of this Code, the day of the act, event, or default, after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless: (1) it is a Saturday, Sunday or a legal holiday in which event the period runs until the end of the next day, which is neither a Saturday, Sunday nor a legal holiday. When the period of time allowed is more than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be considered as other days; but if the period of time allowed is seven (7) days or less, intermediate Saturdays, Sundays and legal holidays shall not be counted in computing the period of time.

#### Section 1-2104. Effect of Repeals

The repeal of an ordinance or Section of this Code shall not revive any Ordinance or Section of this Code in force before or at the time such repeal took effect. The repeal of such Ordinance or Code Section shall not affect any punishment or penalty encumbered before the repeal took effect, nor any suit, prosecution, or proceeding pending at the time of the repeal.

#### Section 1-2105. Continuous Provisions

Those provisions appearing in the Code, so far as they may be the same in substance as ordinances which existed at the effective date of this Code, shall be considered as continuations thereof and not as new enactments.

#### Section 1-2106. Severability

It is hereby declared to be the intention of the Mayor and Council of Brunswick that the sections, paragraphs, sentences, clauses, and words of this Code are severable and if any word, clause, sentence, paragraph, or section of this Code shall be declared unconstitutional or otherwise invalid by judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining words, clauses, sentences, paragraphs, and sections of this Code, since the same would have been enacted by the Mayor and Council of Brunswick without the incorporation into this Code of any such unconstitutional or invalid word, clause, sentence, paragraph or section.



## CHAPTER 2

### LEGISLATIVE AND ADMINISTRATIVE FUNCTIONS

#### Article 1. The Mayor and Council of Brunswick

##### Title 1. Council Organization

###### Section 2-1101. Regular Meetings

The Mayor and Council of Brunswick ("Mayor and Council") shall hold regular meetings on the second Tuesday of each month. All regular meetings shall be held in the City hall.

###### Section 2-1102. Special Meetings

Special meetings shall be called by the Clerk Treasurer upon request of the Mayor or a majority of the Council members. Public notification concerning such meetings shall be published in a newspaper of general circulation in the City, as well as posted at the City hall.

###### Section 2-1103. Presiding Officer

The Mayor shall serve as Chairman of the Council. The chairman of the Council shall be the Presiding Officer. The Presiding Officer shall preserve strict order and decorum at all regular and special meetings of the Council. He shall state every question coming before the Council, announce the decision of the Council on all subjects and decide all questions of order, subject, however, to an appeal to the Council, in which event a majority vote of the Council shall govern and conclusively determine such questions of order. The Mayor may take part in all discussions and shall have a vote only in the case of a tie. Subject to his veto authority, he shall sign all ordinances and regulations adopted by the Council in his presence.

###### Section 2-1104. Special Committees

All special committees shall be appointed by the Mayor unless otherwise directed by the Council.

##### Title 2. Council Procedures

###### Section 2-1201. Order of Business

All meetings of the Council shall be open to the public unless closed in accordance with the laws of the State. Promptly at the hour set on the day of each regular meeting, the members of the Council, the Clerk/Treasurer, and the Mayor shall take their regular stations in the City Hall, and the business of the Council shall be taken up for consideration and disposition in the following order:

- (A) Call to order.
- (B) Roll call.
- (C) Approval of minutes of previous meeting.
- (D) Petitions, remonstrances and communications.

(E) Introduction and adoption of resolutions and ordinances.

(F) Report of Officers - Council - Committees.

(G) Unfinished business.

(H) New business.

(I) Miscellaneous.

(J) Appropriations.

(K) Adjournment.

#### Section 2-1202. Roll Call

Before proceeding with the business of the Council, the Clerk/Treasurer shall call roll of the members, and the names of those present shall be entered in the minutes.

#### Section 2-1203. Quorum

A majority of all the members elected to the Council shall constitute a quorum at any regular or special meeting of the Council.

#### Section 2-1204. Approval of Minutes

At the beginning of each meeting of the Mayor and Council of Brunswick, the Clerk/Treasurer shall read the Minutes of the previous meeting and the Mayor and Council shall make such corrections as necessary and shall approve the minutes as a permanent record.

#### Section 2-1205. Rules of Debate

(A) Presiding Officer. The Mayor, or such other member of the Council as may be presiding, may move, second and debate from the chair, subject only to such limitations of debate as are by these rules imposed on all members and shall not be deprived of any of the rights and privileges of a Council member by reason of his action as Presiding Officer, except as provided in Section 2-1103.

(B) Getting the floor-improper references to be avoided. Every member desiring to speak shall address the Chair, and upon recognition by the Presiding Officer, shall confine himself to the question under debate.

(C) Interruptions. A member, once recognized, shall not be interrupted when speaking unless it be to call him to order, or as herein otherwise provided. If a member, while speaking, be called to order, he shall cease speaking until the question of order be determined, and, if in order, he shall be permitted to proceed.

(D) Remarks of Council member-when entered in minutes. A Council member may request, through the Presiding Officer, the privilege of having an abstract of his statement on any subject under consideration by the Council entered in the minutes. If the Council consents thereto, such statement shall be entered in the minutes.

(E) Synopsis of debate-when entered in minutes. The Clerk/Treasurer may be directed by the Presiding Officer, with consent of the Council, to enter in the minutes a synopsis of the discussion on any question coming properly before the Council.

Section 2-1206. Addressing the Council

(A) Any person desiring to address the Council shall first secure the permission of the Presiding Officer to do so; provided, however, that a person may address the Council before a motion is made without securing such prior permission under the following circumstances:

(1) Written Communications. Interested parties or their authorized representatives may address the Council by written communications in regard to a matter then under discussion.

(2) Oral Communications. Taxpayers or residents of the City of Brunswick, or their authorized legal representatives, may address the Mayor and Council by oral communications on any matter concerning City business, or any matter over which the Mayor and Council has control; provided, however, that preference shall be given to those persons who may have notified the Clerk/Treasurer in advance of their desire to speak in order that the same may appear on the agenda of the Mayor and Council.

(B) After a motion is made by a member of the Council, no person shall address the Mayor and Council without first securing the permission of the Presiding Officer to do so.

Section 2-1207. Manner of Addressing Council

Each person addressing the Mayor and Council shall step up to the table, shall give his name and address in an audible tone of voice for the records, and unless further time is granted by the Mayor and Council, shall limit his address to five minutes. All remarks shall be addressed to the Mayor and Council as a body and not to any member thereof. No person, other than the Mayor and Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Mayor and Council, without the permission of the Presiding Officer. No question shall be asked a Mayor and Council of Brunswick member except through the Presiding Officer. The foregoing shall apply to members of the Mayor and Council or the President.

Section 2-1208. Member Conduct

While the Mayor and Council of Brunswick is in session a member shall neither by conversation or otherwise delay or interrupt the proceedings or the peace of the Mayor and Council nor disturb any member while speaking or refuse to obey the orders of the Mayor and Council of Brunswick or its Presiding Officer, except as otherwise herein provided.

Section 2-1209. Non-Member Conduct

Any person making personal, impertinent, or slanderous remarks or who shall become boisterous while addressing the Mayor and Council of Brunswick shall be forthwith, by the Presiding Officer, barred from further audience before the Mayor and Council of Brunswick unless permission to continue be granted by a majority of the Council.

Section 2-1210. Recorded Dissent

Any member shall have the right to have the reasons for his dissent from, or protest against, any action of the Mayor and Council of Brunswick entered in the minutes.

Section 2-1211. Claims Against the City

No account or other demand against the Mayor and Council shall be allowed until the same has been considered and reported upon by the Mayor and Council of Brunswick.

Section 2-1212. Reports and Resolutions

All reports, ordinances, and resolutions shall be filed with the Clerk/Treasurer and entered in the minutes.

Section 2-1213. Adjournment

A motion to adjourn shall always be in order and decided without debate.

**Article 2. Commissions and Committees**

Title 1. Economic Development Commission

Section 2-2101. Created

An Economic Development Commission is created for the City of Brunswick. The members of the Commission shall serve without compensation.  
(Ord. 511, passed 11-24-2014)

Section 2-2102. Composition

The Economic Development Commission shall consist of not fewer than three (3) nor more than seven (7) members. Members shall be appointed by the Mayor, with the advise and consent of the Council, and shall serve for three (3) years, their terms to be staggered.  
(Ord. 511, passed 11-24-2014)

Section 2-2103. Vacancies

Vacancies in the Economic Development Commission, occurring other than by expiration of a term, shall be filled by appointment of the Mayor for the unexpired portion of the term of the person formerly holding the office.  
(Ord. 511, passed 11-24-2014)

Section 2-2104. Officers

The members of the Economic Development Commission shall elect their own Chair, Secretary, and all other necessary officers at their first meeting in each calendar year. All officers shall serve for a period of one (1) year.  
(Ord. 511, passed 11-24-2014)

Section 2-2105. Functions

The Economic Development Commission shall have the authority and duty to make recommendations to the Mayor and Council of measures to enhance the economic well-being of the community. The Economic Development Commission may also make recommendations to plan and execute various activities and educational events throughout each year to further the goal stated above.

(Ord. 511, passed 11-24-2014)

#### Section 2-2106. Mission

The goal of economic development is to provide the Brunswick community with opportunities for local employment, a fully array of local goods and services, and a vibrant local economy.

(Ord. 511, passed 11-24-2014)

### Title 2. Planning and Zoning Commission

#### Section 2-2201. Created

A Planning Commission is created for the City of Brunswick and shall be referred to as the “Commission” or “Planning Commission”. Its territorial jurisdiction shall extend over the incorporated area of the City of Brunswick.

(Am. Ord. 511, passed 11-24-2014)

#### Section 2-2202. Membership

The Commission shall consist of five (5) members and one (1) alternate appointed by the Mayor with approval of the Council, each to serve for five (5) years, or until his successor takes office, except that the term of members first appointed are staggered such that the first person appointed serves for one year, the second appointed for two years, the third appointed serves for three years, the fourth appointed for four years and the fifth member appointed serves a term of five years. All members shall be eligible for reappointment.

(Am. Ord. 511, passed 11-24-2014)

#### Section 2-2203. Compensation

All members shall serve with such compensation as the Mayor and Council deem appropriate, and may be removed by the Mayor and Council for inefficiency, neglect of duty or malfeasance in office.

(Am. Ord. 511, passed 11-24-2014)

#### Section 2-2204. Functions

The Commission shall have the powers, functions and duties provided for in Article 66 B, Section 3.01 of the Annotated Code of Maryland, as amended.

(Am. Ord. 511, passed 11-24-2014)

### **Article 3. Code of Ethics**

#### Title 1. General Provisions

Section 2-3101. Applicability

The provisions of this Article apply to all City of Brunswick, Maryland elected officials, employees, and appointees to boards and commissions of the City of Brunswick. (Ord. 512, passed 11-24-2014)

Section 2-3102. Ethics Commission

(A) There is a City of Brunswick, Maryland Ethics Commission that consists of not fewer than three (3) and not more than five (5) members appointed by the Mayor and approved by the City Council. The members shall be appointed to terms of three (3) years that shall be staggered. Vacancies shall be filled for the unexpired terms of any member whose term becomes vacant. All members must be residents of the City of Brunswick and registered to vote. The Commission shall annually elect a Chairperson and Vice-Chairperson. Members shall serve without compensation, but provision may be made by the Mayor and City Council for necessary and proper expenses while performing official duties. The Commission shall be advised by the City Attorney or, if the City Attorney is disqualified from participating in a particular matter, by a substitute Attorney appointed by the Mayor and City Council.

(B) The Commission shall:

- (1) Devise, receive, and maintain all forms required by this Article;
- (2) Develop procedures and policies for advisory opinion requests and provide published advisory opinions to persons subject to this Article regarding the applicability of the provisions of this Article to them;
- (3) Develop procedures and policies for the processing of complaints to make appropriate determinations regarding complaints filed by any person alleging violations of this Article; and
- (4) Conduct a public information program regarding the purposes and application of this Article.

(C) The City Attorney and City Administrator shall advise the Commission.

(D) The Commission shall certify to the State Ethics Commission on or before October 1 of each year that the City of Brunswick is in compliance with the requirements of State Government Article, Title 15, Subtitle 8, Annotated Code of Maryland, for elected local officials.

(E) The Commission shall determine if changes to this Article are required to be in compliance with the requirements of State Government Article, Title 15, Subtitle 8, Annotated

Code of Maryland, and shall forward any recommended changes and amendments to the Brunswick City Council for enactment.

(F) The Commission may adopt other policies and procedures to assist in the implementation of the Commission's programs established in this chapter.

(G) A member of the Commission may be removed by the City Council, after a hearing, for:

- (1) Neglect of duties;
- (2) Misconduct in office;
- (3) A disability that renders the member unable to discharge the powers and duties of office; or
- (4) A violation of this Article.

(Ord. 512, passed 11-24-2014)

### Section 2-3103. Conflicts of Interest

(A) In this section, "qualified relative" means a spouse, parent, child, or sibling.

(B) All City of Brunswick elected officials, officials appointed to City of Brunswick boards and commissions subject to this Article, and employees are subject to this section.

(C) Participation prohibitions. Except as permitted by Commission regulation or opinion, an official or employee may not participate in:

- (1) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter, any matter in which, to the knowledge of the official or employee, the official or employee, or a qualified relative of the official or employee has an interest.
- (2) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter, any matter in which any of the following is a party:
  - (a) A business entity in which the official or employee has a direct financial interest of which the official or employee may reasonably be expected to know;
  - (b) A business entity for which the official, employee, or a qualified relative of the official or employee is an officer, director, trustee, partner, or employee;
  - (c) A business entity with which the official or employee or, to the knowledge of the official or employee, a qualified relative is negotiating employment or has any arrangement concerning prospective employment;
  - (d) If the contract reasonably could be expected to result in a conflict between the private interests of the official or employee and the official duties of the official or employee, a business entity that is a party to an existing contract with the official or employee, or which, to the knowledge of the official or

employee, is a party to a contract with a qualified relative;

(e) An entity, doing business with the City of Brunswick, in which a direct financial interest is owned by another entity in which the official or employee has a direct financial interest, if the official or employee may be reasonably expected to know of both direct financial interests; or

(f) A business entity that:

1. The official or employee knows is a creditor or obligee of the official or employee or a qualified relative of the official or employee with respect to a thing of economic value; and
2. As a creditor or obligee, is in a position to directly and substantially affect the interest of the official or employee or a qualified relative of the official or employee.

(3) A person who is disqualified from participating under Subsection (C)(1) or (2) of this Section shall disclose the nature and circumstances of the conflict and may participate or act if:

- (a) The disqualification leaves a body with less than a quorum capable of acting;
- (b) The disqualified official or employee is required by law to act; or
- (c) The disqualified official or employee is the only person authorized to act.

(4) The prohibitions of Subsection (C)(1) and (2) of this Section do not apply if the participation is allowed by regulation or opinion of the Commission.

(D) Employment and financial interest restrictions.

(1) Except as permitted by regulation of the Commission when the interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:

(a) Be employed by or have financial interest in any entity:

1. Subject to the authority of the official or employee or the City of Brunswick agency, board, commission with which the official or employee is affiliated; or
2. That is negotiating or has entered a contract with the agency, board, or commission with which the official or employee is affiliated; or

(b) Hold any other employment relationship that would impair the impartiality or independence of judgment of the official or employee.

(2) This prohibition does not apply to:

(a) An official or employee who is appointed to a regulatory or licensing authority pursuant to a statutory requirement that persons subject to the jurisdiction of

the authority be represented in appointments to the authority;

- (b) Subject to other provisions of law, a member of a board or commission in regard to a financial interest or employment held at the time of appointment, provided the financial interest or employment is publicly disclosed at the appointing authority and the Commission;
- (c) An official or employee whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted by and in accordance with regulations adopted by the Commission; or
- (d) Employment or financial interests allowed by regulation of the Commission if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.

(E) Post-employment limitations and restrictions.

- (1) A former official or employee may not assist or represent any party other than the City of Brunswick for compensation in a case, contract, or other specific matter involving the City of Brunswick if that matter is one in which the former official or employee significantly participated as an official or employee.
- (2) Until the conclusion of the next regular session that begins after the elected official leaves office, a former member of the City of Brunswick Council may not assist or represent another party for compensation in a matter that is the subject of legislative action.

(F) Contingent compensation. Except in a judicial or quasi-judicial proceeding, an official or employee may not assist or represent a party for contingent compensation in any matter before or involving the City of Brunswick.

(G) Use of prestige of office.

- (1) An official or employee may not intentionally use the prestige of office or public position for the private gain of that official or employee or the private gain of another.
- (2) This Subsection does not prohibit the performance of usual and customary constituent services by an elected local official without additional compensation.

(H) Solicitation and acceptance of gifts.

- (1) An official or employee may not solicit any gift.
- (2) An official or employee may not directly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual regulated lobbyist.
- (3) An official or employee may not knowingly accept a gift, directly or indirectly, from a person that the official or employee knows or has the reason to know:
  - (a) Is doing business with or seeking to do business with the City of Brunswick

office, agency, board, or commission with which the official or employee is affiliated;

- (b) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official duties of the official or employee;
- (c) Is engaged in an activity regulated or controlled by the official's or employee's governmental unit; or
- (d) Is a lobbyist with respect to matters within the jurisdiction of the official or employee.

(4) Subsection (H)(5) of this Section does not apply to a gift:

- (a) That would tend to impair the impartiality and the independence of judgment of the official or employee receiving the gift;
- (b) Of significant value that would give the appearance of impairing the impartiality and independence of judgment of the official or employees; or
- (c) Of significant value that the recipient official or employee believes or has reason to believe is designed to impair the impartiality and independence of judgment of the official or employee.

(5) Notwithstanding Subsection (H)(3) of this Section, an official or employee may accept the following:

- (a) Meals and beverages consumed in the presence of the donor or sponsoring entity;
- (b) Ceremonial gifts or awards that have insignificant monetary value;
- (c) Unsolicited gifts of nominal value that do not exceed \$20 in cost or trivial items of informational value;
- (d) Reasonable expenses for food, travel, lodging, and scheduled entertainment of the official or the employee at a meeting which is given in return for the participation of the official or employee in a panel or speaking engagement at the meeting;
- (e) Gifts of tickets or free admission extended to an elected local official to attend a charitable, cultural, or political event, if the purpose of this gift or admission is a courtesy or ceremony extended to the elected official's office;
- (f) A specific gift or class of gifts that the Commission exempts from the operation of this Subsection upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of business of the City of Brunswick and that the gift is purely personal and private in nature;
- (g) Gifts from a person related to the official or employee by blood or marriage, or

any other individual who is a member of the household of the official or employee; or

- (h) Honoraria for speaking to or participating in a meeting provided that the offering of the honorarium is in not related in any way to the official's or employee's official position.

(I) Disclosure of confidential information. Other than in the discharge of official duties, an official or employee may not disclose or use confidential information, that the official or employee acquired by reason of the official's or employee's public position and that is not available to the public, for the economic benefit of the official or employee or that of another person.

(J) Participation in procurement.

- (1) An individual or a person that employs an individual who assists a City of Brunswick agency in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement may not submit a bid or proposal for that procurement or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for the procurement.

- (2) The Commission may establish exemptions from the requirements of this section for providing descriptive literature, sole source procurements, and written comments solicited by the procuring agency.

(Ord. 512, passed 11-24-2014)

## Title 2. Financial Disclosure Requirements

### Section 2-3201. Financial Disclosure - Local Elected Officials and Candidates to be Local Elected Officials

(A) This section applies to all local elected officials and candidates to be local elected officials.

(B) Except as provided in Subsection (E) of this Section, a local elected official or a candidate to be a local elected official shall file the financial disclosure statement required under this Section:

- (1) On a form provided by the Commission;
- (2) Under oath or affirmation; and
- (3) With the Commission.

(C) Deadlines for filing statements.

- (1) An incumbent local elected official shall file a financial disclosure statement annually no later than April 30 of each year for the preceding calendar year.
- (2) An individual who is appointed to fill a vacancy in an office for which a financial disclosure statement is required and who has not already filed a financial disclosure statement shall file a statement for the preceding calendar year within thirty (30)

days after appointment.

- (3) An individual who, other than by reason of death, leaves an office for which a statement is required shall file a statement within sixty (60) days after leaving the office.

(D) The statement shall cover:

- (1) The calendar year immediately preceding the year in which the individual left office, unless a statement covering that year has already been filed by the individual; and
- (2) The portion of the current calendar year during which the individual held the office.

(E) Candidates to be local elected officials.

- (1) Except for an official who has filed a financial disclosure statement under another provision of this Section for the reporting period, a candidate to be an elected local official shall file under a financial disclosure statement each year beginning with the year in which the certificate of candidacy is filed through the year of the election.
- (2) A candidate to be an elected local official shall file a statement required under this Section:
  - (a) In the year the certificate of candidacy is filed, no later than the filing of the certificate of candidacy;
  - (b) In the year of the election, on or before the earlier of April 30 or the last day for the withdrawal of candidacy; and
  - (c) In all other years for which a statement is required, on or before April 30.
- (3) A candidate to be an elected official:
  - (a) May file the statement required under Section 2-3201(E)(2)(a) of this chapter with the City of Brunswick City Administrator or Board of Election Supervisors with the certificate of candidacy or with the Commission prior to filing the certificate of candidacy; and
  - (b) Shall file the statements required under Section 2-3201(E)(2)(b) and (c) with the Commission.
- (4) If a candidate fails to file a statement required by this Section after written notice is provided by the City of Brunswick City Administrator or Board of Election Supervisors at least twenty (20) days before the last day for the withdrawal of candidacy, the candidate is deemed to have withdrawn the candidacy.
- (5) The City of Brunswick City Administrator or Board of Elections Supervisors may not accept any certificate of candidacy unless a statement has been filed in proper form.

- (6) Within thirty (30) days of the receipt of a statement required under this Section, the City of Brunswick City Administrator or Board of Election Supervisors shall forward the statement to the Commission or the office designated by the Commission.

(F) Public record.

- (1) The Commission or the office designated by the Commission shall maintain all financial disclosure statements filed under this Section.
- (2) Financial disclosure statements shall be made available during normal office hours for examination and copying by the public subject to reasonable fees and administrative procedures established by the Commission.
- (3) If an individual examines or copies a financial disclosure statement, the Commission or the office designated by the Commission shall record:
  - (a) The name and home address of the individual reviewing or copying the statement; and
  - (b) The name of the person whose financial disclosure statement was examined or copied.
- (4) Upon request by the official or employee whose financial disclosure statement was examined or copied, the Commission or the office designated by the Commission shall provide the official with a copy of the name and home address of the person who reviewed the official's financial disclosure statement.

(G) Retention requirements. The Commission or the office designated by the Commission shall retain financial disclosure statements for four (4) years from the date of receipt.

(H) Contents of statement.

- (1) Interests in real property.
  - (a) A statement filed under this Section shall include a schedule of all interests in real property wherever located.
  - (b) For each interest in real property, the schedule shall include:
    1. The nature of the property and the location by the street address, mailing address, or legal description of the property;
    2. The nature and extent of the interest held, including any conditions and encumbrances on the interest;
    3. The date when, the manner in which, and the identity of the person from whom the interest was acquired;
    4. The nature and amount of the consideration given in exchange for the interest or, if the acquired other than by purchase, the fair market value of the interest at the time acquired;

5. If any interest was transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and the identity of the person to whom the interest was transferred; and
6. The identity of any other person with an interest in the property.

(2) Interests in corporations and partnerships.

(a) A statement filed under this Section shall include a schedule of all interests in any corporation, partnership, limited liability partnership, or limited liability corporation, regardless of whether the corporation or partnership does business with the City of Brunswick.

(b) For each interest reported under this Subsection, the schedule shall include:

1. The name and address of the principal office of the corporation, partnership, limited liability partnership, or limited liability corporation;
2. The nature and amount of the interest held, including any conditions and encumbrances on the interest;
3. With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and, if known, the identity of the person to whom the interest was transferred; and
4. With respect to any interest acquired during the reporting period:
  - (i) The date when, the manner in which, and the identity of the person from whom the interest was acquired; and
  - (ii) The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

(c) An individual may satisfy the requirement to report the amount of the interest held under item (H)(2)(b)2. of this Subsection by reporting, instead of a dollar amount:

1. For an equity interest in a corporation, the number of shares held and, unless the corporation's stock is publicly traded, the percentage of equity interest held; or
2. For an entity interest in a partnership, the percentage of equity interest held.

(3) Interests in business entities doing business with the City of Brunswick.

(a) A statement filed under this Section shall include a schedule of all interests in

any business entity that does business with the City of Brunswick other than interests reported under Subsection (H)(2) of this Section.

(b) For each interest reported under this Subsection, the schedule shall include:

1. The name and address of the principal office of the business entity;
2. The nature and amount of the interest held, including any conditions to and encumbrances in the interest;
3. With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received in exchange for the interest, and if known, the identity of the person to whom the interest was transferred; and
4. With respect to any interest acquired during the reporting period:
  - (i) The date when, the manner in which, and the identity of the person from whom the interest was acquired; and
  - (ii) The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

(4) Gifts.

(a) A statement filed under this Section shall include a schedule of each gift in excess of \$20 in value or a series of gifts totaling \$100 or more received during the reporting period from or on behalf of, directly or indirectly, any one person who does business with or is regulated by the City of Brunswick.

(b) For each gift reported, the schedule shall include:

1. A description of the nature and value of the gift; and
2. The identity of the person from whom, or on behalf of whom, directly or indirectly, the gift was received.

(5) Employment with or interests in entities doing business with the City of Brunswick.

(a) A statement filed under this Section shall include a schedule of all offices, directorships, salaried employment by the individual or member of the immediate family of the individual held at any time during the reporting period with entities doing business with the City of Brunswick.

(b) For each position reported under this Subsection, the schedule shall include:

1. The name and address of the principal office of the business entity;
2. The title and nature of the office, directorship, or salaried employment

held and the date it commenced; and

3. The name of each City of Brunswick agency with which the entity is involved.

(6) Indebtedness to entities doing business with the City of Brunswick.

(a) A statement filed under this Section shall include a schedule of all liabilities, excluding retail credit accounts, to persons doing business with the City of Brunswick owed at any time during the reporting period:

1. By the individual; or
2. By a member of the immediate family of the individual if the individual was involved in the transaction giving rise to the liability.

(b) For each liability reported under this Subsection, the schedule shall include:

1. The identity of the person to whom the liability was owed and the date the liability was incurred;
2. The amount of the liability owed as of the end of the reporting period;
3. The terms of payment of the liability and the extent to which the principal amount of the liability was increased or reduced during the year; and
4. The security given, if any, for the liability.

(7) A statement filed under this Section shall include a schedule of the immediate family members of the individual employed by the City of Brunswick in any capacity at any time during the reporting period.

(8) Sources of earned income.

(a) A statement filed under this Section shall include a schedule of the name and address of each place of employment and of each business entity of which the individual or a member of the individual's immediate family was a sole or partial owner and from which the individual or member of the individual's immediate family received earned income, at any time during the reporting period.

(b) A minor child's employment or business ownership need not be disclosed if the agency that employs the individual does not regulate, exercise authority over, or contract with the place of employment or business entity of the minor child.

(9) A statement filed under this Section may also include a schedule of additional interests or information that the individual making the statement wishes to disclose.

(I) For the purposes of Section 2-3201(E)(1), (2), and (3) of this chapter, the following interests are considered to be the interests of the individual making the statement:

(1) An interest held by a member of the individual's immediate family, if the interest was,

at any time during the reporting period, directly or indirectly controlled by the individual.

- (2) An interest held by a business entity in which the individual held a thirty percent (30%) or greater interest at any time during the reporting period.
- (3) An interest held by a trust or an estate in which, at any time during the reporting period:
  - (a) The individual held a reversionary interest or was a beneficiary; or
  - (b) If a revocable trust, the individual was a settlor.

(J) (1) The Commission shall review the financial disclosure statements submitted under this Section for the compliance with the provisions of this Section and shall notify an individual submitting the statement of any omissions or deficiencies.

- (2) The City of Brunswick Ethics Commission may take appropriate enforcement action to ensure compliance with this Section.

(Ord. 512, passed 11-24-2014)

Section 2-3202. Financial Disclosure - Employees and Appointed Officials

(A) This Section only applies to the following appointed officials and employees:

- (1) Members of the Planning Commission.
- (2) Members of the Zoning Board of Appeals.
- (3) Members of the Ethics Commission.
- (4) Department Heads: City Administrator, Chief of Police, Superintendent of Public Works, Superintendent of Water/Wastewater.
- (5) Designated employees: Planning and Zoning Administrator, Assistant Chief of Police, Development Review Coordinator, City Accountant.

(B) A statement filed under this Section shall be filed with the Commission under oath or affirmation.

(C) On or before April 30 of each year during which an official or employee holds office, an official or employee shall file a statement disclosing gifts received during the preceding calendar year from any person that contracts with or is regulated by the City of Brunswick, including the name of the donor of the gift and the approximate retail value at the time of receipt.

(D) An official or employee shall disclose employment and interests that raise conflicts of interest or potential conflicts of interest in connection with a specific proposed action by the employee or official sufficiently in advance of the action to provide adequate disclosure to the public.

(E) The Commission shall maintain all disclosure statements filed under this Section as public records available for public inspection and copying as provided in Section 2-3201(E) and (F) of this Article.

(Ord. 512, passed 11-24-2014)

### Title 3. Lobbying Provisions

#### Section 2-3301. Lobbying

(A) A person shall file a lobbying registration statement with the Commission if the person:

- (1) Personally appears before a City of Brunswick official or employees with the intent to influence that person in performance of the official duties of the official or employee; and
- (2) In connection with the intent to influence, expends or reasonably expects to expend in a given calendar year in excess of \$500 on food, entertainment, or other gifts for officials or employees of the City of Brunswick.

(B) A person shall file a registration statement required under this Section on or before the later of January 15 of the calendar year or within five (5) days after first performing an act that requires registration in the calendar year.

(C) (1) The registration statement shall identify:

- (a) The registrant;
- (b) Any other person on whose behalf the registrant acts; and
- (c) The subject matter on which the registrant proposes to make appearances specified in Subsection (A) of this Section,

(2) The registration statement shall cover a defined registration period not to exceed one calendar year.

(D) Within thirty (30) days after the end of any calendar year during which a person was registered under this Section, the person shall file a report with the Commission disclosing:

- (1) The value, date, and nature of any food, entertainment, or other gift provided to a City of Brunswick official or employee; and
- (2) If a gift or series of gifts to a single official or employee exceeds \$20 in value, the identity of the official or employee.

(E) The Commission shall maintain the registrations and reports filed under this Section as public records available for public inspection and copying for four (4) years after receipt by the Commission.

(Ord. 512, passed 11-24-2014)

#### Title 4. Exemptions and Modifications

##### Section 2-3401. Exemptions and Modifications

The Commission may grant exemptions and modifications to the provisions of Section 2-3103 and 2-3201 of this Article to employees and to appointed members of City of Brunswick, Maryland Boards and Commissions, when the Commission finds that an exemption or modification would not be contrary to the purposes of this Article, and the application of this Article would:

(A) Constitute an unreasonable invasion or privacy; and

(B) Significantly reduce the availability of qualified persons for public service.

(Ord. 512, passed 11-24-2014)

#### Title 5. Enforcement

##### Section 2-3501. Enforcement

(A) The Commission may:

- (1) Assess a late fee of \$2 per day up to a maximum of \$250 for a failure to timely file a financial disclosure statement required under Sections 2-3201 or 2-3301 of this Article;
- (2) Assess a late fee of \$10 per day up to a maximum of \$250 for a failure to file a timely lobbyist registration or lobbyist report required under Section 2-3301 of this Article; and
- (3) Issue a cease and desist order against any person found to be in violation of this Article.

(B) (1) Upon finding of a violation of any provision of this Article, the Commission may:

- (a) Issue and order of compliance directing the respondent to cease and desist from the violation;
- (b) Issue a reprimand; or
- (c) Recommend to the appropriate authority other appropriate discipline of the respondent, including censure or removal if that discipline is authorized by law.

(2) If the Commission finds that a respondent has violated Section 2-3301 of this Article, the Commission may:

- (a) Require a respondent who is a registered lobbyist to file any additional reports

or information that reasonably related to the information that is required under Article 2-3501 of this Article;

(b) Impose a fine not exceeding \$5,000 for each violation; and

(c) Suspend the registration of an individual registered lobbyist if the Commission finds that the lobbyist has knowingly and willfully violated §2-3301 of this Article or has been convicted of a criminal offense arising from lobbying activities.

(C) (1) Upon request of by the Commission, the City of Brunswick Attorney may file a petition for injunctive or other relief in the circuit court of Frederick County, or in any other court having proper venue for the purpose of requiring compliance with the provisions of this Article.

(2) (a) The court may:

1. Issue an order to cease and desist from the violation;

2. Except as provided in Subsection (C)(2)(b) of this Subsection, void an official action taken by an official or employee with a conflict of interest prohibited by this Article when the action arises from or concerns the subject matter of the conflict and if the legal action is brought within 90 days of the occurrence of the official action, if the court deems voiding the action to be in the best interest of the public; or

3. Impose a fine of up to \$5,000 for any violation of the provisions of this Article, with each day upon which the violation occurs constituting a separate offense.

(b) A court may not void any official action appropriating public funds, levying taxes, or providing for the issuance of bonds, notes, or other evidences of public obligations.

(D) In addition to any other enforcement provisions in this Article, a person who the Commission or a court finds has violated this Article:

(1) Is subject to termination or other disciplinary action; and

(2) May be suspended from receiving payment of salary or other compensation pending full compliance with the terms of an order of the Commission or a court.

(E) A City of Brunswick official or employee found to have violated this Article is subject to disciplinary or other appropriate personnel action, including removal from office, disciplinary action, suspension of salary, or other sanction.

(F) Violation of Section 2-3301 of this Article shall be a misdemeanor subject to a fine of up to \$10,000 or imprisonment of up to one (1) year.

(G) A finding of a violation of this Article by the Commission is public information.  
(Ord. 512, passed 11-24-2014)

## **Article 4. Personnel**

### Title 1. General Provisions

#### Section 2-4101. Business Hours

The Clerk/Treasurer shall keep his office open for business at such times, upon such days, and during such hours, as may be from time to time designated by the Mayor and Council; that, in addition to such duties as may be prescribed by the City Charter and this Code, the City Clerk/Treasurer shall attend all regular and special meetings of the Mayor and Council.

#### Section 2-4102. Interdepartmental Assignments

In the interest of economy and efficiency, the Mayor shall have the authority to employ personnel in dual capacities on an interdepartmental basis if such employment shall be deemed necessary.

#### Section 2-4103. Rules and Regulations

Mayor and Council may from time to time make such rules and regulations as they may deem necessary for the employment of all persons employed by the City.

#### Section 2-4104. Dismissal of Employees

In accordance with Section 16-29 of the Charter, any employee may be dismissed by the Mayor and Council for misconduct in the performance of their duties, including the violation of the orders of the Mayor and Council or of supervisory personnel; and for the use of intoxicants and/or drugs during their hours of employment and performance of their duties as employees of the Mayor and Council of Brunswick.

#### Section 2-4105. Benefits

The Mayor and Council of Brunswick shall provide for workmen's compensation insurance, as well as for Social Security, retirement benefits, group life insurance and hospitalization benefits for all of their employees, as well as for such other benefits as the Mayor and Council may from time to time specifically decide.

#### Section 2-4106. Surety Bond

The City Clerk/Treasurer, and such assistant or assistants as he may have from time to time, shall, in addition to any requirements imposed by the City Charter, have a corporate fidelity or public official bond with surety or sureties to be approved by the Mayor and Council covering such case and/or securities as he or she may have under his or her control from time to time; that said bond shall be in a sum not to be less than Twenty Thousand Dollars (\$20,000) and to be in such penalty as may be provided from time to time by the Mayor and Council who shall pay all of the premiums required thereon.

### Title 2. Authorized Positions

#### Section 2-4201. Plan of Organization

The Mayor and Council reserves the right to add or abolish positions with the plan of organization as may be necessary to carry forth the intent and purpose of this Code.

*Revisor's Note: See Article V of the Municipal Charter of Brunswick for a description of the powers and duties of the following personnel: Clerk/Treasurer, Auditor, Chief of Police, Assistant Chief of Police. See Section 16-31 of the Municipal Charter of Brunswick for the authority to appoint both the aforesaid personnel and the following additional personnel: attorney, general superintendent, and City engineer. Also see Section 16-29 of the Charter.*

#### Section 2-4202. Assistant Clerk/Treasurer

An Assistant Clerk/Treasurer, who shall be a full-time employee only, may be employed by the Mayor and Council with such qualification for employment and salary as may be from time to time established by the Council.

#### Section 2-4203. General Superintendent

A General Superintendent shall be employed whose duty it shall be to supervise the maintenance of all City equipment, parks, buildings, streets, water and sewer lines and such other matters, duties, and things, as may be from time to time prescribed by the Mayor and Council; such General Superintendent shall be responsible to the Mayor, or to such person or persons as from time to time the Mayor may designate, for all actions taken by him in his capacity as General Superintendent; and the General Superintendent shall be governed by a working agreement and by such rules and regulations as may be from time to time provided for by the Mayor and Council.

#### Section 2-4204. Laborers

All laborers employed by the General Superintendent shall be only employed by him after having first had the advice and consent of the Mayor and Council and shall, upon their employment, be under the direct control and supervision of the General Superintendent.

### **Article 5. Fair Election Practices**

#### Title 1. General Provisions

#### Section 2-5101. Definitions

As used in this Article, the following terms shall have the meanings indicated unless a contrary meaning is clearly intended from the context in which the term appears:

Board of Election Supervisors, herein referred to as "The Board". Three qualified voters who not less than 60 days prior to the date for any City election, will be appointed by the Mayor, with the advice and consent of the Council to supervise and oversee the election process as detailed in this Article.

Campaign Committee. A combination of two or more persons appointed by a candidate(s), or any other group of persons formed in a manner which has as a principal purpose to assist in the promotion of the success or defeat of any candidate(s) or proposition or question submitted for vote at any City election.

Campaign Fund Report. Contributions, transfers, expenditures, outstanding obligations and loans as required by this Article.

Campaign Material. Tangible material principally intended to promote the success or defeat of any candidate(s) or proposition, or question which has been, will be, or is sought to be submitted to a vote at any City election, including, but limited to, a pamphlet, circular, card, sample ballot, poster, advertisement, button, or any other printed, multi-graphed, photographed, typewritten or which may be copied by any device or method for publication and/or distribution relating to or concerning any candidate or the acceptance or defeat of any proposition or question. It also includes to any website designed and maintained to promote the success or defeat of any candidate(s) or proposition, or question, which has been, will be, or is sought to be submitted to a vote at any City election.

Candidate. An individual who seeks, and/or accepts nomination for election in a primary, or qualifies under the rules and regulations of a State recognized party for election to a City office.

Challengers or Watchers. A registered voter designated to be in a polling place by a candidate, political party, or other group for the purpose of observing an election.

Committee. Candidate committee, campaign committee, slates, central party committee, political action committee (PACs) and ballot issue committee.

Contribution. Payment and receipt of a gift or transfer of money or other thing of value by to any candidate, candidate's representative, or campaign committee to promote or assist in the success or defeat of any candidate(s), campaign committee, or proposition, or question submitted for vote at any City election.

Election. Any general, primary, special or recall opportunity to vote in accordance with the provisions outlined in the City Charter.

Expenditure. Disbursement of any gift or transfer of money or other thing of value by any candidate, treasurer, candidate's representative, or campaign committee to promote or assist in the success or defeat of any candidate(s), campaign committee, or proposition submitted for vote at any City election.

Polling Place. The City Park Building or other location designated by the Mayor and Council where registered voters go to cast their votes in a City election.

Registration. Act by which a resident of the City becomes qualified to vote in any City election.

Treasurer. Any person appointed by a candidate or campaign committee to receive and disburse funds or other things of value during an election cycle.

Walk-around Services. Include, but not are limited to communicating a voting preference or choice in any manner, stationing any person or object along the path to the poll, distributing campaign literature, electioneering or canvassing, performed while polls are open.  
(Ord. 436, passed 5-9-2006)

Section 2-5102. General Election Procedures

- (A) It shall be the duty of the Mayor and Council to provide for each general, special or recall election a suitable place(s) for voting, ballot boxes, ballots and/or voting machines.
- (B) The name of each qualified candidate for elective office shall be arranged alphabetically (or as determined by County procedures) and include when warranted special petitions or referendums to be decided by vote.
- (C) Polling places will be open from 8:00 a.m. to 8:00 p.m. for all City elections. A voter in line at 8:00 p.m. will be allowed to cast their vote.
- (D) Any qualified voter who may be absent from the City on the day of the election, or who is otherwise prevented from being personally present to vote at the poll location may vote as an absentee voter.
- (E) Election Judges may provide assistance to voters, who due to physical infirmity may have difficulty in voting. The City shall make appropriate provisions for handicapped voters.
- (F) Write-in votes are prohibited in all City elections.
- (G) The provisions of this Article shall apply to all elections in which ballots shall be cast pursuant to provisions of this Chapter.
- (H) The City Administrator shall distribute this Article to all candidates for public office at the time such candidate(s) file for election and shall prepare and include such distribution to each candidate forms required by this Article.
- (I) The City shall publish in a newspaper published or circulated in Brunswick details of the pending election, to include, polling place, date, and object of election.  
(Code 1930, art. 11, § 34; 1943, ch 740, § 1; 5-10-56, § 1; 4-11-61, § 1; 8-9-66, § 1; Char. Res. 2-12-74; Res. 12-13-77; Char. Res. 93, 7-14-93), (Rev. 9/93), (5/06)  
(Ord. 436, passed 5-9-2006)

Section 2-5103. Absentee Ballots

- (A) Absentee ballots may be obtained from City Hall at any time after the official voting roles have been closed by Frederick County 30 days prior to the election.
- (B) Absentee ballot application must be completed with certifications, if required, and terms agreed to prior to issuance.
- (C) Absentee ballots may be mailed to requestors no later than one calendar week prior to

the election and must be received by mail at City Hall no later than the day of the election.

(D) Absentee ballots may also be cast in person at City Hall up to the day before the election.

(E) A special voting box (machine) will be designated by the Election Judges/Supervisor for absentee ballots.

(Ord. 436, passed 5-9-2006)

#### Section 2-5104. Provisional Ballots

(A) A provisional ballot is a safeguard that ensures that no individual who asserts that he or she is registered and eligible to vote will be prevented from casting a ballot on election day.

(B) Provisional ballots may be issued for following conditions:

(1) Not on voting register.

(2) Unable to provide required identification.

(3) Received an absentee ballot provided the voter alleges the absentee ballot has not been cast.

(4) Voter identity is challenged by an Election Judge.

(Ord. 436, passed 5-9-2006)

#### Section 2-5105. Nomination of Candidates *(formerly Charter, Section 16-14)*

(A) Nominations of candidates for Mayor and Council members shall be made by petition; provided each such petition shall be signed by at least 20 registered voters and filed with the City Administrator or designee 30 days prior to the date of any City election.

(B) The signers of such petitions must be registered voters qualified to vote for the person whose name is presented and nominated for a place on the official ballot and shall make oath as prescribed on the petition.

(C) A filing fee of \$10 shall accompany petitions for any office.

(Code 1930, art. 11, § 34; 1943, ch. 740, § 1; Char. Res. 7-11-72; Char. Res. 12-11-73; Char. Res. 2-93, 7-14-93) (Rev. 9/93) (5/06)

(Ord. 436, passed 5-9-2006)

#### Section 2-5106. Board of Election Supervisors – "The Board"

(A) Not less than 60 days prior to the date for any City election, the Mayor, with the advice and consent of the Council, shall appoint three qualified voters of the City to serve as a Board of Election Supervisors. The term of appointment shall be from the date of appointment until 60 days after the date of the election, unless otherwise extended by the Mayor, with the advice and consent of the Council.

(B) The members of the Board of Election Supervisors shall be persons of high character and integrity. They shall be legal residents and registered voters of the City.

(C) The Board of Election Supervisors shall elect a President. All questions will be decided by majority vote unless otherwise provided in this Article.

(D) The Board of Election Supervisors shall generally supervise the conduct of the system of registration and all elections in accordance with the provisions of this Article and the ordinances of the City.

(Ord. 436, passed 5-9-2006)

Section 2-5107. Computation of Time

In computing time for notice to be given, or for the performing of any other act under this Article, Saturday, Sunday or a legal holiday shall be included, except when the day on which notice should be given, or an act performed, occurs on a Saturday, Sunday or legal holiday, in which case the notice shall be given or the act performed on the next regular business day following such Saturday, Sunday or legal holiday. In such computation the date of giving notice or performing any act and the day of registration or election shall be excluded.

(Ord. 436, passed 5-9-2006)

Section 2-5108. Election Judges (formerly Charter, Section 16-16, as amended)

(A) Board of Election Supervisors (the Board) shall appoint the following election judges with the appointment to occur not less than 45 days preceding the date of the election:

- (1) Two Chief Judges;
- (2) Two Machine Judges; and
- (3) Three Book Judges.

(B) All Election Judges must be residents of the City and registered voters. Election Judges will be under the supervision of the Board. Election judges must be able to speak, read and write English during the time of acting as a judge; must not hold nor be a candidate for any elective public office, nor be affiliated with any candidate, slate or committee as a treasurer or campaign manager.

(C) Election Judges are prohibited from any form of electioneering during the performance of their duties.

(D) Election Judges may not leave the polling place at any time.

(E) Training for Election Judges shall follow the County Board of Elections manual as prescribed for the last preceding County election, unless a different style of voting machine is used, then other appropriate training will be conducted. Training must be conducted by the Board of Supervisors or their agent, at least 1 week prior to the election.

(F) Each Judge shall take and subscribe to the oath of office, before the Board of Elections, which oath shall be printed in a book for that purpose and shall be substantially in the following form:

"I, \_\_\_\_\_ residing at  
in the City of Brunswick, in the State of Maryland, do solemnly swear (or

affirm) that I am a legal voter of said City, that I support the Constitution of the United States and that I will be faithful and bear allegiance to the State of Maryland and support the Constitution and laws thereof and that I will faithfully and honestly without fear, partiality or prejudice, according to the best of my ability, discharge the duties of an officer of registration and of Election Judge for the City of Brunswick, according to the law.

(G) Compensation for each serving Judge will be set and adopted from time-to-time by the Mayor and Council.

(Code 1930, art. 11, § 34; 1943, ch. 740, § 1; Char. Res. 2, 12-74, 5/06)

(Ord. 436, passed 5-9-2006)

Section 2-5109. Election>Returns Certification and Reservation of Ballots (formerly Charter, Section 16-17)

(A) The Election Judges at every election requiring a decision of the voters, immediately after the polls are closed, shall count the ballots cast. The person receiving the highest number of votes for Mayor shall be declared elected as Mayor. The person(s) receiving the highest number of votes for Council member shall be declared as elected Council member. A majority vote shall be declared for or against any petition or question on the ballot.

(B) The Chief Judges shall verify the results and cause a copy of the unofficial results to be posted on the exterior of the main entrance to the polling place. The Chief Judges will secure all the voting devices and safely secure all ballots, electronic memory devices and other such voting documentation. The Chief Judges will together, take the container to City Hall, where the City Administrator secure the container.

(C) Certification of the election by the Board will take place within one week of the date of the election, depending on the use of absentee and/or provisional ballots. The Board, prior to certification, shall cause all absentee and/or provisional ballots to be cast in the same manner as was done on Election Day. Those votes cast will be added the votes from election to produce a certified official election of candidates and/or petitions or questions.

(D) All cast ballots and the official results shall be maintained by the City for at least two years from the date of the election.

(Code 1930, art. 11, § 34; 1943, ch. 740, § 1; Char. Res. 2-12-74; Char. Res. 2-93, 7-14-93, 5/06)

(Ord. 436, passed 5-9-2006)

Section 2-5110. Challengers or Watchers

(A) These individuals may observe the set up of the voting machines or other devices used for the collection of ballots, voting throughout the day, and the closing procedure, i.e., collection and counting of ballots, and tabulation of results. It is unlawful for any challenger or watcher to inquire for which candidate a voter intends to vote, to converse in the polling place, or to assist any voter.

(B) A certificate signed by any candidate or committee and approved by the Board of Election Supervisors shall be sufficient evidence of the right of the individual to be present in the polling place. Challengers and watchers may not interfere with or obstruct any Election Judge or place in the proper performance of their job.

(C) If an individual commits any of these prohibited acts, a Chief Judge will revoke the certificate and escort the individual from the polling place.

(Ord. 436, passed 5-9-2006)

Section 2-5111. Electioneering

(A) No person or entity shall canvass, electioneer or post any campaign material in any polling place or within a 100-foot radius from any entrance or exit used by voters where the ballots are cast at a polling place.

(B) Any person found guilty of illegal electioneering shall be fined by the Police Department not less than \$50 or more than \$500.

(Ord. 436, passed 5-9-2006)

Section 2-5112. Applicability

The provisions of this Article shall apply to all City elections in which ballots shall be cast pursuant to provisions of this Chapter.

(Ord. 436, passed 5-9-2006)

Section 2-5113. Distribution of Article and Forms to Candidates

The City Administrator shall provide for the distribution of this Article to all candidates for public office at the time such candidate(s) file for election and shall prepare and include such distribution to each candidate forms required by this Article.

(Ord. 436, passed 5-9-2006)

Title 2. Campaign Financing

Section 2-5201. Treasurer for Candidate, Appointment

Each candidate for election to office may appoint one treasurer and file the name and address of the treasurer with the Board of Election Supervisors; the treasurer shall file election reports in accordance with this Article.

(Ord. 436, passed 5-9-2006)

Section 2-5202. Candidate Bank Account

Every candidate for election to public office shall maintain a separate bank account for deposit of all contributions. Each such bank account shall be opened in accordance with all applicable state and federal banking laws and be registered in a manner that identifies it as the account of the candidate.

(Ord. 436, passed 5-9-2006)

Section 2-5203. Personal Contributions and Expenses of Candidates

Personal expenses of the candidate for filing fees, telegrams, telecopier, electronic mail, telephoning, travel and board shall not be considered contributions if paid for by the candidate.

(Ord. 436, passed 5-9-2006)

Section 2-5204. Anonymous Contributions

No candidate or treasurer shall accept any contribution from an unidentified person or organization in furtherance of the candidate's nomination or election.  
(Ord. 436, passed 5-9-2006)

Section 2-5205. Corporate Contributions

Corporate contributions, as well as contributions from any other business entities, political clubs, political committees, political action committees, federal committees and labor unions are allowed. If a contribution is from any of the foregoing entities, the name and address of the entity itself shall be entered in the candidate's records and in the campaign finance reports.  
(Ord. 436, passed 5-9-2006)

Section 2-5206. Limitation of Contributions

It is unlawful for any individual, association, unincorporated association, corporation, or any other entity, either directly or indirectly, to contribute in any election cycle any money or thing of value greater than \$500 to any single candidate or campaign committee or to contribute money in excess of \$100 except by check.  
(Ord. 436, passed 5-9-2006)

Section 2-5207. Election Reports Required

(A) Every candidate for election to public office, or his or her treasurer, shall file a report of contributions and expenditures in accordance with the provisions of this section on forms prescribed by the Board of Election Supervisors. Election reports are required by all candidates for public office, regardless of whether or not the candidate withdraws subsequent to nomination.

(B) The report shall be filed not later than ten days following the date of the City election.

(C) The report shall contain:

- (1) The name and address of the candidate;
- (2) The name and address of the treasurer, if appointed;
- (3) Date of the report;
- (4) Name and address of each contributor;
- (5) The dollar amount of each contribution, or if not money, a description and estimated value of such non-monetary contributions;
- (6) The name and address of each expenditure;
- (7) The dollar amount and nature of each expenditure;
- (8) Written verification by the candidate and treasurer, if appointed.

(D) Election reports shall be filed with the Board of Election Supervisors. The board shall maintain all reports for a period of one year. Reports shall be made available for public inspection and copying during normal business hours through the City Administrator, or

designee.  
(Ord. 436, passed 5-9-2006)

Section 2-5208. Enforcement and Penalties

The Board of Election Supervisors shall aid in the prosecution of all offenses under this Article. Except as otherwise provided herein, any person who fails to perform any duty required of him or her under provision of this Article; or willfully violates any provision of this Article is guilty of a municipal infraction and shall be punished with a fine of not more than \$400.  
(Ord. 436, passed 5-9-2006)

**Article 6. Fair Housing Practices**

Title 1. General Provisions

Section 2-6101. Declaration of Policy

It is the policy of The City of Brunswick to provide for fair housing to all of its residents, regardless of race, color, religion, sex, familial status, national origin, disability, marital status, or source of income; and to that end to prohibit discriminatory practices with respect to residential housing by any person or group of persons, in order that the peace, health, safety, prosperity, and general welfare of all the inhabitants of the City may be protected and insured.  
(Ord. 494, passed 2-8-2011)

Section 2-6102. Definitions

In this Article the following words have the meanings indicated.

Administrator. City Administrator.

Aggrieved Person. Any person who claims to have been injured by a discriminatory housing practice.

City. The City of Brunswick.

Complainant. The person who files a complaint of a discriminatory housing practice under this Article.

Conciliation. The attempted resolution of issues raised by a complaint, or by the investigation of a complaint through informal negotiations involving the complainant, the respondent, and the administrator.

Disability. With respect to a person:

- (1) A physical or mental impairment which substantially limits one (1) or more of such person's major life activities;
- (2) A record of having a physical or mental impairment which substantially limits one (1) or more of such person's major life activities; or
- (3) Being regarded as having a physical or mental impairment which substantially

limits one (1) or more of such person's major life activities.

- (4) Disability does not include current, illegal use of or addiction to a controlled or otherwise illegal substance as defined in Title 21, § 802 of the U.S. Code or Article 27, § 277 of the Maryland Code.

Discriminatory Housing Practice. An act that is unlawful under Sections 2-6104, 2-6105, 2-6101, 2-6107, 2-6108, and 2-6109 of this Article.

Dwelling. Any building, structure or portion thereof which is occupied as, or designed for occupancy as, or intended for, a residence by one (1) or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

Familial Status. The status of one (1) or more individuals (who have not attained the age of eighteen (18) years) being domiciled with:

- (1) A parent or other person having legal custody of such individual or individuals; or
- (2) The designee of such parent or other person having legal custody of such individuals, with the written permission of such parent or other person.
- (3) The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

Family. Includes a single individual.

Housing for Older Persons. Housing:

- (1) Provided under any State or Federal program that is specifically designed and operated to assist elderly persons as defined by the state or federal program;
- (2) Intended or solely occupied by, persons sixty-two (62) years of age or older;
- (3) Intended and operated for occupancy by at least one person fifty-five (55) years of age or older per unit.

Marital Status. The state of being single, married, separated, divorced, or widowed.

Multifamily dwelling. Means:

- (1) A building consisting of four (4) or more units, if the building has one (1) or more elevators; or
- (2) A ground floor unit in a building consisting of four (4) or more units, if the building has no elevator.
- (3) A multistory townhouse shall not be considered a multifamily dwelling.

Person. Includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts,

unincorporated organizations, trustees, receivers, and fiduciaries.

Respondent. A person accused in a complaint of a discriminatory housing practice.

Source of Income. Any lawful, verifiable source of money paid directly or indirectly to a renter or buyer of housing including:

- (1) Any lawful profession or occupation;
- (2) The condition of being a recipient of Federal, State, or local government assistance, including medical assistance, subsidies, rental assistance, or rent supplements;
- (3) Any gift, inheritance, pension, annuity, alimony, child support, trust or investment accounts, or other consideration or benefit; and
- (4) Any sale or pledge of property or interest in property.

To Rent. To lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.  
(Ord. 494, passed 2-8-2011)

Section 2-6103. Applicability of Subtitle; Exceptions

(A) Nothing in this Article, other than the prohibitions against discriminatory advertising, applies to the sale or rental of a single family dwelling, if the dwelling is sold or rented without the use of the sales or rental facilities or services of any:

- (1) Real estate broker, agent, or salesperson;
- (2) Agent of any real estate broker, agent, or salesperson;
- (3) Person in the business of selling, renting, or managing dwellings; or
- (4) Agent of a person in the business of selling, renting, or managing dwellings.

(B) Nothing in this Article, other than the prohibition against discriminatory advertising, applies to the rental of any unit in a dwelling that contains four (4) or fewer rental units, and the owner maintains a unit in the dwelling as the owner's principal residence.

(C) The use of attorneys, escrow agents, abstractors, title companies, and other similar professional assistance as necessary to perfect or transfer the title may not subject a person to this Article if the person otherwise would be exempted.

(D) Nothing in this Article requires that a dwelling be made available to an individual whose tenancy:

- (1) Would constitute a direct threat to the health or safety of other individuals; or
- (2) Would result in substantial physical damage to the property of others.

(E) Nothing in this Article shall prohibit a religious organization, association, or society or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction

with a religious organization, association, or society from limiting the sale, rental or occupancy of dwellings that it owns or operates for other than a commercial purpose, to persons of the same religion, or from giving preference to these persons, unless membership in the religion is restricted on account of race, color or national origin.

(F) Nothing in this Article shall prohibit a private club not in fact open to the public, which as an incidence to its primary purpose or purposes, provides lodgings that it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of the dwelling to its members or from giving preference to its members.

(G) Nothing in this Article limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

(H) The provisions in this Article that deal with familial status do not apply to housing for older persons as defined in Section 2-6102 of this Article.

(I) Nothing in this Article prohibits conduct against a person because the person has been convicted by a court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance, as defined in Title 21, § 802 of the U.S. Code or a controlled dangerous substance as defined in Article 27, § 277 of the Maryland Code.

(J) The prohibitions in this Article against discrimination because of source of income do not prohibit:

- (1) A commercially reasonable verification of a source and amount of income;
- (2) A commercially reasonable evaluation of the stability, security, and creditworthiness of any source of income;
- (3) The eviction of any person for lease violation behaviors; or
- (4) The refusal to consider income derived from any criminal activity.

(K) With respect to discrimination on the basis of sex, this Article does not apply to rooms within a dwelling which have shared restroom and cooking facilities.  
(Ord. 494, passed 2-8-2011)

#### Section 2-6104. Discrimination in Sale or Rental of Housing and Other Prohibited Practices

Except as exempted by Section 2-6103 of this Article, it shall be unlawful:

- (A) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, national origin, disability, marital status, or source of income;
- (B) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection with the sale or rental of a dwelling, because of race, color, religion, sex, familial status, national origin, disability, marital status, or source of income;
- (C) To make, print or publish, or cause to be made, printed or published any notice,

statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, sex, familial status, national origin, disability, marital status, or source of income, or an intention to make any preference, limitation, or discrimination;

- (D) To represent to any person because of race, color, religion, sex, familial status, national origin, disability, marital status, or source of income that any dwelling is not available for inspection, sale, or rental when the dwelling is in fact available;
- (E) To discriminate in the sale or rental, or otherwise make unavailable or deny, a dwelling to any buyer or renter because of the race, color, religion, sex, familial status, national origin, disability, marital status, or source of income of:
  - (1) The buyer or renter; or
  - (2) A person residing or intending to reside in the dwelling after it is so sold, rented, or made available.
- (F) To refuse to permit at the expense of a disabled person, reasonable modifications of existing premises occupied or to be occupied by the individual if:
  - (1) The modifications may be necessary to afford the disabled person full enjoyment of the dwelling; and
  - (2) For a rental dwelling, the tenant agrees, at the tenant's expense to restore, reasonable wear and tear excepted, the interior of the dwelling to the condition that existed before the modification on vacating the dwelling;
- (G) To refuse to make reasonable accommodations in rules, policies, practices, or services when the accommodations may be necessary to afford a disabled individual equal opportunity to use and enjoy a dwelling; or
- (H) To fail to design or construct a multifamily dwelling for first occupancy as required under Section 2-6105 of this Article.

(Ord. 494, passed 2-8-2011)

Section 2-6105. Access for the Disabled

- (A) On or after July 1, 1991, a multifamily dwelling for first occupancy shall be designed and constructed so that:
- (1) The public use and common use portions of such dwellings are readily accessible to and usable to disabled persons;
  - (2) All the doors designed to allow passage into and within all premises within the dwelling are sufficiently wide to allow passage by disabled persons in wheelchairs; and
  - (3) All premises within the dwellings contain the following features of adaptive design:
    - (a) An accessible route into and through the dwelling;

- (b) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
- (c) Reinforcements in bathroom walls to allow later installation of grab bars; and
- (d) Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

(B) The requirements of this Section are satisfied by compliance with:

- (1) The appropriate requirements of the most current revision of the American National Standard for Buildings and Facilities Providing Accessibility and Usability for Physically Handicapped People (commonly cited as ANSI A117.1); or
- (2) The Federal law, regulations, and guidelines on disability accessibility adopted under the Federal Fair Housing Act Amendments of 1988 and incorporated by reference in the rules and regulations adopted by the Department of Housing and Urban Development under Article 83B, § 6-102 of the Code. (1991, ch. 571, § 3.)

(Ord. 494, passed 2-8-2011)

Section 2-6106. Discrimination in Residential Real Estate Related Transaction

- (A) It shall be unlawful for any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, familial status, national origin, disability, marital status, or source of income.
- (B) It shall be unlawful to refuse to appraise a property, to lend money, guarantee a loan, purchase a loan, accept residential real property as security for a loan, accept a deed of trust or mortgage, or otherwise make funds available for the purchase, acquisition, construction, alteration, rehabilitation, repair or maintenance of a dwelling; or impose different conditions on such financing; or refuse to provide title or other insurance relating to the ownership or use of any interest in real property because of race, color, religion, sex, familial status, national origin, disability, marital status, or source of income.
- (C) It shall be unlawful to discriminate in any financial transaction involving a dwelling on account of the location or neighborhood composition because of the race, color, religion, sex, familial status, national origin, disability, marital status, or source of income of the residents.
- (D) Nothing in this Article prohibits a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, sex, familial status, national origin, disability, marital status, or source of income.

(Ord. 494, passed 2-8-2011)

Section 2-6107. Discrimination in Provision of Brokerage Services

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility, relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions or such access, membership or participation, on account or race, color, religion, sex, familial status, national origin, disability, marital status, or source of income. (Ord. 494, passed 2-8-2011)

Section 2-6108. Interference, Coercion, or Intimidation

It shall be unlawful to coerce, intimidate, threaten, interfere with, or retaliate against any person in the exercise or enjoyment of, on account of a person having exercised or enjoyed, or on account of a person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this Article. (Ord. 494, passed 2-8-2011)

Section 2-6109. Prohibition Against Injury, Intimidation, Etc., by Force or Threat of Force, to Prevent Exercise of Rights

Whether or not acting under color of law it is unlawful for any person, by force or threat of force, to willfully injure, intimidate, interfere with, or attempt to injure, intimidate, or interfere with:

- (A) Any person because of race, color, religion, sex, familial status, national origin, disability, marital status, or source of income and because the person is or has been:
  - (1) Selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling; or
  - (2) Applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings.
- (B) Any person because the person is or has been, or in order to intimidate the person or any other person or any class of persons from:
  - (1) Participating without discrimination on account of race, color, religion, sex, familial status, national origin, disability, marital status, or source of income in any of the activities, services, organizations, or facilities described in subsection (A) of this Section; or
  - (2) Affording another person or class of persons the opportunity or protection to participate in any of the activities, services, organizations or facilities as described in paragraph (a) of this section; or
- (C) Any person because the person is or has been, or in order to discourage the person or any other person from:
  - (1) Lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, familial status, national origin, disability, marital status or source of income in any of the activities, services, organizations, or facilities described in Subsection (A) of this Section; or
  - (2) Participating lawfully in speech or peaceful assembly opposing any denial of the

opportunity to participate in any of the activities, services, organizations or facilities described in Subsection (A) of this Section.

(Ord. 494, passed 2-8-2011)

Section 2-6110. Fair Housing Administrator

(A) There is hereby established a Fair Housing Administrator to carry out the provisions of this Article.

(B) Duties of the Administrator shall be as follows:

- (1) The Administrator shall be responsible for promoting fair housing rights within the City.
- (2) The Administrator shall have the authority to inform the citizens of the City of practices and patterns of conduct which may be discriminatory in housing.
- (3) The Administrator shall have the authority to initiate or receive complaints, and make referrals to the Maryland Commission on Human Relations.
- (4) The Administrator shall hold confidential any information that would tend to disclose the identity of a complainant and/or respondent until an order of discrimination has been found by the Administrator.

(Ord. 494, passed 2-8-2011)

Section 2-6111. Procedures of the Administrator

(A) A complaint charging a violation shall be made in writing and under oath or affirmation by an aggrieved person within one (1) year of the last discriminatory event.

(B) The Administrator shall make a prompt referral to the Maryland Commission on Human Relations.

(C) A complainant has the right to appeal any administrative decision.

(Ord. 494, passed 2-8-2011)

Section 2-6112. Penalties

Penalties ordered by the court may include, but are not limited to:

- (A) Injunctive relief.
- (B) Compensatory damages.
- (C) Punitive damages.
- (D) Reasonable and customary attorney's fees.
- (E) Non-monetary relief.
- (F) A fine not exceeding \$10,000 for the first offense. Each subsequent offense within five (5) years shall be punishable by a fine not exceeding \$25,000.

(G) Any other equitable relief that is deemed appropriate.  
(Ord. 494, passed 2-8-2011)

Section 2-6113. Enacting of Other Ordinances on Subjects Covered by Ordinance

Nothing in this Article shall affect the powers of the City to enact ordinances on any subject covered by this title; provided that no such ordinance shall permit the doing of any act which would be a discriminatory or unlawful housing practice under this Article.  
(Ord. 494, passed 2-8-2011)

**CHAPTER 3**

**PROPERTY REGULATIONS**

**Article 1. Private Responsibilities**

Title 1. Property Maintenance

Section 3-1101. Definitions

In this title, the following words, terms, phrases, and their derivations shall have the

meanings indicated.

Disabled or Inoperative Vehicle. Any motor vehicle remaining in one place for ten (10) days or more and subject to any one or more of the following conditions:

- (A) It has no engine or transmission;
- (B) It has two or more flat tires;
- (C) One or more windows are missing or broken;
- (D) It has become a breeding place for insects, snakes, rats, or other vermin.

Garbage. All organic waste, consisting of the residue of animal, fruit, or vegetable matter, resulting from the preparation, cooking, handling, or storage of food, exclusive of human or animal feces.

Hazardous Material. Any substance or material in a quantity or form that may pose an unreasonable risk to health and safety of property, including any material designated by the U.S. Department of Transportation, U.S. Environmental Protection Agency, Maryland Department of the Environment, or any other Federal or State agency as belonging to a hazard class, and including any explosive, flammable substance, corrosive substance, or radioactive substance.

Historic Vehicle. Any vehicle that meets the definition of historic vehicle under State Law, including any vehicle that: (i) is 25 years or older and has not been substantially altered from the manufacturer's original design, or (ii) has a unique interest or historic value including makes of motor vehicles no longer manufactured and models of motor vehicles produced in limited or token quantities and no longer manufactured.

Junk Vehicle. Any automobile, truck, van or other motor vehicle which:

- (A) Is unregistered or unlicensed;
- (B) Displays tags assigned to another vehicle; or
- (C) Is disabled or inoperable.

Litter. All rubbish, waste matter, ashes, refuse, garbage, trash, debris, dead animals, or other discarded, hazardous or toxic materials of every kind and description.

Refuse. Garbage, rubbish, junk, industrial waste, dead animals, and all other solid waste materials, including salvageable waste.

Rubbish. All refuse other than garbage, whether combustible or noncombustible, including but not limited to the following: rubbish from building construction or reconstruction, dead trees, uprooted tree stumps, slash, rubble, street refuse, abandoned automobiles, machinery, bottles, cans, waste paper, cardboard, sawdust piles, slash from sawmill operations, and all other waste material.

Structure. That which is built or constructed, including without limitation buildings for any occupancy or use whatsoever, fences, signs, billboards, fire escapes, stairways, chute escapes, railings, water tanks, towers, open grade steps, sidewalk tents or anything erected and framed of

component parts which is fastened, anchored or rests on a permanent foundation or on the ground.

Toxic Material. Any substance that can be poisonous if inhaled, swallowed, or absorbed into the body through cuts, breaks in the skin, ingestion, or bodily contact.

Weeds or Grass. All bushes, hedges, shrubs, grasses, poison oak, poison ivy or any other non-cultivated vegetation which attains a noxious or dangerous condition upon growth or accumulation so as to constitute a menace to public health or a fire hazard. A generalized growth of grasses, poison oak, poison ivy or other non-cultivated vegetation exceeding a height of twelve (12) inches is presumptively a noxious and dangerous condition. A generalized growth of bushes, hedges and shrubs extending into the vertical plane of any public way or abutting premises is presumptively a noxious and dangerous condition. Not included within this definition are trees, flowers, garden vegetables, compost piles or any plant necessary for soil stabilization purposes.

Yard. An open unoccupied space on the same lot with a building.

#### Section 3-1102. Dwelling Units

It shall be unlawful for the owner of a dwelling unit or his designated agent or lessee to fail to maintain the structure and its exit ways in a safe and sanitary condition at all times. Every dwelling shall be kept sanitary, clean and free from any accumulation of rubbish, garbage or similar matter, and shall be kept free from vermin or rodent infestation. It shall be the duty of each occupant of the dwelling unit to keep in a clean condition that portion of the property which he occupies or over which he has exclusive control.

#### Section 3-1103. Yards

It shall be unlawful for the owner of a yard or his designated agent or lessee to fail to maintain the yard free from all unsafe, hazardous or unsanitary conditions. Every yard shall be kept sanitary, clean and free from any accumulation of rubbish, garbage, refuse, and hazardous or toxic material.

#### Section 3-1104. Vacant Structures and Land

All vacant structures and premises thereof or vacant land shall be maintained by the owners free from an overgrowth of weeds and grass and in a clean, safe, secure, and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

#### Section 3-1105. Overgrowth

It shall be unlawful for any occupant or lessee of property, or the owner of property in the event that such property is unoccupied, to fail to cut down and remove any weeds or grass exceeding a height of twelve (12) inches within one hundred (100) feet of any residential or commercial lot within the City of Brunswick.

#### Section 3-1106. Littering

(A) It shall be unlawful for any person or persons to dump, deposit, throw, or leave, or to cause or permit the dumping, depositing, placing, throwing, or leaving of litter on any public

or private property in this City, unless:

- (1) Such property is designated by the Mayor and Council for the disposal of such litter, and such person is authorized by the Mayor and Council to use such property;
- (2) Such litter is placed into a litter receptacle or container installed on such property;
- (3) Such person is the owner or tenant in lawful possession of such property, or has first obtained written consent or is under the personal direction of the owner or tenant in lawful possession, and the act is done in a manner consistent with the provisions of this Article.

(B) Leaves deposited upon the sidewalk or street pending their removal as prescribed by the Council are exceptions to this Section.

*Revisor's Note: For State Law governing littering, see Criminal Law Article, Section 10-10, Annotated Code of Maryland.*

#### Section 3-1107. Junk Vehicles

(A) Except as provided in Subsection (B), it shall be unlawful for anyone to have, possess, store, or maintain a junk vehicle upon any property, whether public or private, within the corporate limits of the City of Brunswick, unless such vehicle or vehicles are housed or stored in a completely enclosed building.

(B) One junk vehicle may be housed or stored on a lot of record if the vehicle is completely covered by a waterproof, opaque cover which is in good condition and which is specifically designed for such purposes; provided, however, that if one or more individuals, firms or entities, own, lease, occupy or possess, in whole or in part, two or more adjacent and adjoining lots of record, then only one junk vehicle may be housed or stored on all those lots of record so owned, leased, occupied or possessed.

(C) The provisions of this section are not applicable in the I-1 (Heavy Commercial-Light Industrial), B-2 (Central Business), and HS (Highway Service) Zoning Districts in conjunction with automobile assembly, major repair, new and used auto sales, service station or repair shop uses.

*Revisor's Note: For county law related to inoperative motor vehicles, see Section 1-11-5, Code of the Frederick County Code, 2004. Section 1-11-5 provides that:*

*“On any parcel of property in Frederick County, Maryland, it is hereby declared to be a nuisance and a danger to the public health, safety and welfare for any contaminated water, filth, garbage, rubbish, including but not limited to, more than 2 dismantled, inoperative or unlicensed motor vehicles, unless within a completely enclosed building or within a permitted commercial or industrial Zoning District, and any abandoned or discarded appliances, including but not limited to, stoves, refrigerators, freezers and the like, or any offensive or deleterious matter to be and remain on any premises which is subject to this section in the county.”*

#### Section 3-1108. Historic Vehicles

A junk vehicle that also meets the definition of an historic vehicle may be housed, stored, parked or maintained upon any property, whether public or private, without being housed or

stored in a completely enclosed building; provided, however, that any vehicle so housed, stored, parked or maintained shall be behind the front building line of the property where the vehicle is stored and shall be protected by a waterproof, opaque cover which is in good condition and which is specifically designed for such purpose. For purposes of this section, a carport does not constitute the required covering. If one or more individuals, firms or entities, own, lease, occupy or possess, in whole or in part, two or more adjacent and adjoining lots of record, then only one historic vehicle may be housed or stored on all those lots of record so owned, leased, occupied or possessed.

#### Section 3-1109. Vehicle Repairs

The repairing, servicing, replacement of parts, or the performance of maintenance work on a vehicle on a public street is prohibited unless completed within one (1) day after their commencement, or within ten (10) days if outside of an enclosed building on any private premises, and thereafter the vehicle upon which the repairs are made is legally operable upon any public street or highway.

#### Section 3-1110. Building Numbers

The assigned number of each and every property in the City of Brunswick shall be displayed on the assigned house by numbers which are at least three inches (3”) in height and which contrast in color to the property. Property numbers shall be clearly visible from the adjacent street and shall not be obstructed by trees, shrubs, or any other objects.

A law enforcement officer observing a violation of the above shall issue a citation to the owner of the property, clearly noting thereon that the initial citation is a warning and providing ten (10) days to the property owner within which to correct the violation.

Any person who shall not have posted a property number as provided above within ten (10) days of receiving a warning as noted above shall be guilty of a municipal infraction, the fine for which shall be five dollars (\$5.00). Each day during which the violation continues shall be considered a separate municipal infraction, for which a fine of five dollars (\$5.00) shall be imposed.

#### Section 3-1111. Enforcement by Mayor

The Mayor or the Mayor’s designee may enforce all prohibitions and standards set forth in this article including, but not limited to, any action to remove or cause the removal, at the expense of the owner, of any junk vehicle upon failure to remove within ten (10) days of a written notice of violation delivered to and posted at the address of the violation; such expense shall be billed to the owner, and if unpaid within thirty (30) days, such expense shall be recorded and indexed on the tax rolls and thereupon shall be a charge, until paid, levied upon the real property against which the removal charges have been made, and shall be collectible by a suit at law or by the same manner as delinquent municipal corporation taxes or charges levied against the property.

*Mayor and Council of Brunswick Code of Ordinances*

#### Section 3-1112. Penalty for Violation

Any violation of the provisions of this Article 1 shall be a municipal infraction as enumerated at Section 10-2202.

## Title 2. Animal Control

### Section 3-1201. Prohibited Animals

It shall be unlawful for any person to have in his possession within the City limits any animal which, by barking, howling, or in any other manner, disturbs the peace, order and quiet of the City, or which has bitten or attempted to bite any person.

### Section 3-1202. Livestock

It shall be unlawful for any person to maintain any pen, sty, or any other enclosure for the maintenance of livestock, including hogs, pigs, chickens, sheep, cattle, horses, goats, or more than two (2) rabbits.

### Section 3-1203. Horses

All horses shall be kept under the immediate custody and control of the owner or person in possession at all times, and no horse shall be allowed to stand upon any street, highway, alley or public place without being under such control.

### Section 3-1204. Adoption of County Animal Regulations

There is hereby adopted by the City of Brunswick, for the purpose of establishing rules and regulations for control of animals, including County license requirements and penalties, the provision of Chapter 1-5 (Animals and Fowl), Frederick County Code, 2004, as amended, save and except such portions as are deleted, modified, or amended by this Title, of which one copy shall remain on file in the City Hall, and the same is incorporated as fully as if set out at length herein.

### Section 3-1205. Animal Waste

No owner or other person who has possession or control of a dog, domestic pet or other animal shall permit its feces to remain upon or adjacent to any of the streets, sidewalks or parks or in any public place within the boundaries of the City of Brunswick. The owner or other person who has possession or control of a dog, domestic pet or other animal which deposits its feces upon or adjacent to any of the streets, sidewalks or parks or in any public place within the boundaries of the City of Brunswick shall immediately remove the feces therefrom or shall immediately cause the feces to be removed therefrom.

### Section 3-1206. Penalty for Violation

Any violation of the provisions of Sections 3-1201, 3-1202, 3-1203, and 3-1205 shall be a municipal infraction as enumerated at Section 10-2202.

## **Article 2. Public Responsibilities**

### Title 1. Collection and Removal of Solid Waste

#### Section 3-2101. Definitions

In this Title, the following words, terms, phrases, and their derivations shall have the meanings indicated.

Bulk Trash. Large items of solid waste, including but not limited to appliances, furniture, mattresses, similar items which cannot be handled by normal municipal waste processing, collection or disposal methods.

Commercial. Any non-residential building or establishment, including but not limited to, those used for manufacturing, retail, wholesale, dining, offices, professional services, shipping and receiving areas and cafeterias. Home businesses which generate solid waste from locations other than the owner's residence or which generate more than 64 gallons of solid waste per week and multi-family dwellings containing more than four units are considered commercial properties for the purposes of this Chapter.

Hazardous Material. Any substance regulated as a hazardous material under Title 49 of the Code of Federal Regulations.

Recyclable Materials. Those materials that:

- (1) Separated from waste stream for the purpose of recycling; and
- (2) As defined by Frederick County Division of Utilities and Solid Waste Management Recycling, Office of Recycling.

Recycling. The collection, separation, recovery, or reuse of materials as defined by Frederick County Division of Utilities and Solid Waste Management Recycling, Office of Recycling, which would otherwise be disposed of or processed as municipal waste.

Solid Waste. All putrescible and non-putrescible solid and semisolid wastes, generated in or upon, related to the occupancy of, remaining in or emanating from residential or non-residential premises or commercial/industrial premises, including but not limited to, garbage, trash, discarded small home appliances, vegetable solid or semisolid wastes, and other solid and semisolid wastes excluding liquid wastes; provided, however, that Solid Waste shall not include hazardous material.

White Goods. Includes, but is not limited to, refrigerators, freezers, stoves, washers, dryers, dishwashers, trash compactors, air conditioners, ovens, hot-water heaters, furnaces, wood stoves, sinks and bathtubs.

Yard Waste. Any materials normally generated in the maintenance of gardens, yards, lawns, or landscaped areas, whether residential, commercial or public, including leaves, grass clippings, plants, shrubs, prunings and trimmings no greater than eight feet in length and no greater than six inches in diameter. Yard Waste does not include other tree waste, land clearing debris, waste pavement, soil or any edible product from any garden, yard, lawn or landscaped area.

(Ord. 481, passed 6-9-2009)

### Section 3-2102. Authority of Mayor and Council

- (A) The Mayor and Council shall regulate and control the collection, removal and disposal of all solid waste, including, but not limited to, items as described in Section 3-2101 from

dwellings and other places within the City of Brunswick.

(B) The Mayor and Council may enter into such agreements or contracts, including agreements or contracts with any corporation, partnership, person, political subdivision or public authority, to cause or provide for the collection, removal and/or disposal of all solid waste.

(C) The Mayor and Council may employ personnel and trash collection vehicles for the collection, removal and/or disposal of all solid waste.

(D) The Mayor may extend or change the days and/or hours of scheduled solid waste collection.

(E) The Mayor and Council may establish and levy such fees as may be necessary to achieve the purposes of this Title, including, but not limited to, fees for the collection, removal and disposal of any solid waste generated by residential or non-residential properties located within the City.

(F) The Mayor and Council may require that refuse of an animal or vegetable matter be separated from and deposited, collected, removed and disposed separately.

(G) The Mayor or the Mayor's designee may enforce all prohibitions and standards set forth in this Title, including, but not limited to, any action to remove or cause the removal, at the expense of the owner, of any garbage, solid waste, rubbish, litter, weeds or grass improperly maintained upon failure to remove within ten days of a written notice of violation delivered to and posted at the address of the violation; such expense shall be billed to the owner, and if unpaid within 30 days, such expense shall be recorded and indexed on the tax rolls and thereupon shall be a charge, until paid, levied upon the real property against which the removal charges have been made, and shall be collectible by a suit at law or by the same manner as delinquent municipal corporation taxes or charges levied against the property.

(H) The Mayor and Council of the City of Brunswick shall be authorized to establish and impose procedures regarding the placement of temporary dumpsters within City streets and alley ways, as demonstrated in Appendix A.

(Ord. 481, passed 6-9-2009)

*Revisor's Note: See Section 14-809 et seq. of the Tax-Property Article, Annotated Code of Maryland. If the County Tax Collector fails to institute tax sale procedures within 30 days of notice from the municipal tax collector, a municipality may use the provisions and procedures of Subtitle 8, Title 14 of the Tax-Property Article to sell a property for unpaid municipal incorporation taxes or charges. Also see Section 2(b)(33)(ii) and Section 2(b)(17) of Article 23A, Annotated Code of Maryland for municipal authority to establish reasonable charges against real property in the exercise of a governmental function authorized by law. Such charges may be recorded as a lien and collected as a municipal tax, subject to the limitations imposed by the Tax-Property Article of the Annotated Code of Maryland.*

### Section 3-2103. Prohibitions-Occupant

(A) It shall be unlawful to deposit solid waste in containers exceeding 32 gallons each or a maximum exceeding 96 gallons.

(B) All solid waste must be in containers, which provides ease of pickup and adequate when

placed at the curb for collection. The owners of a property are responsible for cleaning up any litter that has escaped from solid waste containers.

(C) When put out for collection, solid waste containers bundles shall not be placed on a public road or blocking a alley or sidewalk and shall be no more than six feet from the edge of the roadway.

(D) All solid waste shall be placed at the curb for collection not earlier than 6:00 p.m. on the day preceding those days designated for collection and solid waste containers shall be removed by 7:00 a.m. of the day following collection.

(E) All solid waste including solid waste containers must be located behind the front building line of the residence or non-residential entity when not placed at the street for collection.

(F) All multifamily dwellings with more than four units and all non-residential properties where the solid waste or solid waste containers are visible from the street or adjacent residential properties must provide an enclosed, ventilated structure with self-closing door for the purpose of storing solid waste and solid waste containers. Enclosures shall be approved by the Superintendent of Public Works.

(G) It shall be unlawful for any person to place curbside for collection, any solid waste not generated within a residential or non-residential property within the City limits.

(H) It shall be unlawful for any person, firm or corporation to place solid waste on the property of another.

(I) It shall be unlawful for a person who is not a City resident to place their solid waste for collection in the City incorporated limits.

(J) It shall be unlawful for any refrigerators, or any other container, equipment or appliance having self-locking doors to be abandoned or placed for collection or drop-off without first removing and detaching the doors or covers from same.

(K) The following items will not be accepted for residential collection: hazardous materials; chemical wastes; explosives, medical wastes, tanks, cylinders, excavated materials; automobile bodies or parts thereof; sealed drums or containers of any description; tires, liquid paint, stumps and trunk wood; tree limbs, brush and shrubs; debris from building and remodeling; wastes generated by contractors engaged in building, remodeling, or demolition; broken concrete, asphalt, or masonry, yard waste, as well as any materials that could cause injury or be detrimental to the health of collection workers.

(L) Such wastes defined above must be removed by the owner, occupant, operator or contractor performing such work or other persons creating or causing the accumulation of such materials as the case may be.

(Ord. 481, passed 6-9-2009)

#### Section 3-2104. Prohibitions-Solid Waste Collectors

(A) Collect and remove solid waste in a manner prejudicial to health.

(B) Park or otherwise leave unattended within the City any vehicle containing solid waste

and regularly used for hauling or transporting solid waste for any period of time in excess of what is necessary for the loading or unloading of such vehicle.

(C) Fail to immediately remove and clean up spillage onto the streets or sidewalks.

(D) Overload within the City any vehicle used for hauling or transporting solid waste.

(E) Fail to maintain any vehicle in a sanitary and non-offensive condition while parked within or while hauling or transporting solid waste within the City.

(Ord. 481, passed 6-9-2009)

#### Section 3-2105. Collection Schedule

All solid waste shall be collected and removed between the hours of 7:00 a.m. and 4:00 p.m. A full schedule and route description shall be maintained and posted at the City Hall by the City Clerk/Treasurer.

(Ord. 481, passed 6-9-2009)

#### Section 3-2106. Special Pick-Ups

Oversized articles including, but not limited to, furniture, mattresses, appliances and bicycles, may be collected for disposal only upon arrangement for a special pick-up; residents must make special pick-up arrangements with the trash collector. A regular bulk pick-up or drop-off may be scheduled and advertised.

(Ord. 481, passed 6-9-2009)

#### Section 3-2107. Recycling

(A) In order to protect the environment by conserving natural resources and preserving rapidly dwindling landfill space as well as minimizing waste disposal costs, it is the policy of the Mayor and Council to require mandatory recycling for all residential properties and to encourage non-residential properties within the City limits to recycle all recyclable solid waste materials and implement source reduction activities.

(B) Recycling services for residential properties within the city are provided as follows, subject to all the restrictions and conditions:

(1) Curbside recycling is provided in residential areas by the Frederick County, Department of Solid waste Management, Department of Recycling, subject to the schedule set by the County.

(2) All recyclable materials shall be selected, prepared, and contained in conformance with the requirements of the Frederick County Department of Solid waste Management, Department of Recycling.

(3) Drop-off sites for recyclable materials listed in (1) above are provided by the County at various locations including a site within the City as designated.

(4) Used motor oil drop-off sites are provided at various locations throughout the County including a site within the City limits as designated.

(5) Yard waste drop-off sites are provided by the County at several locations

throughout the county and a site within the City limits as designated.

(6) Used antifreeze, mattresses, scrap metal, appliances, batteries, electronics, and tires may be dropped off at the Frederick County Reich's Ford Recycling Center.

(7) Household hazardous waste can be dropped off periodically as announced by the Frederick County, Reich's Ford Recycling Center.

(8) Drop-off or collection of grass clippings, landscaping brush, tree limbs, and leaves may be provided by the City.

(Ord. 481, passed 6-9-2009)

#### Section 3-2108. Mandatory Recycling

(A) Effective ten days after the adoption of this Title, it shall be mandatory for all residential properties within the City of Brunswick to recycle either by curbside recycling or approved Frederick County Recycling Centers.

(B) Recycling of these materials must meet the restrictions and conditions set by the Frederick County Department of Solid waste Management, Department of Recycling and the City of Brunswick.

(C) It shall be unlawful to combine the recyclables described in Section 3-2101 with other solid waste.

(D) It shall be unlawful for solid waste collectors to collect solid waste with visible signs of recyclable materials as defined in Section 3-2101, or yard waste.

(E) It shall be the responsibility of the property resident to segregate the uncollected waste for recycling. Failure to do so will be a violation of this Title.

(Ord. 481, passed 6-9-2009)

#### Section 3-2109. Agreements and Contracts

All agreements and contracts to collect, remove and/or dispose of solid waste from the City shall require the vendor to:

(A) Comply with the City Code of Ordinances, all other applicable ordinances and resolutions enacted by the Mayor and Council, applicable County, State and Federal statutes and regulations, and any lawfully issued City, State or Federal order.

(B) Assign to the Mayor and Council an acceptable performance surety bond, or some other form of performance security acceptable to the Mayor and Council.

(C) Carry liability, property damage and workers compensation insurance policies covering its agents, employees, vehicles and equipment, and issued by insurance carriers and in amounts acceptable to the Mayor and Council.

(D) Hold the Mayor and Council and City employees harmless from claims, and the defense of such claims, consequent or incident to the acts or omissions of any of the vendor's agents, employees, vehicles or equipment.

(E) Utilize vehicles equipped and operated in a manner acceptable to the Mayor and Council.

(F) Collect, remove and dispose of solid waste in accordance with a written statement of service, approved by the Mayor and Council, failure of which to perform would entitle the Mayor and Council to remove or cause to be removed such solid waste, with the cost of such removal to be deducted from any money due the vendor by the Mayor and Council, to declare the contract at an end, to discharge the vendor, to retain any sums due the contractor for any loss the Mayor and Council may sustain, to employ another vendor or vendors for the remainder of the term, or to do the work by employees of the Mayor and Council, and to enter suit upon the surety bond or other accepted performance security of the vendor for any loss or damage which the Mayor and Council may have.

(G) Provide in writing prior notice of not less than 30 days of any intent to discontinue service for any cause, except for nonpayment of service charges; a copy of such notice shall be sent to the Mayor and Council.

(H) Provide alternate service within 24 hours in the event of mishap or breakdown of regular equipment, or if collection service is missed for any reason.

(Ord. 481, passed 6-9-2009)

#### Section 3-2109. Penalty for Violation

Any violation of the provisions of this Title shall be a municipal infraction as enumerated at Section 10-2202.

(Ord. 481, passed 6-9-2009)

## Title 2. City Properties

#### Section 3-2201. Sidewalks and Curbing-Construction Specifications

It shall be unlawful for any person to construct public sidewalks or curbing not in conformance to the provisions of this Section. The width of a sidewalk shall be proportioned to the width of the street, but no sidewalk shall be less than four feet (4') in width. No curbing shall be less than five (5) inches wide and eighteen (18) inches deep; the ends thereof shall be straight and the upper edges level to the sidewalk. All sidewalks and curbings shall be constructed of first class concrete or such other material as may be approved by the Superintendent of Public Works.

*Revisor's Note: See Article X (Streets, Sidewalks and Improvements) of the Charter of the City of Brunswick for provisions regarding procedures for authorizing and assessing the costs of City installed improvements.*

#### Section 3-2202. Sidewalks and Curbing-Maintenance

It shall be the duty and obligation of the owner of property abutting a sidewalk in a public right-of-way to maintain the abutting sidewalk, driveway apron, and sod in such a condition as to be safe for public use.

### Section 3-2203. Damage to Public Property

Any person, firm or entity engaged in any construction or other work, including work performed under an approved site plan or under a zoning certificate issued by the City, shall be liable to the City for any damage caused to public streets, roads, alleys, curbs, gutters, signs, lights, utilities or other public property which results from or is caused by such work. The person, firm or entity shall clear, clean and remove any mud, dirt, pollutants or other foreign material which it tracks or deposits onto the public ways or other public property in the conduct of such work and shall make such repairs and clean and clear such areas as are requested by the City. In the event of the failure or refusal of such person, firm or entity to timely comply with such request, the City shall be entitled to obtain and utilize any funds, accounts or other guaranty of performance which may have been furnished by the person, firm or entity to or for the benefit of the City. The right to use such funds, accounts or guaranty shall not preclude the City from any other remedy it may have available to it, in law or in equity, and the person, firm or entity shall be and remain liable to the City for any failure to comply with the requirements of this Section.

(Ord. 414, passed 6-22-2004)

### Section 3-2204. Park Regulations

For the purposes of this section, a park shall be defined as any playground or park, owned by the City, including land within the C & O Canal area that is administered by the National Park Service.

- (A) It shall be unlawful, within any park, for the operator of a motor vehicle to:
  - (1) Enter or leave any park with such vehicle except through designated entrances and exits and during such hours as the Mayor and Council may from time to time establish.
  - (2) Drive a motor vehicle anywhere except on designated roads and parking areas.
- (B) It shall be unlawful, within any park, for any person to:
  - (1) Start or maintain a fire except in receptacles provided for such purpose.
  - (2) Leave a fire unattended.
  - (3) Fail to extinguish a fire started by such person when he or she leaves the park.
- (C) It shall be unlawful, within any park, for any person to camp outside of designated sites or areas.
- (D) It shall be unlawful, within any park, for any person to:
  - (1) Dispose of refuse in any manner other than the placement of such refuse in receptacles provided for that purpose.
  - (2) Use refuse receptacles for disposing household, commercial, or industrial refuse.

Violation of any of the provisions of this Section shall be a municipal infraction as enumerated at Section 10-2202.

Section 3-2205. Approval of Proposed Streets or Extensions

The Mayor and Council will, prior to extension and construction of any street within any existing or future platted right-of-way, review the street plans and specifications. Said streets shall, unless otherwise modified by the Mayor and Council, meet the minimum design standards as defined in the Brunswick Subdivision Regulations.

A decision as to whether to approve a street will be made at regularly scheduled public meeting following review and comment by the City Planning Commission, Public Works Director, City Engineer, and any other person deemed appropriate.

Section 3-2206. Private Use of Public Streets

Except as permitted in this Title, private use of public streets, other than the orderly flow of vehicular and pedestrian traffic, is strictly prohibited.  
(Ord. 442, passed 8-8-2006)

Section 3-2207. Definition of Public Streets

The term Public Street or Public Streets, as used in this Title, shall include all streets, avenues, roads, highways, public thoroughfares, lanes, and alleys and public rights-of-way related thereto that are a part of the street and alley system accepted and adopted by the Mayor and Council in Ordinance No. 428, as amended, but excluding sidewalks which are addressed and regulated separately under this Code.  
(Ord. 442, passed 8-8-2006)

Section 3-2208. General Control of Mayor and Council Over Public Streets

The Mayor and Council shall have charge of all the public streets in the City except such as may be under the jurisdiction of Frederick County or the Maryland State Roads Commission/Maryland State Highway Administration. Subject to the laws of the State of Maryland and to the City Charter, the Mayor and Council may do whatever they deem necessary to establish, operate, and maintain the public streets of the City.  
(Ord. 442, passed 8-8-2006)

Section 3-2209. License for Private Use of Public Streets

No public street or any portion thereof may be utilized by a private party in any manner that interferes with or restricts the use of the public at large of said public street, except, in the event a written license agreement approved by the Mayor and Council, which permits a specific private use ("license agreement") is entered into between the private party and the Mayor and Council. The license agreement shall narrowly define the use permitted and the property subject to the license agreement as well as the terms and conditions of the license agreement may include, but is not limited to, a defined time period of the use; a scaled sketch plan for any permanent or semi-permanent use, including property lines, building footprints, sidewalks, street curb lines, trees, tree wells, planters, parking meters, street signs, fire hydrants and proposed location of the use; the private party's responsibility to maintain insurance on the property for personal injury and property damage; the private party's covenant to indemnify the City for all claims involving the private party's use of the public street, the posting by the private party of a financial guaranty or letter of credit and all other conditions required by the Mayor and Council. The license shall be issued by the Superintendent of Public Works.  
(Ord. 442, passed 8-8-2006)

### Section 3-2210. Municipal Infraction

Any violation of the provisions of this Section shall be a municipal infraction as enumerated at Section 7-2202.

(Ord. 442, passed 8-8-2006)

### Title 3. Redevelopment of Deteriorated Areas

#### Section 3-2301. Definitions

In this title, the following words, terms, phrases, and their derivations shall have the meanings indicated.

Slum Area. An area where dwellings predominate which, by reason of depreciation, overcrowding, fault arrangement, lack of ventilation, light or sanitary facilities, deterioration of public improvements within the area, or any combination of these factors, are detrimental to the public safety, health or morals of the citizens of the City of Brunswick.

Blighted Area. An area in which (1) a majority of buildings have declined in productivity by reason of obsolescence, depreciation, or other causes to the extent they no longer justify fundamental repairs and adequate maintenance; or (2) an area in which the health, safety and general welfare of the citizens is detrimentally affected by reason of the general obsolescence, depreciation, or deterioration of public improvements.

Public Improvements. Sanitary sewer system, storm water drainage and management system, water treatment and distribution system, streets, sidewalks, curbs, and gutters.

#### Section 3-2302. Authority of Mayor and Council

(A) The Mayor and Council may, from time to time, if conditions warrant, declare by resolution that a certain area or areas within the City limits meet the definition of "slum area" and "blighted area".

(B) Upon the making of a finding as authorized above, the Mayor and Council may take appropriate action to restore those areas designated to a useful, productive condition, including but not limited to:

- (1) Directing the application of City resources, including labor and materials.
- (2) Participating in Federal or State programs which provide resources, including consultation and financial resources such as grants, loans, and loan guarantees.
- (3) Creating a special taxing district or levying a special benefit assessment to raise revenues for the work to restore the area.
- (4) Acquiring by conveyance, purchase or condemnation real property within the designated area.
- (5) Designating an employee of the City to coordinate the action determined by the Mayor and Council.

## **Article 4. Sidewalks**

### **Title 1. Regulations of Sidewalks**

#### Section 3-4101. Definition

The term Sidewalk or Sidewalks, as used in this Section, shall include all sidewalks that are in the public right-of-way and abut all streets, avenues, roads, highways, public thoroughfares, lanes, and alleys that are a part of the street and alley system in Ordinance No. 428, as amended. (Ord. 445, passed 10-24-2005)

#### Section 3-4102. General Control of Mayor and Council over Sidewalks

The Mayor and Council shall have charge of all the sidewalks in the City. Subject to the laws of the State of Maryland and to the City Charter, the Mayor and Council may do whatever is deemed necessary to establish, operate, and maintain in good condition the sidewalks of the City. (Ord. 445, passed 10-24-2005)

#### Section 3-4103. License for Private Use of Sidewalks

No sidewalk or any portion thereof may be utilized by a private party in any manner that restricts the use of the public at large of said sidewalk; except, in the event a written license agreement is signed by a private party and the Mayor and Council, in the sole discretion of the Mayor and Council, which licenses a specific private use ("license agreement"). The license agreement shall narrowly define the use permitted and the property subject to the license agreement as well as the terms and conditions of the license agreement, including, but not limited to, the private party's responsibility to maintain insurance on the property for personal injury and property damage, the private party's covenant to indemnify the City for all claims involving the private party's use of the sidewalk, the positing by the private party of a financial guaranty or letter of credit and all other conditions required by the Mayor and Council. (Ord. 445, passed 10-24-2005)

#### Section 3-4104. Openings in Sidewalks

(A) It shall be unlawful for any person to tear up any sidewalk paving for any purpose whatsoever, or to disturb the surface by digging holes or trenches in any sidewalk within the City without first making application to the Superintendent of Public Works and obtaining a right-of-way obstruction permit and a public works agreement ("PWA") or modified public works agreement ("MPWA"), as the case may warrant, which the Superintendent of Public Works is hereby authorized to issue under such regulations as may be adopted by the Mayor and Council. Upon issuing such permit and PWA or MPWA, it shall be the duty of the applicant to perform the work for which the permit and agreement are issued without any unnecessary delay. As soon as such work is completed, the sidewalk shall, without delay and within the time specified in the permit and PWA or MPWA, be restored to as good a condition as it was prior to the opening thereof. The opening shall be repaved with the same kind and quality of material with which the balance of the sidewalk is paved, and such portions of the sidewalks restored to their true and proper grade. The ditch shall be flooded, if so directed by the Superintendent of Public Works, and rammed from the

bottom to the top. The work of refilling and repaving shall be done in a good and workmanlike manner and in a way satisfactory to the Superintendent of Public Works. In the event of refusal or neglect to comply with the aforesaid provisions, the offender shall be punished as provided in Section 7-2202, and the repairs shall be made by the City, charged to the offender and collected as hereinafter provided. Whenever the paving of a sidewalk, after having been torn up, has sunk below the proper grade of the sidewalk, it shall be the duty of the person digging the holes or trenches to again repave or rebuild at his or her own expense, as often as may be necessary, in order to completely restore the true grade of the sidewalk. In the event of refusal or neglect, upon receiving 20 days' notice from the Superintendent of Public Works to comply herewith, the offender shall be punished as provided in Section 7-2202. The Superintendent of Public Works shall make the necessary repairs, the cost thereof to be collected from the person digging the hole or trench by suit at law or by attachment in case of non-residence.

(B) It shall be the duty of the Superintendent of Public Works, where any work on account of the City is done, after the completion thereof, to repave and refill, if necessary, in a reasonable time and to clear the sidewalk where the work has been done of any debris, and also to again repave or refill as often as may be required to restore the sidewalk to its proper grade and condition.

(Ord. 445, passed 10-24-2005)

#### Section 3-4105. Vehicles Tracking Mud, etc., on Sidewalks

No person shall drive or move any vehicle within the City, the wheels or tires of which carry onto or deposit on any sidewalk or other public place mud, dirt, adhesive or sticky substances, litter or foreign matter of any kind.

(Ord. 445, passed 10-24-2005)

#### Section 3-4106. Cellar Doors

(A) Maintenance of cellar doors. It shall be unlawful for any owner or occupant of any premises in the City to fail to maintain their cellar doors in good repair and safe condition.

(B) Guarding of open cellar doors. It shall be unlawful for any owner or occupant of any premises in the City to leave their cellars exposed when the doors thereof are raised so that people passing by or along the pavements may fall therein. It shall be the duty of the owner or occupant of any premises in the City, when the door of any cellar or other excavation belonging to such premises shall be raised, to cover the hole thereof in some substantial manner to prevent people from falling therein. Violation of this Section is declared to be a municipal infraction.

(Ord. 445, passed 10-24-2005)

#### Section 3-4107. Open Gutters Across Sidewalks

It shall be unlawful for any person to make any open gutter for conveying water across any sidewalk.

(Ord. 445, passed 10-24-2005)

#### Section 3-4108. Unlawful Conditions in Private Gutters or Spouts

It shall be unlawful for any person to permit water to fall or flow from the gutters, spouts or

other discharge sources on his or her premises on or over the pavement in front thereof, in such a manner as to injure adjoining pavements or to inconvenience persons passing over such pavements.

(Ord. 445, passed 10-24-2005)

### Section 3-4109. Obstructing Sidewalks

(A) Prohibited obstructions. It shall be unlawful to obstruct any of the sidewalks of the City with any boxes, barrels, goods, wares, tables, chairs, merchandise or any other thing, except temporary and modest unavoidable obstructions on sidewalks abutting a business that is then receiving delivery of said items or as otherwise defined in this Section.

(B) Sidewalk retail displays in the Neighborhood Business, Central Business, Business Transactional and General Commercial Zoning Districts. Businesses located in the Neighborhood Business (B-1), Central Business (B-2), Business Transactional (B-3) and General Commercial (GC) Zoning Districts may display retail goods, displays and signs on the sidewalk immediately in front of their businesses in accordance with all applicable sections of the Code of the City of Brunswick and in accordance with the following:

- (1) All displays, goods and signs shall be removed from the sidewalk during the establishment's non-business hours.
- (2) The affected portion of sidewalk shall be cleaned each day in which the business displays retail goods, displays or signs on the sidewalk.
- (3) No portion of the retail goods, displays or signs shall obstruct access to hydrants, streetlights, telephones, mailboxes, transit stops or any other public service facility on the sidewalk area or adjacent street.
- (4) A clear unobstructed sidewalk width of at least three feet shall be maintained at all times between the use and any obstacle (tree, tree well, meter, fire hydrant, etc.).
- (5) A clear unobstructed height of seven feet shall be maintained between the walkway surface and any overhead obstacle, including but not limited to displays, overhead signs, awning, and tree branches.

(C) Sidewalk cafes. A food service facility located in the Neighborhood Business (B-1), Central Business (B-2), Business Transactional (B-3) and General Commercial (GC) Zoning Districts may sponsor a cafe on the sidewalk in front of their restaurant in accordance with the requirements herein. Sidewalk cafes are defined as outdoor dining areas on a portion of the sidewalk immediately abutting the sponsoring restaurant. Sidewalk cafes shall be classified as either: sidewalk cafes with no enclosure, or sidewalk cafes with enclosures.

- (1) Sidewalk cafes with no enclosure.
  - (a) License required. A sidewalk cafe that has a no surrounding enclosure shall obtain a license from the City. The Superintendent of Public Works shall issue the license on an annual basis.
  - (b) License application. A City sidewalk cafe application shall be submitted to the Superintendent of Public Works, which shall include the following information:

1. Documentation of approval from the owner of the property in which the establishment is located;
2. Documentation of liability insurance coverage as required by the City, for the sidewalk area to be used;
3. Documentation of approval from the Frederick County Liquor Board if alcoholic beverages are to be consumed in the sidewalk cafe area;
4. The seating capacity of the proposed sidewalk café; and
5. Scaled sketch plan will be required, as determined by the Superintendent of Public Works, and may be required to show pertinent features of the area affected, i.e., property lines, building footprint, sidewalks, street curb lines, lighting, trees, tree wells, planters, parking meters, street signs, and fire hydrants and proposed location of the outdoor cafe layout and enclosure.

(c) Design standards.

1. Sidewalk cafes with no enclosure shall consist solely of tables, chairs and umbrellas.
2. All tables weighing under 25 pounds, chairs weighing under ten pounds, and umbrellas shall be removed from the sidewalk during the establishment's non-business hours.
3. The affected portion of sidewalk shall be cleaned each day in which the sidewalk cafe is in use.
4. No portion of the sidewalk cafe shall obstruct access to hydrants, streetlights, telephones, mailboxes, transit stops or any other public service facility on the sidewalk area or adjacent street.
5. A clear unobstructed sidewalk width of at least three feet shall be maintained at all times between the sidewalk cafe and any obstacle, including but not limited to trees, tree wells, meters, and fire hydrants.
6. A clear unobstructed height of seven feet shall be maintained between the walkway surface and any overhead obstacle, including but not limited to displays, overhead signs, awning, and tree branches.

(d) Maintenance. All components of the sidewalk cafe shall be removable for sidewalk right-of-way maintenance and snow removal. In the event of an emergency, the City may remove all or part of a sidewalk cafe and shall not be liable for any damages.

(e) Fee. A fee may be charged by the City to cover administrative processing and review costs. Such fee shall be established by resolution approved by the Mayor and Council.

(2) Sidewalk cafe with surrounding enclosure.

(a) License required. A sidewalk cafe that has a surrounding enclosure shall obtain a license from the City. The Superintendent of Public Works shall issue the license on an annual basis.

(b) License application. A City sidewalk cafe application shall be submitted to the Superintendent of Public Works, which shall include the following information:

1. Documentation of approval from the owner of the property in which the establishment is located;
2. Documentation of liability insurance coverage as required by the City, for the sidewalk area to be used;
3. Documentation of approval from the Frederick County Liquor Board if alcoholic beverages are to be consumed in the sidewalk cafe area;
4. The seating capacity of the proposed sidewalk cafe;
5. Scaled sketch plan will be required, as determined by the Superintendent of Public Works, and may be required to show pertinent features of the area affected, i.e., property lines, building footprint, sidewalks, street curb lines, lighting, trees, tree wells, planters, parking meters, street signs, and fire hydrants and proposed location of the outdoor cafe layout and enclosure; and
6. Description and scaled drawings of enclosure plan, including any physical changes proposed to the sidewalk such as holes for mounting railings or other enclosure systems.

(c) Design standards.

1. Sidewalk cafes with an enclosure shall consist solely of chairs, tables, umbrellas and a surrounding enclosure.
2. The affected portion of sidewalk shall be cleaned each day in which the business is in operation.
3. No portion of the sidewalk cafe shall obstruct access to hydrants, streetlights, telephones, mailboxes, transit stops or any other public service facility on the sidewalk area or adjacent street.
4. A clear unobstructed sidewalk width of at least three feet shall be maintained between the use and any obstacle (tree, tree well, meter, fire hydrant, etc.).
5. A clear unobstructed height of seven feet shall be maintained between the walkway surface and any overhead obstacle (tree branch, overhead sign, awning, etc.).
6. No sidewalk cafe may be permanently located within the sidewalk area by means of raised deck, platform, fence, walls or other structures or enclosed by fixed walls of any material, except that sidewalk cafe boundaries may be delineated by the use of temporary barriers such as railings. Any such

temporary barriers must be easily removed and no more than 42 inches in height above the sidewalk surface. Temporary barriers may be attached by removable clips or devices approved in advance by the City engineer.

(d) Maintenance. All components of the sidewalk cafe including enclosure devices shall be removable for sidewalk right-of-way maintenance and snow removal. In the event of an emergency, the City may remove all or part of a sidewalk cafe and shall not be liable for any damages.

(e) Fee. A fee may be charged by the City to cover administrative processing and review costs. Such fee shall be established by resolution approved by the Mayor and Council.

(D) Abatement.

(1) Any violation of any provision of this Section which endangers the public health, safety and welfare shall constitute a public nuisance.

(2) Whenever the Superintendent of Public Works, or his or her designee, becomes aware that such public nuisance exists within the City, it shall be his or her duty to make immediate investigation, and if in his or her judgment, any such public nuisance does exist, he or she shall forthwith give written notice to the party in default to abate such public nuisance within such reasonable time as shall be prescribed in such notice.

(3) In the event of any person neglecting or refusing to comply with the notice to remove or abate such public nuisance in the reasonable time provided, such public nuisance may be abated or removed by the City at the expense of the party so refusing or neglecting.

(Ord. 445, passed 10-24-2005)

Section 3-4110. Trees and Shrubbery-Injuring, etc.

No person shall cut, belt, destroy or injure any tree or shrubbery on any of the sidewalks, parks or other public places of the City, or on private property, without consent of the owner thereof.

(Ord. 445, passed 10-24-2005)

Section 3-4111. Trees and Shrubbery-Trimming and Removal

It shall be unlawful for any person owning real estate within the City to permit any tree growing along and/or on said real estate to grow, hang or branch in such a manner as to obstruct the public right-of-way, including but not limited to sidewalks, obscure street lamps, traffic signals or signs. All such vegetation shall be kept trimmed by the owner so that limbs shall not be closer than nine feet above the sidewalk. Any such plants in violation of this Section shall be removed or trimmed by the owner as hereinafter directed. In all cases where any vegetation is required to be removed or trimmed, the City shall notify the owner in writing to remove or trim such plant within five days after mailing of such notice to the owner at his or her address as listed on the assessment records. Failure to remove or trim the vegetation as directed within the time allowed shall constitute a municipal infraction. It shall thereafter be lawful for the City to remove or trim such growth and bill the reasonable costs thereof to said owner.

(Ord. 445, passed 10-24-2005)

Section 3-4112. Use of Ashes, etc., on Sleet or Ice

Whenever there is sleet or ice on the pavements, it shall be unlawful to sprinkle ashes, sawdust or other like substances thereon.  
(Ord. 445, passed 10-24-2005)

Section 3-4113. Planting in Curb Strips, Street, etc.

It shall be lawful for any person to plant or set a tree or trees in any public way, street or avenue, or in any curb strip from the inside of the curb to the outside of the sidewalk, subject to the following conditions:

- (A) The type of trees shall be approved by the City Engineer and the Mayor and Council and no other type of trees shall be allowed.
- (B) The approved trees shall be planted or set only under the supervision and direction of the Superintendent of Public Works and in such locations as approved by the Superintendent of Public Works.
- (C) Existing trees may be replaced with prior approved tree or trees within the area hereinbefore specified under the supervision and direction of the Superintendent of Public Works.
- (D) The Mayor and Council may grant permission for the planting of the approved type of trees upon application when such planting is part of the general neighborhood landscape plan and the type of trees and the proposed location for them shall be such that no damage will result in any utilities, lines or installations.  
(Ord. 445, passed 10-24-2005)

Section 3-4114. Other Improvements in Curb Strips, Streets, etc.

- (A) It shall be unlawful for any person to place any mailbox, post, shrub, or other improvement, with the exception of newspaper boxes, in any public way, street or avenue, sidewalk or in the area

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between the sidewalk and curb, without first securing the written consent of the City. This Section shall not prohibit the planting of grass or sod in the area between the curb and sidewalk.

- (B) Vending machines shall be prohibited in any public way, street or avenue, sidewalk or the area between the sidewalk and curb within the MainStreet Area, with the exception that vending machines located within the MainStreet Area as of the date of adoption of this Section shall be permitted to remain in place only until the business establishment which obtains profits from said machine(s) as of the date of adoption of this Section no longer has an ownership or lease interest in the business establishment and with the exception of vending machine distributing newspapers.

- (C) All vending machines within a public right-of-way must maintain a license from the City and licenses must be obtained within 45 days of the effective date of this Section. The

license fee shall be the sum of \$25 per year for any number of vending machines located at a business.

(Ord. 445, passed 10-24-2005)

Section 3-4115. Plantings on Utilities or in Easements

(A) It shall be unlawful to place or plant a tree or trees on top of or within ten feet of any underground utility line or equipment of the City.

(B) It shall be unlawful to place or plant trees, bushes, shrubs or other plantings or ground cover of any nature whatsoever within the utility easement area of the City unless prior written approval of the City is secured.

(Ord. 445, passed 10-24-2005)

Section 3-4116. Painting, Printing, etc., on Sidewalks

It shall be unlawful, except by special permission of the Mayor and Council, for any person to paint, print, stamp, stain or otherwise mark upon or build or construct on the paved portion of any sidewalk within the City any advertisement, or any words, marks, figures or letters for any purpose whatsoever on a sidewalk. This Section shall not apply to traffic signals placed or painted on the sidewalks under the direction of City authority.

(Ord. 445, passed 10-24-2005)

**Article 5. Signs**

Title 1. Regulation of Signs

Section 3-5101. Intent

It is the intent of this Title to regulate signs located within the public right-of-way to meet the needs of businesses and other organizations while also protecting the visual quality and traditional design concepts of Brunswick.

(Ord. 443, passed 10-24-2005)

Section 3-5102. Definitions

For the purposes of this Title, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Animated Sign. A sign with motion of any kind, including but not limited to flashing lights, or color changes, but excluding flags, banners, or pennants.

Billboard Sign. A large outdoor printed sign used for any activity, person, group or thing not located on the premises upon which the sign is located.

Double-faced Sign. A sign with two parallel, or nearly parallel, faces back to back, and located not more than 12 inches from each other, e.g. "sandwich board" signs.

Externally Lighted Sign. A sign which does not produce artificial light from within itself.

Flat Sign. Any sign attached to, and erected parallel to, the face of a building, and

supported throughout its length by such building and not extending more than 18 inches from the building.

Freestanding/Monument Sign. A sign which is supported by up-rights, columns, etc. upon the ground and not attached to a building.

Internally Lighted Sign. A sign that produces light within itself. All internally lighted signs must be approved by the Code Enforcement Office or Superintendent of Public Works.

Marquee Sign. A covered structure projecting from and supported by a building covering a doorway.

Portable Trailer Sign. A sign that is pulled by an automobile.

Projecting Sign. A sign which is attached to and projects more than 18 inches from the face of a wall of a building.

Shopping Center. A concentration of contiguous retail and service establishments as a unit on one lot serving a region.

Sign. A structure or device, in whole or part, which uses words or symbolic representations to direct attention, to identify or advertise any activity, person, group of people or thing.

Roof Sign. A sign erected upon or above the room or parapet wall of a building and which is wholly or partially supported by said building.

Temporary Sign. Any sign, banner, poster, or other nonpermanent sign that is erected for no more than 45 consecutive days.

Variable Message Sign. A sign that alternates the information or symbolic representations by its own power.  
(Ord. 443, passed 10-24-2005)

### Section 3-5103. General Regulations

(A) No sign shall be erected in the public right-of-way in any district unless in compliance with this Chapter. Existing signs shall not be altered or moved unless in compliance with this Chapter.

(B) A sign license is required for the erection of new signs or for the alteration of size, height or location of existing signs in the public right-of-way.

(C) If site plans are required to be reviewed by the Planning Commission they shall include the location, height, size, and design of all signs to be located in the public right-of-way adjacent to the site.

(D) No signs shall be attached to utility poles, traffic signal poles, or traffic control posts/signs.

(E) Signs attached to a building shall not project more than 36 inches from the face to the building and shall have a minimum clearance of eight feet above the ground/sidewalk.

(F) Civic/nonprofit organizations advertising a local community event must comply with this Chapter. The Code Enforcement Office or Superintendent of Public Works may issue a license, at no cost, for up to four signs to a civic/nonprofit organization advertising a civic event.

(Ord. 443, passed 10-24-2005)

#### Section 3-5104. Licenses

(A) License required. Signs may not be located within the public right-of-way; except in the event a written license agreement is issued.

(B) License application. A sign license application shall be submitted to the Superintendent of Public Works, which may include without limitation the following information:

(1) Documentation of approval from the owner of the property upon which the sign is located.

(2) Documentation of liability insurance coverage as required by the City, for the placement of the sign in the right-of-way.

(3) At the discretion of the Superintendent of Public Works, a scaled sketch plan may include all pertinent features of the area affected, i.e., property lines, building footprint, sidewalks, street curb lines, lighting, trees, tree wells, planters, parking meters, street signs, and fire hydrants and proposed location of the sign.

(C) License requirements. The license agreement shall grant approval of the sign, narrowly define the property subject to the license agreement and recite the terms and conditions of the license agreement, including, but not limited to, the private party's responsibility to maintain the sign in good repair, including without limitation all mechanisms securing the sign to any building or other property, maintaining insurance covering personal injury and property damage resulting from the sign and all mechanisms securing the sign to any building or other property, the private party's covenant to indemnify the City for all claims involving the private party's use of the right-of-way, the posting by the private party of a financial guaranty or letter of credit and all other conditions required by the Mayor and Council.

(D) License issuance. The Code Enforcement Office shall issue the license after approval by the Superintendent of Public Works for non-temporary signs.

(E) Fee. A fee may be charged by the City to cover administrative processing and review costs. Such fee shall be established from time to time by resolution and approved by the Mayor and Council.

(Ord. 443, passed 10-24-2005)

#### Section 3-5105. Design Guidelines/Specifications

(A) Design guidelines/specifications are available at the City office.

(B) All signs meeting the specifications of the City Code may be issued a license by the Code Enforcement Office or Superintendent of Public Works.

<i>Sign Type</i>	<i>License Needed</i>	<i>Maximum Sign Area (Sq. Ft.)</i>	<i>Maximum Sign Height (ft.)</i>
Real estate-until the property is sold	No	6	4
Subdivision-until all properties are sold	Yes	75	8
Subdivision identification	Yes	15	8
Contractors-until project is complete	Yes	24	8
Identification for public and non-profit organization	Yes	15	8
Home occupation	Yes	1	4
Individual business	Yes	50	8
Shopping center: Center identification sign	Yes	50	8
Individual stores	Yes	25	Attached only
Industrial park: Park identification sign (enter)			
Individual	Yes	50	8

<i>Sign Type</i>	<i>License Needed</i>	<i>Maximum Sign Area (Sq. Ft.)</i>	<i>Maximum Sign Height (ft.)</i>
Temporary signs	Yes (45 days w/ 30 day intervals)	32	4

(Ord. 443, passed 10-24-2005)

Section 3-5106. Measurement of Signs

(A) Only one face of a double-faced sign shall be computed for sign area provided the two faces are no more than one foot apart.

(B) Exit/entrance signs (without any logos), menu boards, gas station price signs, shall not be larger than State maximum (per State Regulation #10-315 as regulated by the State Comptroller's Office), and tenant directories shall not be included in calculating total sign area.

(C) The support for the sign background, whether it is columns, a pylon, or a building or part thereof, shall not be included in the sign area.

(Ord. 443, passed 10-24-2005)

#### Section 3-5107. Historical District

(A) Intent. The intent of this Section is to permit in the public right-of-way only those signs that are non-obtrusive and blend with the character of the historical district. The purpose of these signs is to advertise to pedestrian and vehicular traffic.

(B) Signs in the historical district shall comply with the following requirements:

(1) All hangers for signs shall be in the form of a bracket and made of metal.

(2) All signs will be no larger than nine square feet or 1,296 square inches and will not protrude from the building farther than 36 inches.

(3) On a multi-story building, signs shall be installed so that the top of the sign shall be located in line with the bottom of the second story window.

(4) Signs may not be lighted other than by means of external lighting.

(5) Flat signs (one-sided signs attached directly to a building) shall not be located anywhere above the bottom of the second floor window of the supporting structure, or part thereof, nor cover any part of any window.

(C) The Code Enforcement Office or Superintendent of Public Works must approve the placement of any sign to be installed on a one-story building prior to the issuance of a sign license.

(Ord. 443, passed 10-24-2005)

#### Section 3-5108. Prohibited Signs in All Districts

The following signs are prohibited in the public right-of-way of all districts:

(A) Billboards;

(B) Variable message signs, with the exception of informational message signs utilized by the City;

(C) Portable trailer signs, with the exception of informational message signs utilized by the City;

(D) Marquee signs;

- (E) Animated signs;
- (F) Signs located anywhere other than on the property or structure to which it directs attention or to which it is appurtenant;
- (G) Signs outlining any building or part thereof with neon or other lights;
- (H) Signs fastened, placed, painted, pasted, or attached in any way to, in or upon any tree, fence, public utility pole, rock, curbstone, sidewalk, lamp post, hydrant, bridge, highway marker, or another sign except such as may be required by law, so placed by a duly authorized governmental agency, so placed not as an advertisement, but as a warning against hunting, fishing, or trespassing, or not visible from any highway;
- (I) Illuminated signs which reflect or cast glare, directly or indirectly, on any public roadway or adjacent property, including, without limitation, illumination in violation of other regulations, if any;
- (J) Signs resembling traffic signals or other warning devices;
- (K) Signs that are blinking, flashing or fluttering lights, or other illuminating devices which have a changing light intensity, brightness, or color, or which are so constructed and operated as to create an appearance or illusion of writing or printing;
- (L) Signs with exposed reflective type bulbs, strobe lights or incandescent lamps which exceed 15 watts used on the exterior surface of any sign so as to expose the face of the bulb, lamp, or light to any public street or adjacent property;
- (M) No signs shall be located on any part of the roof structure; and
- (N) Any sign, which advertises a business no longer conducted or the owner of the sign or of the premises upon which the sign is located shall remove a product no longer sold on the premises.  
(Ord. 443, passed 10-24-2005)

#### Section 3-5109. Temporary Signs in All Zones

- (A) Temporary signs shall be permitted for a maximum period of 45 consecutive days in the public right-of-way.
- (B) Temporary signs shall not be placed on any part of the roof structure that extends into the public right-of-way and shall not be located such that it impedes sight distance for vehicles or pedestrians traveling along adjacent roads or entering/exiting the site.
- (C) There shall be a minimum period of 30 days between the placement of a temporary sign by the same applicant in the public right-of-way, excluding help wanted signs.
- (D) Political advocacy signs shall be not larger than three square feet and may be placed in the public right-of-way 60 days prior to an election and must be removed within 30 days following an election.  
(Ord. 443, passed 10-24-2005)

### Section 3-5110. Permitted Nonconforming Signs

Signs existing prior to the enactment of the ordinance codified in this Title and not conforming to its provisions shall be considered as legal nonconforming signs and shall be allowed to continue subject to the following restrictions:

(A) The nonconforming sign may not hereafter be altered in size, shape, color, wording, graphics or other appearance except for purposes of repair.

(B) If the nonconforming sign is removed from its location for a single period of 60 consecutive days or more, it may not be reused and shall not be replaced except in conformance to this Title.

(C) In the event of a sale, assignment, transfer or other conveyance of the property on which the nonconforming sign is displayed, the new owner or occupant may continue to use and display the nonconforming sign on the same conditions as set forth in this Section.

(D) In the event that a business, organization, establishment or other entity is closed, out of business, is inactive or is in anyway not operated for a period of 60 consecutive days, whether because of a transfer in its ownership, financial difficulty, retirement or other reason, the nonconforming sign displayed for such business, organization establishment or other entity shall be removed and shall not be replaced except in conformance to this Title.

(E) The Code Enforcement Office, Superintendent of Public Works or other City official designated by the Mayor or Council shall record and catalog the signs in the public right-of-way in the City that are in existence on the date of the enactment of the ordinance codified in this Title and shall designate those signs which are nonconforming. In any action to enforce the provisions of this Title, it shall be a rebuttable presumption that a sign is not a permitted nonconforming sign if the sign has not been catalogued and recorded as a permitted nonconforming sign. Any violation of the provisions of this Title shall be deemed a municipal infraction, and each day a violation continues shall be considered a new violation.

(Ord. 443, passed 10-24-2005)

### Section 3-5111. Removal of Nonconforming Signs

The Code Enforcement Office or Superintendent of Public Works shall order the removal of any sign erected in violation of this Title. Ten days written notice shall be given to the owner of such sign, building, or property on which the sign is located to remove the sign or bring it into compliance with this Title. Upon failure to remove the sign or bring it into conformance within the ten day notice period the Code Enforcement Office or Superintendent of Public Works is authorized to remove or cause removal of the sign at the expense of the owner of the sign, the building or the property on which the sign was located.

(Ord. 443, passed 10-24-2005)

### Section 3-5112. Appeal Process

Appeals from decisions of the Code Enforcement Office or Superintendent of Public Works regarding signs may be taken by any City agency or private person to the Mayor and Council. All appeals shall be submitted in writing with the appropriate fee to the Superintendent and shall include supporting material and justification statements for the appeal.

(Ord. 443, passed 10-24-2005)

*Revisor's Note: All signage on private property shall conform to the requirements of the Zoning Ordinance. All signage on public property shall conform to the requirements of this Title.*

## CHAPTER 4

### BUILDING AND ENVIRONMENTAL REGULATIONS

#### Article 1. Construction

##### Title 1. Building Permits

#### Section 4-1101. Adoption of County Building Code

There is hereby adopted by the Mayor and Council, for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and structural safety of buildings and structures, including permits and penalties, the provisions of the Building Code (Chapter 1-6, Article II), the Electrical Code (Chapter 1-7, Article III), and the Plumbing Code (Chapter 1-14, Article IV) of the Frederick County Code, 2004, as amended, save and except such portions as are hereinafter deleted, modified or amended, of which one copy shall remain on file in the City Hall, and the same are incorporated as fully as if set out at length herein.

*Revisor's Note: Frederick County has adopted, with revisions and amendments, the International Building Code, 2000 edition and the International Residential Code, 2000 edition. By reference, Article II, Chapter 1-6 requires compliance with the Frederick County Electrical Code (Article III, Chapter 1-7) and the Frederick County Plumbing Code (Article IV, Chapter 1-14).*

**[The International Residential Code encompasses subjects contained in the separate BOCA Codes that were cited in the old Revisor's Note.]**

#### Section 4-1102. Adoption of State Non-Tidal Water and Floodplain Construction Regulations

There is hereby adopted by the Mayor and Council, for the purpose of recognizing the authority of the Maryland Department of Natural Resources to regulate and issue permits for construction on non-tidal waters and floodplains, the certain regulations published as COMAR 08.05.03.01-.11, as amended, of which one copy shall remain on file in the City Hall, and the same is incorporated as fully as if set out at length herein.

## Title 2. Unsafe Buildings

### Section 4-1201. Definitions

In this Title 2, the following words have the meanings indicated:

Building. The term “building” includes, but is not limited to, any building, structure, dwelling, excavation, matter, condition or thing in or about the lot on which the building is situated, and the plumbing, sewage, drainage, light or ventilation thereof.

City. The term “City” means the City of Brunswick, Maryland.

Mayor and Council. The term “Mayor and Council” means the Mayor and Council of Brunswick, as defined in the Charter.

### Section 4-1202. Abatement of Unsafe Building

(A) If the Mayor and Council finds that:

- (1) A building has been constructed, altered or repaired in a manner which makes the condition of the building unsafe; or
- (2) A building is a fire, health or safety hazard for any reason, including but not limited to, lack of repair, age, dilapidated condition, abandonment or storage of combustible, flammable or explosive substances or material in the building or on its premises;
- (3) Any condition in a building or on its premises endangers the safety of persons occupying or using the building or premises or endangers any adjacent building, premises property or persons thereon; or
- (4) A building is dangerous or detrimental to life, health, or property,

the Mayor and Council may issue an order requiring the owner of the building or premises to repair, demolish, remove, alter or otherwise improve the building or correct the dangerous condition. The Mayor and Council may designate an employee, official, or contractor to act as its agent in issuing such orders.

(B) Every order issued under this Article shall be in writing and shall be directed to the owner of the building or premises. The order shall specify a date by which the owner must comply with the order. The order shall be served upon the owner by personal delivery or by registered mail, return receipt requested. In the event that the owner is absent from Frederick County or if, after reasonable efforts to locate the owner, his whereabouts are unknown, the order may be served by posting a copy on the front door of the building or in another conspicuous place on the premises and by mailing a copy by both regular and registered mail, return receipt requested, to the last known address of the owner.

(C) An owner who desires to contest the order may request a hearing before the Mayor and Council. The request for the hearing must be submitted, in writing, to the City Administrator within fifteen (15) days of service of the order. Upon receipt of a request for a hearing, the Mayor and Council shall set the matter for a hearing and shall notify the

owner of the date, place and time of the hearing. The order shall be stayed pending the hearing. Any order issued by the Mayor and Council after the hearing shall be complied with within fifteen (15) days of the date of the order unless another date is established by the Mayor and Council.

Section 4-1203. Abatement by City at Owner's Expense; Collection of Expenses

(A) In the event that the owner fails to comply with the order within the time limits stated therein and fails to request a hearing, or in the event the owner fails to timely comply with the order of the Mayor and Council after a hearing, the Mayor and Council, or its officials, employees, contractors or agents, may enter the building or premises which are the subject of the order and cause the building or premises to be repaired or demolished and the materials removed, or may cause any dangerous condition to be abated or remedied, as the case may be, at the expense of the owner.

(B) If the owner fails to repay the City for expenses incurred under sub-section (A) within thirty (30) days after written demand has been mailed to his last known address, the amount of the expenses shall constitute a lien attached to the property in favor of the City, and said expenses may be collected as, and in the same manner as, taxes. The property may be sold at tax sale to satisfy the lien authorized by this sub-section. In addition, the City may exercise any other remedy it may have to collect the amounts due.

Section 4-1204. Emergency Abatement

In the event that the condition of the building or premises is such that demolition, abatement, repair or other improvement is immediately necessary to preserve life, health or property, and that compliance with the time, notice and hearing provisions of this Title would result in immediate and irreparable damage to or loss of life, health or property, then the Mayor and Council may take such immediate action as is necessary only to relieve and abate the immediate danger. The Mayor and Council shall, as soon as reasonably possible, provide the owner with the notices, opportunities and other procedures of this Title. The City, the Mayor and Council and its agents, employees, officials and contractors shall be relieved of all liability to the owner for damages, losses and claims resulting from actions taken under this sub-section.

Section 4-1205. Penalties for Violations

(A) Any person who knowingly fails to comply with an order issued under this Title 2 shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$100.00 or imprisoned not more than ten (10) days or both.

(B) Each day which a person knowingly fails to comply with an order issued under this Title shall be deemed a separate offense.

Title 3. Environmental Controls

Section 4-1301. Adoption of County Air Quality Control Requirements

There is hereby adopted by the Mayor and Council, for the purpose of establishing rules and regulations to minimize the creation of smoke and to prevent the nuisance and hazard of air pollution and to protect the health and safety and comfort and property of the citizens of Brunswick, including permits and penalties, the provisions of Chapter 1-3 (Air Quality Control),

Frederick County Code, 2004, as amended, save and except such portions as are hereinafter deleted, modified or amended, of which one copy shall remain on file in the City Hall, and the same is incorporated as fully as set out at length herein.

Section 4-1302. Air Quality Control Officer

For the purpose of administering certain provisions adopted at Section 4-1301, the Chief of Police of Brunswick, the City Clerk/Treasurer, or a designee of the Mayor shall be the Air Quality Control Officer. The Air Quality Control Officer shall receive applications and issue permits, with or without conditions, for open fires.

Section 4-1303. Grading, Erosion, and Sediment Control

There is hereby adopted by the Mayor and Council, the provisions of Chapter 1-10 (Grading and Sediment Control), Frederick County Code, 2004, as amended, save and except such portions as are hereinafter deleted, modified or amended, of which one copy shall remain on file in the City Hall, and the same is incorporated as fully as if set out at length herein.

The purpose of this Section is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with accelerated soil erosion and resultant sedimentation. Minimizing soil erosion and offsite sedimentation will minimize damage to public and private property, and assist in the attainment and maintenance of water quality standards.

The provisions of this Section, pursuant to Title 4, Environment Article, Subtitle 1, Annotated Code of Maryland, are adopted and shall apply to all grading occurring within the City of Brunswick.

The application of this Section and provisions expressed herein shall be the minimum erosion and sediment requirements and shall not be deemed a limitation or repeal of any other powers granted by State statute. The Frederick County Department of Public Works shall be responsible for coordination and enforcement of the provisions of this Chapter.

Section 4-1304. Adoption of County Stormwater Management Requirements

The Frederick County, Maryland, Stormwater Management Ordinance contained in Chapter 1-15.2 of the Frederick County Code, 2004, any regulations promulgated thereunder, and any future amendments thereto, are hereby adopted as the City of Brunswick Stormwater Management Ordinance with the following exceptions:

(A) In Section 1-15.2-2 (25), the words "County Attorney" shall be followed by the words "or City Attorney" and the words "Board of County Commissioners" shall be followed by the words "or Mayor and Council".

(B) The following is added as Section 1-15.2-2 (53): City means the City of Brunswick, Maryland.

(C) The words "or City" shall be inserted after the word "County" in the following Sections: 1-15.2-9; 1-15.2-11 (1)(A); 1-15.2-19(2)(B); 1-15.2-27; 1-15.2-50; 1-15.2-51 (1); 1-15.2-52(1)(B) and (D); 1-15.2-52 (2); 1-15.2-52(4); 1-15.2-63.

(D) Any infraction of this Ordinance shall be considered a civil or criminal violation, as the case may be, of the Brunswick Municipal Code and may be enforced in the same manner as

set forth in Sections 1-15.2-61 and 1-15.2-62.

#### Title 4. Wireless Telecommunications Facilities

##### Section 4-1401. Citation

This Title shall be known and may be cited as the Wireless Telecommunications Facilities Ordinance for the City of Brunswick.

##### Section 4-1402. Severability

(A) If any word, phrase, sentence, part, section, subsection, or other portion of this Title or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Title, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

(B) Any Special Use Permit issued under this Title shall be comprehensive and not severable. If part of a Special Use Permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the Mayor and Council.

##### Section 4-1403. Definitions

In this Title, the following words, terms, phrases, and their derivations shall have the meanings indicated.

Accessory Facility or Structure. An accessory facility or structure serving or being used in conjunction with Wireless Telecommunications Facilities, and located on the same property or lot as the Wireless Telecommunications Facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.

Applicant. Any person submitting an Application for a Special Use Permit for Wireless Telecommunications Facilities.

Application. All necessary and appropriate documentation that an Applicant submits in order to receive a Special Use Permit for Wireless Telecommunications Facilities.

Antenna. A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals. Such shall include, but not be limited to radio, television, cellular, paging, personal telecommunications services (PCS), microwave telecommunications and services not licensed by the FCC, but not expressly exempt from the City's siting, building and permitting authority.

Board. The Mayor and Council of the City of Brunswick, or the City of Brunswick, or the City.

Co-location. The use of a tower or structure to support antennae for the provision of wireless services without increasing the height of the tower or structure.

Commercial Impracticability or Commercially Impracticable. The inability to perform an

act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be “commercially impracticable” and shall not render an act or the terms of the agreement “commercially impracticable”.

Completed Application. An Application that contains all information and/or data necessary to enable an informed decision to be made with respect to an Application.

FAA. The Federal Aviation Administration, or its duly designated and authorized successor agency.

FCC. The Federal Communications Commission, or its duly designated and authorized successor agency.

Height. When referring to a tower or structure, the distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightning protection device.

Modification or Modify. The addition, removal or change of any of the physical and visually discernable components or aspects of Wireless Telecommunications Facilities, such as antennas, cabling, radios, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or change-out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a Telecommunications Tower or Telecommunications Site is a modification. A modification shall not include the replacement of any components of Wireless Telecommunications Facilities where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of said wireless facility without adding, removing or changing anything.

NIER. Non-Ionizing Electromagnetic Radiation.

Person. Any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.

Personal Wireless Facility. See definition for “Wireless Telecommunications Facilities”.

Personal Wireless Services or PWS or Personal Telecommunications Service or PCS. Shall have the same meaning as defined and used in the 1996 Telecommunications Act.

Telecommunication Site. See definition for “Wireless Telecommunications Facilities”.

Special Use Permit. The official document or permit by which an Applicant is allowed to construct and use Wireless Telecommunications Facilities as granted or issued by the Mayor and Council of Brunswick.

Stealth or Stealth Technology. Minimization of adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

State. The State of Maryland.

Telecommunications. The transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

Telecommunications Structure. A structure used in the provision of services described in the definition of “Wireless Telecommunications Facilities”.

Temporary. In relation to all aspects and components of this Title, something intended to exist for fewer than ninety (90) days or something that does exist for fewer than ninety (90) days.

Wireless Telecommunications Facilities (including Wireless Telecommunications Facility, Telecommunications Tower, Tower, Telecommunications Site, and Personal Wireless Facility). A structure, facility or location designed, or intended to be used as, or used to support, antennas or other transmitting or receiving devices. This includes without limit, towers of all types and kinds and structures that employ camouflage technology, including, but not limited to structures such as a multi-story building, church steeple, silo, water tower, sign or other structures that can be used to mitigate the visual impact of an antenna or the functional equivalent of such, including all related facilities such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, paging, 911, personal telecommunications services, commercial satellite services, microwave services and services not licensed by the FCC, but not expressly exempt from the City’s siting, building and permitting authority, excluding those used exclusively for the City’s fire, police or exclusively for private, non-commercial radio and television reception and private citizen’s bands, amateur radio and other similar non-commercial telecommunications where the height of the facility is below the height limits set forth in this Title.

#### Section 4-1404. Special Use Permits

(A) All applicants for a Special Use Permit for Wireless Telecommunications Facilities or any modification of such facility shall comply with the requirements set forth in this Section. The Mayor and Council is the officially designated agency or body of the City to whom applications for a special use permit for wireless telecommunications facilities must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting, re-certifying or not re-certifying, or revoking special use permits for wireless telecommunications facilities. The Mayor and Council may at its discretion delegate or designate other official agencies of the City to accept, review, analyze, evaluate and make recommendations to the Mayor and Council with respect to the granting or not granting, re-certifying or not re-certifying or revoking Special Use Permits for Wireless Telecommunications Facilities.

(B) An Application for a Special Use Permit for Wireless Telecommunications Facilities shall be signed on behalf of the Applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The landowner, if different than the Applicant, shall also sign the Application. At the discretion of the Mayor and Council, any false or misleading statement in the Application may subject the Applicant to denial of the Application without further consideration or opportunity for correction.

(C) Applications not meeting the requirements stated herein or which are otherwise incomplete may be rejected by the Mayor and Council.

(D) The Applicant shall include a statement in writing:

(1) That the Applicant's proposed Wireless Telecommunications Facilities shall be maintained in a safe manner, and in compliance with all conditions of the Special Use Permit, without exception, unless specifically granted relief by the Mayor and Council in writing, as well as all applicable and permissible local Codes, Ordinances, and regulations, including any and all applicable City, State, and Federal Laws, rules, and regulations.

(2) That the construction of the Wireless Telecommunications Facilities is legally permissible, including, but not limited to the fact that the Applicant is authorized to do business in the State.

(E) No Wireless Telecommunications Facilities shall be installed or constructed until the Application is reviewed and approved by the Mayor and Council and the Special Use Permit has been issued.

(F) All applications for the construction or installation of new Wireless Telecommunications Facilities shall contain the information hereinafter set forth. The Application shall be signed by an authorized individual on behalf of the Applicant. Where a certification is called for, such certification shall bear the signature and seal of a Professional Engineer licensed in the State. The Application shall include the following information:

(1) Documentation that demonstrates the need for the Wireless Telecommunications Facility to provide service primarily and essentially within the City. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites;

(2) The Name, address and phone number of the person preparing the report;

(3) The Name, address and phone number of the property owner, operator, and Applicant, and to include the legal form of the Applicant;

(4) The Postal address and tax map parcel number of the property;

(5) The Zoning District or designation in which the property is situated;

(6) Size of the property stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines;

(7) The location of all adjacent structures;

(8) The Location, size and height of all structures on the property which is the subject of the Application;

(9) The Location, size and height of all proposed and existing antennae and all appurtenant structures;

(10) The Type, locations and dimensions of all proposed and existing landscaping, and fencing;

(11) The number, type and design of the tower(s) and antenna(s) proposed and the basis for the calculations of the tower's capacity to accommodate multiple users;

(12) The make, model and manufacturer of the tower and antenna(s);

(13) A description of the proposed tower and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;

(14) The frequency, modulation and class of service of radio or other transmitting equipment;

(15) The actual intended transmission and the maximum effective radiated power of the antenna(s);

(16) Direction of maximum lobes and associated radiation of the antenna(s);

(17) Certification that the NIER levels at the proposed site are within the threshold levels adopted by the FCC;

(18) Certification that the proposed antenna(s) will not cause interference with other telecommunications devices;

(19) A copy of the FCC license applicable for the intended use of the Wireless Telecommunications Facilities;

(20) Certification that a topographic and geomorphologic study and analysis has been conducted, and that taking into account the subsurface and substrata, and the proposed drainage plan, that the site is adequate to assure the stability of the proposed Wireless Telecommunications Facilities on the proposed site; and

(21) The provisions required by Section 4-1423.

(G) In the case of a new tower, the Applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing tower(s) or the use of alternative buildings or other structures within the City. Copies of written requests and responses for shared use shall be provided to the Mayor and Council in the Application, along with any letters of rejection stating the reason for rejection.

(H) The Applicant shall certify that the Telecommunication Facility, foundation and attachments are designed and will be constructed to meet all local, City, State and Federal structural requirements for loads, including wind and ice loads.

(I) The Applicant shall certify that the Wireless Telecommunications Facilities will be effectively grounded and bonded so as to protect persons and property and installed with appropriate surge protectors.

(J) An Applicant may be required to submit an Environmental Assessment Analysis and a Visual Assessment. Based on the results of the Analysis, including the Visual Assessment, the City may require submission of a more detailed visual analysis. The scope of the required Environmental and Visual Assessment will be reviewed at the pre-application meeting.

(K) The Applicant shall furnish a Visual Impact Assessment, which shall include:

(1) A “Zone of Visibility Map” which shall be provided in order to determine locations from which the tower may be seen.

(2) Pictorial representations of “before and after” views from key viewpoints both inside and outside of the City as may be appropriate, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided, concerning the appropriate key sites at a pre-application meeting.

(3) An assessment of the visual impact of the Tower base, guy wires and accessory buildings from abutting and adjacent properties and streets as relates to the need of appropriateness of screening.

(L) The Applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the base and all related facilities and structures of the proposed Wireless Telecommunications Facilities.

(M) Any and all representations made by the Applicant to the City on the record during the Application process, whether written or verbal, shall be deemed a part of the Application and may be relied upon in good faith by the Mayor and Council.

(N) All utilities at a Wireless Telecommunications Facilities site shall be installed underground and in compliance with all laws, ordinances, rules and regulations of the City, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.

(O) All applications for Wireless Telecommunications Facilities shall contain a demonstration that the facility be sited so as to be the least visually intrusive reasonably possible and thereby have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences in the area of the Wireless Telecommunications Facility.

(P) Both the Wireless Telecommunications Facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, including the utilization of stealth or concealment technology as may be required by the Mayor and Council.

(Q) At a Telecommunications Site, an access road, turn around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

(R) A Person who holds a Special Use Permit for Wireless Telecommunications Facilities shall construct, operate, maintain, repair, provide for removal of, modify or restore the

permitted Wireless Telecommunications Facilities in strict compliance with all current applicable technical, safety and safety-related Codes adopted by the City, State, or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The Codes referred to are Codes that include, but are not limited to spacing, construction, building, electrical, fire, safety, health, and land use Codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.

(S) A holder of a Special Use Permit granted under this Title shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the Mayor and Council or other governmental entity or agency having jurisdiction over the Applicant.

(T) An Applicant shall submit to the Mayor and Council the number of copies of the completed Application determined to be needed at the pre-application meeting. Written notification of the Application shall be provided to the legislative bodies of adjacent municipalities and to the City Planning Commission.

(U) The Applicant shall examine the feasibility of designing a proposed Tower to accommodate future demand for at least five (5) additional commercial applications, for example, future co-locations. The Tower shall be structurally designed to accommodate at least five (5) additional antenna arrays equal to those of the Applicant, and located as close to the Applicant's antenna as possible without causing interference. This requirement may be waived, provided that the Applicant, in writing, demonstrates that the provisions of future shared usage of the Tower is not technologically feasible, is Commercially Impracticable or creates an unnecessary and unreasonable burden, based upon:

- (1) The foreseeable number of FCC licenses available for the area;
- (2) The kind of Wireless Telecommunications Facilities Site and Structure proposed;
- (3) The number of existing and potential licenses without Wireless Telecommunications Facilities spaces/sites;
- (4) Available space on existing and approved Towers.

(V) The owner of the proposed new Tower, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed Tower by other Wireless service providers in the future, and shall:

- (1) Respond within sixty (60) days to a request for information from a potential shared-use applicant;
- (2) Negotiate in good faith concerning future requests for shared use of the new Tower by other telecommunications providers;
- (3) Allow shared use of the new Tower if another Telecommunications Provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the Tower or equipment to accommodate a shared user

without causing electromagnetic interference.

Failure to abide by the conditions outlined above may be grounds for revocation of the Special Use Permit for the Tower.

(W) There shall be a pre-application meeting. The purpose of the pre-application meeting will be to address issues which will help to expedite the review and permitting process. A pre-application meeting shall also include a site visit if there has not been a prior site visit for the requested site. Costs of the City's consultants to prepare for and attend the pre-application meeting will be borne by the Applicant.

(X) The holder of a Special Use Permit shall notify the Mayor and Council of any intended modification of a Wireless Telecommunications Facility and shall apply to the Mayor and Council to modify, relocate, or rebuild a Wireless Telecommunications Facility.

(Y) In order to better inform the public, in the case of a new Telecommunications Tower, the Applicant shall, prior to the public hearing on the Application, hold a "balloon test". The Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three (3) foot in diameter brightly colored balloon at the maximum height of the proposed new Tower. The dates (including a second date, in case of poor visibility on the initial date), times, and location of this balloon test shall be advertised by the Applicant seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in the City. The Applicant shall inform the Mayor and Council, in writing, of the dates and times of the test, at least fourteen (14) days in advance. The balloon shall be flown for at least four consecutive hours sometime between 7:00 AM and 4:00PM on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a weekday.

(Z) The Applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the Tower or existing structure intended to support Wireless Telecommunications Facilities requires lighting under Federal Aviation Administration Regulation Part 77. This requirement shall be for any new Tower or for an existing structure or building where the application increases the height of the building. If this analysis determines that the FAA must be contacted, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided in a timely manner.

#### Section 4-1405. Location of Wireless Telecommunications Facilities.

(A) Applicants for Wireless Telecommunications Facilities shall locate, site and erect said Wireless Telecommunications Facilities in accordance with the following priorities, one (1) being the highest priority and six (6) being the lowest priority.

- (1) On existing Towers or other structures without increasing the height of the Tower or structure;
- (2) On City-owned properties;
- (3) On properties in areas zoned for Heavy Industrial use;
- (4) On properties in areas zoned for Commercial use;

(5) On properties in areas zoned for Agricultural use;

(6) On properties in areas zoned for Residential use.

(B) If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why all sites of a higher priority were not selected. The Person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the Applicant if the Special Use Permit was not granted for the proposed site.

(C) An Applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. An application shall address co-location as an option. If such option is not proposed, the Applicant must explain to the reasonable satisfaction of the Mayor and Council why co-location is Commercially or otherwise Impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of Commercial Impracticability or hardship.

(D) Notwithstanding the above, the City may approve any site located within an area in the above list of priorities, provided that the City finds that the proposed site is in the best interest of the health, safety and welfare of the City and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood.

(E) The Applicant shall submit a written report demonstrating the Applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the Application.

(F) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Mayor and Council may disapprove an Application for any of the following reasons:

(1) Conflict with safety and safety-related Codes and requirements;

(2) Conflict with the historic nature or character of a neighborhood or historical district;

(3) The use or construction of Wireless Telecommunications Facilities which is contrary to an already stated purpose of a specific zoning or land use designation;

(4) The placement and location of Wireless Telecommunications Facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the City, or employees of the service provider or other service providers;

(5) Conflicts with the provisions of this Title.

#### Section 4-1406. Shared Use of Wireless Telecommunications Facilities and Other Structures

(A) Locating on existing Towers or other structures without increasing the height shall be preferred by the Mayor and Council, as opposed to the construction of a new Tower. The Applicant shall submit a comprehensive report inventorying existing Towers and other

suitable structures within four (4) miles of the location of any proposed new Tower, unless the Applicant can show that some other distance is more reasonable and demonstrate conclusively why an existing Tower or other suitable structure cannot be used.

(B) An Applicant intending to locate on an existing Tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the Applicant.

(C) Such shared use shall consist only of the minimum antenna array technologically required to provide service primarily and essentially within the City, to the extent practicable, unless good cause is shown.

#### Section 4-1407. Height of Telecommunications Tower(s)

(A) The Applicant shall submit documentation justifying the total height of any Tower, Facility and/or antenna and the basis therefore. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the City, to the extent practicable, unless good cause is shown.

(B) The maximum permitted height of a new Tower shall be one hundred-forty (140) feet, based on six (6) collocated antenna arrays requiring ten (10) feet of vertical space each, and an ambient tree height of eighty (80) feet.

(C) No Tower constructed after the effective date of this Title, including allowing for all attachments, shall exceed that height which shall permit operation without required artificial lighting of any kind in accordance with municipal, City, State, and/or any Federal statute, law, local law, City Ordinance, Code, rule or regulation.

#### Section 4-1408. Appearance and Visibility of Wireless Telecommunications Facilities

(A) Wireless Telecommunications Facilities shall not be artificially lighted or marked, except as required by law.

(B) Towers shall be galvanized and painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Title.

(C) If lighting is required, Applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations.

#### Section 4-1409. Security of Wireless Telecommunications Facilities

All Wireless Telecommunications Facilities shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

(A) All antennas, Towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and

(B) Transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

#### Section 4-1410. Signage

Wireless Telecommunications Facilities shall contain a sign no larger than four (4) square feet in order to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities and shall contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the Applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. The sign shall not be lighted, unless lighting is required by applicable law, rule or regulation. No other signage, including advertising, shall be permitted.

#### Section 4-1411. Lot Size and Setbacks

All proposed Towers and any other proposed Wireless Telecommunications Facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: A distance equal to the height of the proposed Tower or Wireless Telecommunications Facility structure plus ten percent (10%) of the height of the Tower or structure, or the existing setback requirement of the underlying zoning district, whichever is greater. Any Accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

#### Section 4-1412. Retention of Expert Assistance and Reimbursement by Applicant

(A) The Mayor and Council may hire any consultant and/or expert necessary to assist it in reviewing and evaluating the Application, including the construction and modification of the Site, once permitted, and any requests for re-certification.

(B) An Applicant shall deposit with the Mayor and Council funds sufficient to reimburse it for all reasonable costs incurred in the application and permitting process, including publication and notice expenses and the costs of consultant and expert evaluation and consultation to the Mayor and Council in connection with the review of any Application including the construction and modification of the site, once permitted. The initial deposit shall be \$8,500.00. The placement of the \$8,500.00 with the Mayor and Council shall precede the pre-application meeting. The City will maintain a separate escrow account for all such funds. The City's consultants/experts shall invoice the Mayor and Council for its services in reviewing the application, including the construction and modification of the site, once permitted. If at any time during the process this escrow account has a balance less than \$2,500.00, the Applicant shall immediately, upon notification by the Mayor and Council, replenish said escrow account so that it has a balance of at least \$5,000.00. Such additional escrow funds shall be deposited with the Mayor and Council before any further action or consideration is taken on the application. In the event that the amount held in escrow by the Mayor and Council is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the Applicant.

(C) The total amount of the funds needed as set forth in Subsection (B) of this Section may vary with the scope and complexity of the project, the completeness of the Application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

#### Section 4-1413. Exceptions from a Special Use Permit for Wireless Telecommunications Facilities

(A) No Person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of Wireless Telecommunications Facilities without having first obtained a Special Use Permit for Wireless Telecommunications Facilities.

Notwithstanding anything to the contrary in this section, no Special Use Permit shall be required for those non-commercial exceptions noted in the definition of Wireless Telecommunications Facilities.

(B) All Wireless Telecommunications Facilities existing on or before the effective date of this Title shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing Wireless Telecommunications Facility must comply with this Title.

#### Section 4-1414. Public Hearing and Notification Requirements

(A) Prior to the approval of any Application for a Special Use Permit for Wireless Telecommunications Facilities, a public hearing shall be held by the City, notice of which shall be published in accordance with the Brunswick Zoning Ordinance. In order that the City may notify nearby landowners, the Application shall contain the names and addresses of all landowners whose property is located within fifteen hundred (1500) feet of any property line of the lot or parcel on which the new Wireless Telecommunications Facilities are proposed to be located.

(B) There shall be no public hearing required for an Application to co-locate on an existing Tower or other structure, as long as there is no proposed increase in the height of the Tower or structure, including attachments thereto.

(C) The Mayor and Council shall schedule the public hearing referred to in Subsection (A) of this section once it finds the Application is complete. The Mayor and Council, at any stage prior to issuing a Special Use Permit, may require such additional information as it deems necessary.

#### Section 4-1415. Action on an Application for a Special Use Permit

(A) The Mayor and Council will undertake a review of an application pursuant to this Title in a timely fashion, and shall act within a reasonable period of time given the relative complexity of the Application and the circumstances, with due regard for the public's interest and need to be involved, and the Applicant's desire for a timely resolution.

(B) The Mayor and Council may refer any Application or part thereof to any advisory or other committee for a non-binding recommendation.

(C) After the public hearing and after formally considering the application, the Mayor and Council may approve, approve with conditions, or deny a Special Use Permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the grant of the permit shall always be upon the Applicant.

(D) If the Mayor and Council approves the Special Use Permit for Wireless Telecommunications Facilities, then the Applicant shall be notified of such approval in writing within ten (10) calendar days of the Mayor and Council's action, and the Special Use Permit shall be issued within thirty (30) days after such approval. Except for necessary building permits, and subsequent Certificates of Compliance, once a Special Use Permit has

been granted hereunder, no additional permits or approvals from the Mayor and Council, such as site plan or zoning approvals, shall be required by the City for the Wireless Telecommunications Facilities covered by the Special Use Permit.

(E) If the Mayor and Council denies the Special Use Permit for Wireless Telecommunications Facilities, then the Applicant shall be notified of such denial in writing within ten (10) calendar days of the Mayor and Council's action.

(F) Any party or person aggrieved by the decision of the Mayor and Council may appeal that decision to the Circuit Court for Frederick County in accordance with Title 7 of the Maryland Rules and Procedures.

#### Section 4-1416. Re-certification of a Special Use Permit

(A) Between twelve (12) and six (6) months prior to the five (5) year anniversary date after the effective date of the Special Use Permit and all subsequent five year anniversaries of the effective date of the original Special Use Permit for Wireless Telecommunications Facilities, the holder of a Special Use Permit for such Wireless Telecommunications Facilities shall submit a signed written request to the Board for re-certification. In the written request for re-certification, the holder of such Special Use Permit shall note the following:

- (1) The name of the holder of the Special Use Permit for the Wireless Telecommunications Facilities;
- (2) If applicable, the number or title of the Special Use Permit;
- (3) The date of the original granting of the Special Use Permit;
- (4) Whether the Wireless Telecommunications Facilities have been moved, re-located, rebuilt, or otherwise visibly modified since the issuance of the Special Use Permit and if so, in what manner;
- (5) If the Wireless Telecommunications Facilities have been moved, re-located, rebuilt, or otherwise visibly modified, then whether the City approved such action, and under what terms and conditions, and whether those terms and conditions were complied with;
- (6) That the Wireless Telecommunications Facilities are in compliance with the Special Use Permit and compliance with all applicable codes, laws, rules and regulations;
- (7) Re-certification that the Tower and attachments both are designed and constructed and continue to meet all local, City, State and Federal structural requirements for loads, including wind and ice loads. Such re-certification shall be by a Professional Engineer licensed in the State, the cost of which shall be borne by the Applicant.

(B) If, after such review, the City determines that the permitted Wireless Telecommunications Facilities are in compliance with the Special Use Permit and all applicable statutes, laws, local laws, ordinances, codes, rules and regulations, then the Mayor and Council shall issue a re-certification of the Special Use Permit for the Wireless Telecommunications Facilities, which may include any new provisions or conditions that are mutually agreed upon, or that are required by applicable statutes, laws, ordinances, codes,

rules and regulations. If, after such review it is determined that the permitted Wireless Telecommunications Facilities are not in compliance with the Special Use Permit and all applicable statutes, laws, ordinances, codes, rules and regulations, then the Mayor and Council may refuse to issue a re-certification Special Use Permit for the Wireless Telecommunications Facilities, and in such event, such Wireless Telecommunications Facilities shall not be used after the date that the Applicant receives written notice of the decision by the Mayor and Council until such time as the Facility is brought into compliance. Any decision requiring the cessation of use of the Facility or imposing a penalty shall be in writing and supported by substantial evidence contained in a written record and shall be promptly provided to the owner of the Facility.

(C) If the Applicant has submitted all of the information requested and required by this Title, and if the review is not completed, as noted in subsection (B) of this section, prior to the five (5) year anniversary date of the Special Use Permit, or subsequent five year anniversaries, then the Applicant for the permitted Wireless Telecommunications Facilities shall receive an extension of the Special Use Permit for up to six (6) months, in order for the completion of the review.

(D) If the holder of a Special Use Permit for Wireless Telecommunications Facilities does not submit a request for re-certification of such Special Use Permit within the time frame noted in subsection (A) of this section, unless otherwise excused by the Mayor and Council for minor technical defects such Special Use Permit and any authorizations granted thereunder shall cease to exist on the date of the fifth anniversary of the original granting of the Special Use Permit, or subsequent five year anniversaries, unless the holder of the Special Use Permit adequately demonstrates that extenuating circumstances prevented a timely re-certification request. If the Mayor and Council agrees that there were legitimately extenuating circumstances, then the holder of the Special Use Permit may submit a late re-certification request or application for a new Special Use Permit.

#### Section 4-1417. Extent and Parameters of Special Use Permit

The extent and parameters of a Special Use Permit for Wireless Telecommunications Facilities shall be as follows:

(A) Such Special Use Permit shall be non-exclusive;

(B) Such Special Use Permit shall not be assigned, transferred or conveyed without the express written consent of the Mayor and Council;

(C) Such Special Use Permit may, following a hearing upon due prior notice to the Applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the Special Use Permit, or for a material violation of this Title after prior written notice to the holder of the Special Use Permit.

#### Section 4-1418. Application Fee

(A) At the time that a person submits an application for a Special Use Permit for a new Tower, such person shall pay a non-refundable application fee of \$5,000.00 to the Mayor and Council, in addition to the \$8,500 placed in the escrow account. If the application is for a Special Use Permit for co-locating on an existing Tower or other suitable structure, where no increase in height of the Tower or structure is required, the non-refundable fee shall be \$2,000.00.

(B) No Application fee is required in order to re-certify a Special Use Permit for Wireless Telecommunications Facilities, unless there has been a visible modification of the Wireless Telecommunications Facility since the date of the issuance of the existing Special Use Permit for which the conditions of the Special Use Permit have not previously been modified. In the case of any modification, the fees provided in Subsection A shall apply.

#### Section 4-1419. Performance Security

The Applicant and the owner of record of any proposed Wireless Telecommunications Facilities property Site shall, at its cost and expense, be jointly required to execute and file with the Mayor and Council a bond, or other form of security acceptable to the Mayor and Council as to type of security and the form and manner of execution, in an amount of at least \$75,000.00 and with such sureties as are deemed sufficient by the Mayor and Council to assure the faithful performance of the terms and conditions of this Title and conditions of any Special Use Permit issued pursuant to this Title. The full amount of the bond or security shall remain in full force and effect throughout the term of the Special Use Permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original Special Use Permit.

#### Section 4-1420. Reservation of Authority to Inspect Facilities

In order to verify that the holder of a Special Use Permit for Wireless Telecommunications Facilities and any and all lessees, renters, and/or licensees of Wireless Telecommunications Facilities, place and construct such facilities, including Towers and antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the Mayor and Council may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, Towers, antenna and buildings or other structures constructed or located on the permitted site.

#### Section 4-1421. Annual NIER Certification

The holder of the Special Use Permit shall, annually, certify to the Mayor and Council that NIER levels at the Site are within the threshold levels adopted by the FCC.

#### Section 4-1422. Liability Insurance

(A) A holder of a Special Use Permit for Wireless Telecommunications Facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Special Use Permit in amounts as set forth below;

- (1) Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate;
- (2) Automobile Coverage: \$1,000,000 per occurrence/\$2,000,000 aggregate;
- (3) Workers Compensation and Disability: Statutory amounts.

(B) The Commercial General liability insurance policy shall specifically include the Mayor and Council and its officers, members, boards, employees, committee members, attorneys, agents and consultants as additional named insured.

(C) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least A.

(D) The insurance policies shall contain an endorsement obligating the insurance company to furnish the Mayor and Council with at least thirty (30) days' prior written notice in advance of the cancellation of the insurance.

(E) Renewal or replacement policies or certificates shall be delivered to the Mayor and Council at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.

(F) Before construction of a permitted Wireless Telecommunications Facilities is initiated, but in no case later than fifteen (15) days after the grant of the Special Use Permit, the holder of the Special Use Permit shall deliver to the Mayor and Council a copy of each of the policies or certificates representing the insurance in the required amounts.

#### Section 4-1423. Indemnification

(A) Any application for Wireless Telecommunications Facilities that is proposed for City property, pursuant to this Title, shall contain a provision with respect to indemnification. Such provision shall require the Applicant, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the Mayor and Council, and its officers, members, boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at Law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Mayor and Council, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the Mayor and Council.

(B) Notwithstanding the requirements noted in subsection (A) of this section, an indemnification provision will not be required in those instances where the Mayor and Council itself applies for and secures a Special Use Permit for Wireless Telecommunications Facilities.

#### Section 4-1424. Fines

(A) In the event of a violation of this Title or any Special Use Permit issued pursuant to this Title, the Mayor and Council may impose and collect, and the holder of the Special Use Permit for Wireless Telecommunications Facilities shall pay to the Mayor and Council, fines or penalties as set forth below.

(B) A violation of this local Title is hereby declared to be a misdemeanor, punishable by a fine not exceeding three hundred fifty dollars (\$350.00) per day per occurrence or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five

years, punishable by a fine not less than three hundred fifty dollars (\$350.00) nor more than seven hundred dollars (\$700.00) or imprisonment for a period not to exceed six months, or both; and , upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars (\$700.00) nor more than one thousand dollars (\$1,000.00) or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this Title or of such ordinance or regulation shall be deemed misdemeanors and for such purpose only all provisions of Law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

(C) Notwithstanding anything in this Title, the holder of the Special Use Permit for Wireless Telecommunications Facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this Title or any section of this Title. An attempt to do so shall subject the holder of the Special Use Permit to termination and revocation of the Special Use Permit. The Mayor and Council may also seek injunctive relief to prevent the continued violation of this Title, without limiting other remedies available to the Mayor and Council.

#### Section 4-1425. Default and/or Revocation

(A) If Wireless Telecommunications Facilities are repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Title or of the Special Use Permit, then the Mayor and Council shall notify the holder of the Special Use Permit in writing of such violation. Such notice shall specify the nature of the violation or non-compliance and that the violation must be corrected within seven (7) days of the date of the postmark of the Notice, or of the date of personal service of the Notice, whichever is earlier. Notwithstanding anything to the contrary in this subsection or any other section of this Title, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the Mayor and Council may, at its sole discretion, order the violation remedied within twenty-four (24) hours.

(B) If within the period set forth in Subsection (A) of this Section the Wireless Telecommunications Facilities are not brought into compliance with the provisions of this Title, or of the Special Use Permit, or substantial steps are not taken in order to bring the affected Wireless Telecommunications Facilities into compliance, then the Mayor and Council may revoke such Special Use Permit for Wireless Telecommunications Facilities, and shall notify the holder of the Special Use Permit within forty-eight (48) hours of such action.

#### Section 4-1426. Removal of Wireless Telecommunications Facilities

(A) Under the following circumstances, the Mayor and Council may determine that the health, safety, and welfare interests of the City warrant and require the removal of Wireless Telecommunications Facilities.

(1) Wireless Telecommunications Facilities with a permit have been abandoned (i.e., not used as Wireless Telecommunications Facilities) for a period exceeding ninety (90) consecutive days or a total of one hundred-eighty (180) days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days;

(2) Permitted Wireless Telecommunications Facilities fall into such a state of disrepair that it creates a health or safety hazard;

(3) Wireless Telecommunications Facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Special Use Permit, or any other necessary authorization.

(B) If the Mayor and Council makes such a determination as noted in Subsection (A) of this Section, then the Mayor and Council shall notify the holder of the Special Use Permit for the Wireless Telecommunications Facilities within forty-eight (48) hours that said Wireless Telecommunications Facilities are to be removed, the Mayor and Council may approve an interim temporary use agreement/permit, such as to enable the sale of the Wireless Telecommunications Facilities.

(C) The holder of the Special Use Permit, or its successors or assigns, shall dismantle and remove such Wireless Telecommunications Facilities, and all associated structures and facilities, from the Site and restore the Site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within ninety (90) days of receipt of written notice from the Mayor and Council. However, if the owner of the property upon which the Wireless Telecommunications Facilities are located wishes to retain any access roadway to the Wireless Telecommunications Facilities, the owner may do so with the approval of the Mayor and Council.

(D) If Wireless Telecommunications Facilities are not removed or substantial progress has not been made to remove the Wireless Telecommunications Facilities within ninety (90) days after the permit holder has received notice, then the Mayor and Council may order officials or representatives of the Mayor and Council to remove the Wireless Telecommunications Facilities at the sole expense of the owner or Special Use Permit holder.

(E) If the Mayor and Council removes, or causes to be removed, Wireless Telecommunications Facilities, and the owner of the Wireless Telecommunications Facilities does not claim and remove it from the Site to a lawful location within ten (10) days, then the Mayor and Council may take steps to declare the Wireless Telecommunications Facilities abandoned, and sell them and their components.

(F) Notwithstanding anything in this Section to the contrary, the Mayor and Council may approve a temporary use permit/agreement for the Wireless Telecommunications Facilities, for no more than ninety (90) days, during which time a suitable plan for removal, conversion, or re-location of the affected Wireless Telecommunications Facilities shall be developed by the holder of the Special Use Permit, subject to the approval of the Mayor and Council, and an agreement to such plan shall be executed by the holder of the Special Use Permit and the Mayor and Council. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the Mayor and Council may take possession of and dispose of the affected Wireless Telecommunications Facilities in the manner provided in this Section.

#### Section 4-1427. Relief

Any Applicant desiring relief, waiver or exemption from any aspect or requirement of this Title may request at the pre-application meeting, provided that the relief or exemption is

contained in the original Application for either a Special Use Permit, or in the case of an existing or previously granted Special Use Permit a request for modification of its Tower and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the Applicant to prove. The Applicant shall bear all costs of the Mayor and Council in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the Applicant demonstrates by clear and convincing evidence that, if granted the relief, waiver or exemption will have no significant effect on the health, safety and welfare of the City, its residents and other service providers.

Section 4-1428. Periodic Regulatory Review by the City

The Mayor and Council may at any time conduct a review and examination of this entire Title.

Section 4-1429. Adherence to State and/or Federal Rules and Regulations

(A) To the extent that the holder of a Special Use Permit for Wireless Telecommunications Facilities has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of such a Special Use Permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

(B) To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a Special Use Permit for Wireless Telecommunications Facilities, then the holder of such a Special Use Permit shall conform the permitted Wireless Telecommunications Facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

Section 4-1430. Conflict with Other Laws

Where this Title differs or conflicts with other laws, rules and regulations, unless the right to do is preempted or prohibited by the City, State or federal government, this Ordinance shall apply.

Title 5. Obstruction Permit and Placement of Utilities Within City Streets

Section 4-1501. Definitions

In this Title, the following words, terms, phrases, and their derivations shall have the meanings indicated.

Permit. Written permission to work in City of Brunswick Right-of-Way.

Permittee. Person to whom the permit was issued.

Section 4-1502. Intent

The specifications contained in this Title are intended to describe the uniform manner in which public utilities will be located, placed, and maintained within City of Brunswick street and alley Rights-of-Way.

Section 4-1503. Stake Out

It is the responsibility of the utility company requesting permission, to stake out the proposed work in the field, so that it can be readily seen what effect this proposed work will have on the existing City Street or Alley, road way drainage and the adjacent property owners. Stakes will be no further apart than 50’.

Section 4-1504. Right-of-Way

The Mayor and Council of Brunswick makes no warranty herein as to availability of right-of-way for utility purposes. The utility company must secure all easements and submit to the City Planning and Zoning office a letter, signed by a responsible person on their staff, stating that they have notified all property owners abutting their work area along the City right-of-way. The Permittee shall make a reasonable effort to contact all abutting property owners and inform them of the scope of the work and the timing of construction prior to commencing any work on the site. If it becomes necessary to work outside of the right-of-way or easement, the Permittee must obtain written permission from the property owner and submit a copy to the City of Brunswick Planning and Zoning Office.

Section 4-1505. Guarantee

The Mayor and Council of Brunswick reserves the right to require improper work to be immediately removed and replaced; with emphasis on earth compacted in trenches. If proper repairs are not made within a reasonable time, the Mayor and Council of Brunswick reserves the right to stop all work, make all necessary repairs and to restore property to a condition satisfactory to the City and charge all cost incidentals thereto to the agency that required that the original cut be made. A Letter of Credit or Escrow Account to benefit the City and issued by an acceptable lending institution located in the State of Maryland equal to the total construction excavation and reclamation cost plus 15% will be required to be approved by the Mayor and Council prior to the commencement of work and the issuance of a permit under the provisions of this Title.

Section 4-1506. Plowing

The “plowing in” of any underground utility will only be permitted where it appears that this plowing operation will not have a detrimental effect upon the City Street or Alley. That determination is to be made by the City Engineer.

Section 4-1507. Request for Permission

Permission to plow or to open trenches in any City maintained right-of-ways shall be requested at least 15 working days in advance of starting work. Permission may be granted after procedures have been developed to maintain all traffic with full regard to hours of working, rush hours, use of steel plates for trench cover and safety precautions. Starting of work within

the City's Right-of-Way, or any occupancy thereof, including ingress and egress, by the Permittee and/or their agents, constitutes full acceptance of all the terms of the Permit. Failure to comply with any of the terms of this Permit constitutes a violation of the entire Permit and could result in the termination thereof and denials of access until such time as the terms are complied with.

#### Section 4-1508. Permission for Emergency Work

Emergency type work, which is for the restoration of interrupted service, may begin immediately with verbal approval of the City Engineer and City DPW.

#### Section 4-1509 Location of Water and Sewer Lines and Major Duct Line Facilities

Water lines and sewer lines and major duct line facilities may be located within the paved section of City Streets and Alleys in accordance with the following provisions:

Trench and manhole areas will be compacted as specified in these specifications. The owner of the utility lines will be responsible for trench settlement and patching for a period of two (2) years beginning at the date of acceptance by the City. Manholes and valve boxes will be kept ¼ inch below the finished pavement. At the end of the two (2) year period, the street or alley will be milled ½" and at least a 1" thickness of SF asphalt shall be placed over the entire roadway to restore it to the cross sectional configuration that currently exist along this section of road. Manholes will be raised to conform to the newly established guide. If the City anticipates a profile change in the street or alley, the utilities will be installed in accordance with the anticipated profile change, at no cost to the City.

#### Section 4-1510. Location of Water and Sewer Lines (Existing Roads)

All new work running parallel with existing roadway shall be placed in shoulder or ditch area. All laterals will be pushed or bored. No open cuts will be allowed. It will be the responsibility of the Permittee to acquire all easements and right of ways needed.

#### Section 4-1511. Utility Relocations

By locating utility facilities within City right of way the utility owner or his assignees, agrees to relocate these facilities at no cost to the City, should the City request such relocation. The City could request relocation because of but not limited to roadway improvements, drainage improvements, installation of City owned water and or sewer lines, etc.

#### Section 4-1512. New Subdivision Streets

Those utilities, which are to be installed in new subdivision streets, shall be installed in the following manner:

If the base bituminous concrete roadway has been placed, no open cutting will be allowed. It will be the responsibility of the utility company to either bore or push utilities in these locations. This applies to all streets where it is anticipated that these streets will eventually be taken into the City Street System for maintenance. Any trenching shall be accomplished before the shoulder work and seeding and mulching are accomplished.

#### Section 4-1513. Existing Roadways

All utility crossings under existing City Streets or Alleys shall be bored or pushed across. No open cutting will be permitted. The utility owner or his assignee must make a minimum of three (3) attempts to bore and at least two (2) of them must have a City DPW Representative present. Where utilities have been placed under the paved section of City Streets or Alleys and because of maintenance purposes it is necessary to disturb a section of City Streets or Alleys, the following provisions will be followed:

The disturbed area will be patched and crack sealed, then maintained by the utility owner for a period of two (2) years. At the end of the two (2) year period and additional overlay of at least 1" thickness shall be placed over the entire roadway to restore it to the cross sectional configuration that currently exist along this section of road.

#### Section 4-1514. Longevity of Patch and Trench Responsibility

The agency making the trench, cut or patch shall be responsible for the trench, patch or cut for a period of two (2) years dated from the day the work had final inspection, and partial acceptance. It will be the responsibility of the agency making the trench, patch or cut, to notify in writing the City Engineer and City Department of Public Works of the date on which the work was permanently completed. This responsibility will include any necessary resurfacing of patched area, re-patching and the re-shaping and filling of any trenched areas, which are a direct result of the utility installation. It shall be the responsibility of the Permittee to notify the City Engineer and City Department of Public Works upon completion of the work, so that a final inspection may be made, and for the two-year warranty to start.

#### Section 4-1515. Other Utilities

The Utility Company is responsible for:

(A) Insuring that their proposed installation and construction activities will not interfere with the maintenance or functioning of existing utility facilities already located within the right-of-way.

(B) Any damage to existing utility facilities already within the right-of-way.

#### Section 4-1516. Improperly Installed Facilities

The owner of improperly installed facilities located within City right-of-way shall be liable for any resulting damage to the City-maintained roadway and appurtenances. Additionally, the owner of the facilities shall also be liable for any damage to City Equipment or injuries to City Staff resulting from improperly installed facilities. If the City becomes aware that the utility's facilities were not installed at the agreed-to location or depth, the City will notify the utility and the utility shall propose corrective action within two (2) weeks of notification. The utility shall bear all financial responsibility with any such relocation. Additionally, failure by the utility to respond within the two-week period and/or to proceed with corrective action within six (6) weeks shall result in the county suspending review of all current and future permit submittals by the utility in question, and suspension of all approved permits held by the utility. This suspension shall remain in effect until the utility complies with the requirements of this section of the permit.

#### Section 4-1517. Drainage

Existing drainage along City Right-of-Way is not to be disturbed, or rerouted. The

Permittee will assume the responsibility for damages to adjoining property, which may be the result of any changes to the present drainage conditions, and agrees to hold the City of Brunswick harmless from any action resulting from the changes. All disturbed areas within the City Right-of-Way, including shoulders, ditch lines and slopes will be seeded and mulched or armored to prevent erosion and to stabilize the disturbed areas.

#### Section 4-1518. Shoulders and Ditches

All disturbed shoulders, side slopes and side ditches shall be restored to original grade and section or better. Portland Cement Concrete or asphalt paving shall be placed in badly disturbed side ditches, as determined by the City Engineer and/or Public Works, where restoration in kind cannot be satisfactorily made as a result of grade or water flow conditions.

#### Section 4-1519. Equipment Required

All equipment employed by the utility company shall be capable of performing the required work and shall be equipped to prevent extraneous surface damage coincident with construction.

#### Section 4-1520. Pavement Cutting Methods

Macadam pavements, bituminous pavements and Portland Cement Concrete pavements shall be cut to neat lines with a saw 18" wider than the trench width on both sides. (See "Pavement Replacement Detail" Sketch 'B' of Right-of-Way Obstruction Permit (Appendix B).) Pavement excavation shall be limited to half the roadway width at any one time. Only dirt roads can be cut using the backhoe method.

#### [Section 4-1521. Overlay

The area to be milled and overlaid (as per State Highway Administration (SHA) specifications, Section 508) with an additional 1" of bituminous concrete shall be described as follows:

(A) Width - the width of the overlay shall extend the entire width of the riding surface.

(B) Length - the length of the overlay shall extend from a point 15' back of the point where the existing pavement was first disturbed and cover the entire construction area to a point of 15' beyond the last place existing pavement was disturbed. This is to be measured parallel to the centerline of the existing road with the end points being at 90E to the centerline. The beginning and ending points of the overlay are to be "milled" into the existing pavement so as not to create a hump or bump in the road surface. (See Sketch C of State Highway Administration, Section 508.)

#### Section 4-1522. Cutting and Permanently Repairing Macadam Roadways

(See Sketch A, B, & C, Trench and Pavement Repair of Right-of-Way Obstruction Permit.) On macadam roadways (Tar and Chip) the patch shall receive a single surface treatment using #4 stone, 20 pounds per square yard and an asphalt emulsion RS-3K at the rate of .28 gallons per square yard. Permanent repairing upon removal of temporary patch, the subgrade and/or new fill shall be checked and tamped, if required, to assure compaction density. Backfill in trenches shall be acceptable material removed therefrom (or better) and shall be mechanically tamped in 6-inch maximum spread layers to a density of 95%. Compaction as per T-180 method shall be 100% for trenching dug previous to new paving. Puddling will not be permitted. Barricades, signs and lights shall be maintained at the patch until the surface course has been completed.

#### Section 4-1523. Cutting and Repairing Bituminous Roadways

(See Sketch A, B, & C, Trench and Pavement Repair of Right-of-Way Obstruction Permit.) On Bituminous roadways, patch shall be cut back 18 inches on either side of trench (6' min). Backfill in trenches shall be acceptable material removed therefrom (or better) and be mechanically tamped in 6-inch maximum spread layers to a density of 95% using the T-180 method. Six (6) inches of BF Asphalt shall be placed in two 3" lifts, then rolled or tamped. Two inches of SF asphalt shall be placed so finish of patch conforms to adjacent pavement. Patch will be cracked sealed, within two weeks after completion.

#### Section 4-1524. Cutting and Permanently Repairing Portland Cement Concrete Roadways

(See Sketch A, B, & C, Pavement Replacement Detail of Right-of-Way Obstruction Permit.) Permanent repairing upon removal of temporary patch, the subgrade and/or new fill shall be checked and tamped, if required, to assure compaction density. Backfill in trenches shall be acceptable material removed therefrom (or better) and shall be mechanically tamped in 6-inch maximum spread layers to a density of 95%. Compaction shall be 100% for trenches dug previous to new paving. Puddling will not be permitted. Cuts in Portland Cement Concrete paving shall be thoroughly cleaned and edges wetted before placing concrete. The subgrade will be properly sprinkled immediately in advance of placing concrete. Portland Cement Concrete shall be carefully worked to completely fill the opening, including all irregularities in the trimming of the existing pavement. The surface finish of the patch shall conform to the adjacent pavement. The curing of the Portland Cement Concrete shall be by either approved membrane material or by paper properly secured. Barricades, signs and lights shall be maintained at the patch until surface course has been completed. Portland Cement Concrete shall have 6x12-2/2 wire mesh placed 2" from concrete surface and extending within 3" of all sides. There shall be a minimum of 10' distance between edge of patch and nearest joint, except that this requirement shall not apply where an existing joint in the existing pavement is within the prescribed 10' minimum distance, in which instance the replacement shall be to the existing joint. Minimum width and length patch shall be 10'.

#### Section 4-1525. Temporary Patching

Temporary patches shall be made immediately on the completion of the backfill and shall consist of suitable materials (bituminous patches, stone or crusher run) as appropriate in a thickness consistent with requirements for maintenance of the patch pending final paving. The utility shall maintain all temporary patching, and shall make all repairs needed within 48 hours after being contacted by the City Engineer or City Department of Public Works.

#### Section 4-1526. Inspection

Inspection of cuts, backfill and surface repairs will be made by the City Engineer or City Department of Public Works at the expense of the Utility Company. Compaction test will be performed by a qualified engineer with recognized methods. Forty-eight (48) hours' notice is required to schedule inspection. The Utility Company will pay for all compaction tests. The Utility Company will also be charged for continual re-inspection of the same problem (nuisance inspections).

#### Section 4-1527. Safety Requirements

The utility shall take every necessary precaution to prevent damage to property and injury to

the public who may be in the area. The utility shall be governed by all requirements covering protection of the public, and comply with all local and state laws and regulations. Barricades, signs and lights shall be used, and required certificate of insurance shall be provided to the City before any work can begin.

The Utility Company shall hold the City of Brunswick harmless from all liability for damages arising from or due to their work. Flagmen will be required where one-way traffic is necessary because of utility work. A standard Maintenance of Traffic Plan and a proposed Detour Plan will be submitted to the City Engineer and City Department of Public Works; if a street or alley closure is needed, signs and flashing light barricades shall be used. All signs and barricades shall be fully reflectorized for night visibility. All warning signs shall conform to the latest Federal Highway Administration, "Manual on Uniform Traffic Control Devices for Streets and Highways." All mud and debris tracked and/or spilled on the City Streets or Alleys shall be removed promptly to eliminate potential hazards.

#### Section 4-1528. General Requirements

The Permittee's Contractor shall plan and schedule his work to cause a minimum interference with other work being done in the area. Equipment and excavated materials shall be placed not to obstruct traffic or drainage. All sidewalk curb and gutter and driveways disturbed or damaged shall be replaced in complete sections on a compacted base. All joints and material shall be replaced for full joint effectiveness. Access shall be maintained to all driveways during non-work periods. No materials or equipment shall be stored in the City right-of-way during non-work periods. All excavation shall be backfilled or plated prior to the end of any work period. Two-way traffic shall be maintained at all times. At least one-half of the roadway (pavement and shoulder) shall be available for traffic at all times. No equipment with cleated wheels or tracks is permitted on roadway or shoulder pavement, and any damage done to the City of Brunswick's property will be the responsibility of the Permittee. It is the responsibility of the Permittee to make his agent, or contractor, familiar with the terms of these specifications.

### **Article 2. Water and Sewer**

#### **Title 1. Charges**

#### Section 4-2101. Basis for Use Charges

Water and sewer use charges shall be both based upon the amount of water passing through each water connection as measured by water meters owned by the City of Brunswick. In the event that, and for so long as, any such meter shall be out of order, in need of repair, or for any reason fail to register the consumption of water, the use charge shall be equal to the average daily consumption as shown by said meter when the same is in proper working order.

#### Section 4-2102. Billing

Billing dates for all water and sewer charges shall be quarterly, on or about 31 March, 30 June, 30 September, and 31 December of each year. The City Administrator shall notify each property owner connected to the City water and/or sewer system of the amounts due.

All amounts due for water and/or sewer services shall be paid within thirty (30) days from the date of the notification of the amount due.

*Revisor's Note: Billing procedures are governed by State Law; see Sections 9-724 and 9-725 of the Health-Environmental Article, Annotated Code of Maryland.*

Section 4-2103. Delinquent Payments

(A) If the current bill is outstanding 30 days after the billing date, the City Administrator will give the property owner a 10-day written notice that payment must be made or the water service will be disconnected. If, after 10 days, the bill remains unpaid, the Public Works Superintendent will be instructed to terminate (turn off) the water service. The water service will not be restored (turned on) until the delinquent amount for all water, sewer, interest, and penalty charges ("reconnection" fee) is paid in full.

(B) Delinquent bills shall be subject to the legal rate of interest for delinquent taxes if not paid within sixty (60) days after date of billing notice.

(C) A charge (penalty) shall be assessed the property owner to restore the water service after a disconnection. This charge may be modified from time to time by the Mayor and Council or the general assembly of the State of Maryland.

(D) If water service has been disconnected for a period of 60 days or more and a delinquent bill is still outstanding, the Mayor and Council may start proceedings to place a lien on the property as stated in Section 16-72 of the City Charter. The lien will include sitting charges for the period in which the water has been disconnected.

*Revisor's Note: Billing procedures are governed by State Law; see Sections 9-724 and 9-725 of the Health-Environmental Article, Annotated Code of Maryland.*

Section 4-2104. (Reserved)

Section 4-2105. Connection Charges

(A) A charge shall be made for all sewer connections to the City's sewer system in the amount of One Thousand Seven Hundred Dollars minimum or actual cost, whichever is greater.

(B) In any instance in which any owner or developer of land shall extend any of the City's sewer mains, the connection charge will be waived if the owner or developer installs the service line as part of the main extension contract. A Public Works Agreement shall be executed between the City and owner or developer, with all costs of main extensions and service connections to be paid by the owner or developer.

(C) The charge shall be collected at the time the building sewer application is filed.

Section 4-2106. Sewer Charges

(A) From and after July 1, 1988, effective at the beginning of each customers' next quarterly billing period, a charge, rate or fee shall be and the same is hereby established to be paid by all owners of all buildings, dwellings, apartments, living units or other structures, which charge, rate or fee shall be based upon the amount of water used or consumed during each quarter year in or about such buildings, dwellings, apartments, living units or other structures', as established by the User Charge System.

(B) The source of water for every building, dwelling, apartment, living unit or other structure discharging waste, water, sewage or other liquid or fluid substances into the City's sanitary sewer system shall be metered.

(C) The owner of any building, dwelling, apartment, living unit or other structure who can reasonably demonstrate that he uses a substantial amount of water that is not discharged into the City's sanitary sewage system shall have the privilege of applying to the City for permission to install a separate water meter to measure the water not discharged into the sanitary sewer system. For all such water, the owner shall not be charged a sewer rate as established. All costs and expenses relating to the installation of such a separate water meter shall be paid by the property owner.

(D) The charge, rate, fee or assessment levied or imposed may be collected in the same manner as provided for the collection of taxes imposed by the City upon the assessable property therein. If any charge, rate or fee is not paid within thirty (30) days from the date of billing, a five percent (5%) penalty shall be charged, and the City shall have the right to disconnect water service to the property after five (5) days written notice.

(E) The City shall review the sewer charges annually and revise them periodically, if necessary, to meet operation and maintenance expenses. The City shall maintain all the records as are necessary to document compliance with the Federal regulations.

#### Section 4-2107. Suspension of Service at Request of Owner; Water Turnoff Fee

In any instance in which the owner of any building, dwelling, apartment, living unit or other structure desires to suspend his water and sewer services for a period exceeding sixty (60) days, he may do so by written application to the City made at least five (5) days prior to the cutoff date. In the event of such suspension of service, the owner will be charged a turnoff fee.

#### Section 4-2108. Annual Financial Statement

The City Auditor shall prepare annually and submit to the Mayor and Council a statement showing all income derived by the City from the sewer rates and charges herein levied and imposed, together with a statement of all costs and expenses incurred by or attributable to the operation of the City's sewerage system, which statements shall be reviewed by the Mayor and Council for the purpose of determining what revision, if any, to the rates and charges herein levied and imposed may be required.

### Title 2. Connections

#### Section 4-2201. Water and Sewer Service Applications

Every individual who desires to contract for supply of water within the limits of the City of Brunswick shall make written application to the City Treasurer, upon forms prepared by the City, setting forth the description of the property and improvements thereon to be supplied with water and/or sewer services, stating the name and address of the Applicant and stating further that the Applicant will abide by and observe all applicable State statutes and regulations and ordinances, resolutions and regulations lawfully passed by the Mayor and Council. Any individual who wishes to contract for water and/or sewer service at a new connection shall, when making application for such connection, pay to the City Treasurer, for each new connection, a connection or Tap Fee for such connection, in such amount as the Mayor and Council may from time to time by resolution establish.

#### Section 4-2202. Water and/or Sewer Service Outside of City Limits

Any individual who desires to contract for a supply of water and/or sewer outside of the limits of the City shall make application on the form described in Section 4-2201. The City Administrator shall present such application to the Mayor and Council at a regular meeting. The Mayor and Council shall review the application, and, if they deem it appropriate to provide service to the premises of the applicant, they may approve the application. In determining whether or not to approve such application as appropriate, the Mayor and Council shall consider and make their determination based upon the following criteria: the availability, condition, age and composition of the service mains throughout the City's water and sewer systems; the availability, condition, age and composition of the water and sewer lines throughout the City's water and sewer systems; the adequacy of the water supply as it then exists and as it may be affected by the provision of the service sought; the capacity of sewer facilities as it then exists and as it may be affected by the provision of the service sought; the availability and adequacy of water pressure as it then exists and as it may be affected by the provision of the service sought; the availability and adequacy of fire protection as it then exists and as it may be required or affected by the provision of the service sought, including but not limited to the availability of fire hydrants; the legal sufficiency, availability and adequacy of land or interests in land such as easements necessary to provide the service sought and the impact of the service sought on the land and property interests affected by the service sought; and whether the provision of the service sought may create or cause a violation or conflict with the City Design Manual or any other applicable laws, codes, rules or regulations of the City, County, State or Federal Government.

(Ord. 430, passed 8-9-2005)

#### Section 4-2203. Separate Water and Sewer Connection Fees

A separate water and sewer connection fee shall be charged for each residential unit. In the case of attached residential units, such as townhouses and apartments, a separate connection fee shall be charged for each residential unit and shall be paid at the time of application for such connection. In the case of commercial, industrial and institutional units, a separate connection fee shall be charged for each "equivalent unit," which term shall refer to the number of fixtures which shall be equivalent to those used by a residential unit, as determined from time to time by the Mayor and Council by resolution.

#### Section 4-2204. Service Main Connections

The City may, in accordance with the Water and Sewer Rules and Regulations make connections by installing, at the expense of the property owner, a stopcock six (6) inches inside the curb and shall connect the service pipe to be laid by the property owner with the service main at the stopcock at the curb. No person other than by authority of the Superintendent of Public Works shall make any such connection. Connection of sewer service shall be made to a sewer clean out at the property line to connect the service pipe to be laid by the property owner to the clean out. In the event that the connection from the main to the property line shall exceed the minimum distance from time to time established by the Mayor and Council by resolution, the property owners shall pay, in addition to the established connection fees, the amount expended by the Mayor and Council to make the extended connection. The cost of the public portion of any extension shall be equitably apportioned among all property owners who shall connect to the extension within five (5) years from the date of completion of the extension. Any such sums paid to the City shall be apportioned and refunded without interest to the persons who initially paid for the installation of the extension of the service main.

(Am. Ord. 413, passed 5-25-2004)

Section 4-2205. Distribution Main Extensions for a Single Service Connection

Any extension of the distribution main shall be limited to twenty-five (25) feet for each tap or connection, and any extension in excess of twenty-five (25) feet shall be at the sole expense of the property owner requesting the service; provided, that should the excess extension footage be subsequently utilized for additional taps or connections, then the costs of such excess footage, or applicable portion thereof, shall be apportioned and refunded without interest to the property owner who originally paid for the excess footage, if such excess footage is utilized within five (5) years from the date of its installation, in accordance with the Water and Sewer Rules and Regulations.

(Am. Ord. 413, passed 5-25-2004)

Section 4-2206. Minimum Standards for Service Lines

No water service line from the water main to the connection of a property owner shall have a diameter of less than three-fourths (3/4) of an inch. No sewer service pipe of a gravity feed type shall have a diameter of less than four (4) inches. No water service or sewer service pipe utilizing an innovative or non-standard design, size or material shall be employed without advance review and approval by the Superintendent of Public Works.

Section 4-2207. Subdivisions

The developer of a subdivision within the corporate limits of the City of Brunswick shall construct at his sole expense all sewer and water mains, meters, and all appurtenances thereto according to the specifications of the Mayor and Council. Before connecting to the water and/or sewer mains, the developer shall pay the connection fees established by the Mayor and Council for each residential unit in the subdivision.

Section 4-2208. Repairs or Replacements

Whenever the Mayor and Council shall pave any street or portion thereof, the Superintendent of Public Works shall inspect all water pipes beneath the surface thereof, and, when necessary, he shall repair or replace any sewer or water mains at the expense of the City. However, in the event that the Superintendent shall find any water service or sewer mains laid by individuals or corporations out of repair or in such bad condition that they should be replaced, he shall repair or replace the same at the expense of the City, but in all such cases the owners of properties benefitted by such repairs or replacements shall be minimally required to pay the established tap fee for new connections.

*Revisor's Note: If a person lays a new pipe or conduit under any public highway in a municipality in such a manner as not to be in accordance with a plan approved by the municipality, including the approved plan for installation, size, type and location of any pipe or conduit, the municipality shall: (1) Give the person reasonable notice of the violation, and (2) order the person to remove or readjust the pipe or conduit within a time specified in the order; failure to comply with such an order shall be punishable as a misdemeanor. See Section 9-710 of the Health-Environmental Article, Annotated Code of Maryland.*

#### Section 4-2301. Water Bans

The Mayor is hereby authorized and empowered, whenever in his judgment he shall think it necessary for the preservation of the public health and safety, to ban, suspend, curtail and regulate the use of water from the municipal water system for the operation of fountains, bathhouses, swimming pools, coin operated washing machines or the sprinkling of streets, lawns, flowers, shrubbery, gardens and for washing automobiles and other vehicles. Except upon the declaration of an emergency condition, the Mayor shall give notice by publication in a newspaper of general circulation within the City of Brunswick and the Brunswick service area, to all consumers of water as to any ban, suspension, curtailment or regulation which shall be effective 24 hours after the publication of such notice. All consumers of water services and property owners shall comply with any such ban, suspension, curtailment or regulation.

#### Section 4-2302. Unnecessary Waste of Water

The Superintendent of Public Works is authorized and empowered to enter and inspect, at any reasonable time, the premises of any consumer of water for the purpose of ascertaining the number and character of all service connections on such premises and the condition of such connections and, upon probable cause, to investigate whether there is any unnecessary waste of water. In the event that any such unnecessary waste shall be found to result from want of repair in the pipes or other fixtures, the owner and occupier of such premises shall be notified and ordered in writing to have the necessary repairs made forthwith or within a reasonable time specified in the order, and upon neglect or refusal to comply with the order, it shall be the duty of the Superintendent of Public Works to issue a second notice indicating the City's intent to shut off the water to such premises within 48 hours unless evidence of compliance is sooner presented. No notice shall be required to cut off water supplies to any property using water otherwise than through an authorized user.

#### Section 4-2303. Stoppages

All stoppages in house connections from any property to the sewer main shall be opened by the Superintendent of Public Works at the property owner's expense. However, if it is determined by the City Engineer or his representative that the stoppage has been caused by roots or damaged pipe occurring between the sewer main and the property line, the City shall pay the expense of opening that portion of the connection, provided that the City shall first approve any charges for such work. In the event that, upon the opening of the house connection, it is found necessary to open the street between the sewer main and the property line, such additional work shall be done by, and at the expense of, the City.

*Revisor's Note: For State Laws establishing misdemeanor offenses for certain acts related to the use of water and sewer facilities, see Section 6-305 of the Criminal Law Article and Sections 9-709 (Removal of Obstruction) and 9-715 (Right of Entry) of the Environmental Article, Annotated Code of Maryland.*

*Section 6-305 provides that a person may not wrongfully and maliciously: (1) connect, disconnect, tap, interfere or tamper with, or make a connection with water equipment that belongs to a company, municipal corporation, county, or unit of state or local government that uses or supplies water for domestic, agricultural, or manufacturing purposes; or (2) tamper with a meter used to register the water consumed.*

*Section 9-709 provides that it shall be unlawful to fail to comply with a municipal order to remove "...any structure in, over, or under a public street, road or alley..." which obstructs*

*construction or work on any water main, sewer or drain.*

*Section 9-715 provides that, at any reasonable time, it shall be unlawful to:*

*(1) Refuse to grant entry to any representative of the municipal authority who asks to enter on private property or into a building under this section; or*

*(2) Interfere with the carrying out of an official duty of any representative of any municipal authority under this section.*

#### Section 4-2304. Penalty for Violation

Unless otherwise provided in Title 4, any violation of the provisions of this Article 2 shall be a general municipal infraction.

### Title 4. Discharge of Wastes and Wastewater

#### Section 4-2401. Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this Title shall be as follows:

BOD (denoting biochemical oxygen demand). The quantity of oxygen utilized in the biochemical oxidation of organic matter in five (5) days at twenty degrees centigrade (20°C), expressed in milligrams per liter, as determined in accordance with the latest issue of APHA "Standard Methods for the Examination of Water and Wastewater" or by a method acceptable to the state Department of Health and other agencies having jurisdiction.

Building Drain. That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (one and five-tenths (1.5) meters) outside the inner face of the building wall.

Building Sewer. The extension from the building drain to the public sewer or other place of disposal, also called house connection.

Combined Sewer. A sewer intended to receive both wastewater and storm or surface water.

Floatable Oil. Oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable fat if it is properly pre-treated and the wastewater does not interfere with the collection system.

Garbage. The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

Industrial Wastes. The wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.

Interference.

(1) An inhibition or disruption of the wastewater treatment works or operations, or its

sludge processes use or disposal which causes either a violation of any requirement of the wastewater treatment works discharge permit or prevents sewage sludge use or disposal by the wastewater treatment works in accordance with the following statutory provisions and regulations or permits issued under them:

- (a) Section 405 of the Clean Water Act;
- (b) The Solid Waste Disposal Act (SWDA) (including Title II more commonly referred to as the Resource Conservation and Recovery Act (RCRA) and any State regulation contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA);
- (c) The Clean Air Act; and
- (d) The Toxic Substances Control Act.

or

- (2) Damage to sewer systems and threats to wastewater treatment works worker and public health, safety and comfort.

Leachate. Wastewater produced by the percolation of rainwater through a municipal solid waste landfill.

Natural Outlet. Any outlet including storm sewers and combined sewer overflows into a watercourse, pond, ditch, lake or other body of surface or groundwater.

Pass Through. Discharge of pollutants through the wastewater treatment works into waters of the State in quantities or concentrations which cause a violation of any requirement of the wastewater treatment works discharge permit.

Person. Any individual, firm, partnership, company, association, society, corporation, group or entity.

pH. The logarithm of the reciprocal of the hydrogen ion concentration.

Pretreatment. Treatment of wastewaters from sources before introduction into the joint treatment works.

Properly Shredded Garbage. The wastes from the preparation, cooking and dispensing of food, that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1/2") (one and twenty-seven hundredths (1.27) centimeters) in any dimension.

Public Sewer. A common sewer controlled by a governmental agency or public utility.

Qualified Analyst.

- (1) Any person holding an undergraduate degree in chemistry or in a closely allied field (e.g., biology, sanitary engineering); or
- (2) Any other person who has demonstrated competency in wastewater analysis by having analyzed satisfactorily a minimum of three; or

(3) Reference wastewater samples as supplied upon request by the approving authority.

Sanitary Sewer. A sewer that carries liquid and water carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

Septage. The liquid and solid material produced in individual onsite wastewater-disposal systems, principally septic tanks and cesspools.

Sewer. A pipe or conduit which carries drainage water or wastewater

Sewerage System. See Wastewater Facilities.

Shall is mandatory; may is permissive.

Sludge. The accumulated semi-liquid suspension of settled solids deposited from wastewater, raw or treated, in tanks or basins.

Slug. Any discharge of water or wastewater, which in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty four (24) hour concentration, or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

Storm Drain (sometimes termed Storm Sewer). A sewer or drain for conveying water, groundwater, subsurface water or unpolluted water from any source.

Suspended Solid (SS). Total suspended matter that either floats on the surface of or is in suspension in water, sewage or other liquids, and which is removable by laboratory filtering under standard laboratory procedure.

Wastewater. The spend water of a community. From the standpoint of source, it may be combination of the liquid- and water-carried wastes from residences, commercial building, industrial plants and institutions, together with any groundwater, surface water and stormwater that may be present.

Wastewater Facilities. The structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

Wastewater Treatment Works. An arrangement of devices and structures for treating wastewater, industrial wastes and sludge.

Watercourse. A natural or artificial channel for the passage of water either continuously or intermittently.

#### Section 4-2402. Use of Public Sewers Required

(A) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the service area of the City's public sewer system or in any area under jurisdiction of said City, any human or animal excrement, garbage or other objectionable waste.

(B) It shall be unlawful to discharge to any natural watercourse within the service area of the City's public sewer system or in any area under the jurisdiction of said City any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Title.

(C) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

(D) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes: situated within the service area of the City's public sewer system, is hereby required at his expense to install suitable toilet facilities therein, and shall connect such facilities directly with the proper public sewer in accordance with the provisions of this Title, within ninety (90) days after date of official notice to do so.

(E) All privies, privy vaults, cesspools, septic tanks and drains on properties connected with a sanitary sewer shall be abandoned as soon as possible, and in no case later than thirty (30) days after the connection of such properties to such sanitary sewer, and left in such way that they cannot again be used or injuriously affect the public health; and all wells that are found by the City, or any public health authority having jurisdiction, to be polluted or a menace to health shall likewise be abandoned and closed.

(F) Privies, privy vaults, cesspools, septic tanks, drains and polluted wells abandoned and closed pursuant to this section shall be subject to inspection by the Public Works Superintendent and by any public health authority having jurisdiction, and the owner of the property upon which any such abandoned and closed facility is located shall take such remedial action as may be prescribed by such inspector to assure that such closed and abandoned facility will not constitute a hazard to the public health or safety.

#### Section 4-2403. Building Sewers and Connections

(A) No authorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City.

(B) The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the City.

(C) All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(D) Each mobile home and/or trailer unit used for residential or commercial purposes, and having domestic water and/or sanitary facilities therein, shall be considered a separate and independent building, and as such shall have its own separate and independent building drain and building sewer.

(E) Where existing building sewers connect to a public sanitary sewer or public storm sewer are to be abandoned by reason of demolition of buildings and structures or for any other reason, they shall be disconnected and permanently sealed at the curb line or at the public sewer as directed by the approving authority. Existing building sewers may be used

in connection with new buildings only when they are found, on examination and test by the City, to meet all the requirements of this Title.

(F) The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the Frederick County Plumbing Code and/or other applicable rules and regulations of the City. In the absence of Code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing Materials and Water Pollution Control Federation "Manual of Practice No. 9" shall apply.

(G) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer. Exceptions to this requirement shall be requested in writing and approved by the Superintendent of Public Works of the City.

(H) No person shall make connection of roof down-spouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building drain or building sewer, which in turn is connected directly or indirectly to a public sanitary sewer.

(I) The connection of the building drain to the building sewer or the building sewer into the public sewer shall conform to the requirements of the Frederick County Plumbing Code and/or other applicable rules and regulations of the City or the procedure set forth in appropriate specifications of the American Society for Testing Materials and the Water Pollution Control Federation "Manual of Practice No. 9". All such connections shall be made gas tight and watertight. All connections of building sewer into the public sewer shall be performed by persons authorized by the City. The prescribed procedures and materials must be approved by the City before installation.

(J) The owner of any improved property shall maintain and repair the building drain and lateral at his own expense and shall remove all trees, tree roots and other obstruction of the building drain and lateral. Where such maintenance or repairs are neglected by the owner, the City may, ten (10) days after mailing written notice to the owner, make or cause to be made such maintenance or repairs as may be necessary and charge the owner of said improved property for the cost thereof.

(K) The Applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made in the presence of and under the supervision of the City or its representatives who shall be notified twenty four (24) hours before time for backfilling.

(L) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a satisfactory manner to the City.

#### Section 4-2404. Use of the Public Sewers

(A) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted

industrial process waters to any sanitary sewer.

(B) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the City.

Industrial cooling water or unpolluted process water may be discharged to a storm sewer or natural outlet, on approval of the City and upon acquiring a National Pollution Discharge Elimination System Permit (NPDES Permit) from the Maryland Department of the Environment.

(C) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(1) Any gasoline, benzene, naphtha, fuel oil, engine oil, fuel additives, paint products, organic solvents or other flammable or explosive liquid, solid or gas.

(2) Any waters or wastes containing toxic, poisonous or in anyway harmful solids, liquids or gases in sufficient quantity, which either singly or by interaction with other wastes, pass through or interfere with the wastewater treatment works.

(3) Any waters or wastes having a pH stabilized, lower than 6.0 or higher than 9.0, or having any other corrosive or scale forming property capable of causing damage or hazard to structures, equipment and personnel of the Wastewater Facilities and Wastewater Treatment Works or hinder and/or reduce the normal microbiological action, sludge conditioning and sludge dewatering capabilities of the Wastewater Treatment Works.

(4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, ragas, feathers, tar, plastics, styrofoam, foam rubber, sanitary napkins, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, bones, paper dishes, cups, milk containers, rubber, leather, porcelain, china ceramic wastes, etc. either whole or ground by garbage grinders.

(5) Any waters or wastes prohibited by any permit issued by the City, county, state and Federal government agencies.

(D) The following described substances, materials, waters or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property or constitute a nuisance. The Superintendent of Public Works may set limitations lower than the limitations established in the regulations following if in his opinion as to the acceptability, the Superintendent of Public Works will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treat-ability of the waste in the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Superintendent of Public Works are as follows:

(1) Any liquid or vapor having a temperature higher than one hundred four degrees Fahrenheit (104°F), forty degrees Centigrade (40°C) or less than thirty two degrees

Fahrenheit (32°F), zero degrees centigrade (0°C).

- (2) Wastewater containing more than 100 milligrams per liter of oil of an animal or vegetable origin or 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils, or other oil of mineral origin.
- (3) Wastewater from industrial plants containing floatable oils, fat or grease.
- (4) Any garbage that has not been properly shredded as defined in Section 4-2401. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
- (5) Any waters or wastes containing substances which are limited by the National Categorical Pretreatment standards. Standards may be set by the City when the national standard is determined to be insufficient to protect the wastewater facility from adverse affects or when the national standard has not been promulgated. Upon promulgation of National Categorical Pretreatment standards for a particular subcategory, the National Standards, if more stringent than the limitations imposed by the City for sources in the subcategory, shall immediately supersede the limitations imposed by the City. The Director of the Department of Public Works shall so notify all affected industrial waste dischargers who shall thereafter be subject to the reporting requirements of 40 CFR, Section 403.12.
- (6) Any waters or wastes containing phenols or any other taste or odor producing substances, in such concentrations exceeding limits which may be established by the City as necessary, after treatment of the composite sewage, to meet the requirements of the state, Federal or other public agencies of jurisdiction for such discharge to the receiving waters.
- (7) Any radioactive substances and/or isotopes of such half-life or concentration as may exceed limits established by the City in compliance with applicable state and Federal regulations.
- (8) Quantities of flow, concentration or both which constitute a "slug" as defined herein.
- (9) Waters and wastes containing substances which are not amenable to treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (10) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release noxious gases, form suspended solids which interfere with the collection system or create a condition deleterious to structures and treatment processes.
- (11) Any waters or wastes containing at any time total solids greater than 2,000 mg/l or of such character and quantity that unusual attention or expense is required to handle such materials in the sewerage system.
- (12) Any waters or wastes containing dye from any source that will not have an effluent

equivalent to that produced by alum coagulation and chlorination to remove suspended or colloidal matter and bleach the dissolved dyes.

(13) Any waters or wastes having an average daily chlorine demand in excess of 12 mg/l at a detention time of thirty (30) minutes.

(14) Industrial waste having an average daily BOD greater than 200 mg/l.

(15) Industrial waste having an average daily content of suspended solids greater than 220 mg/l.

(16) Industrial waste slugs having an average daily flow greater than five percent (5%) of the average daily sewage flow at the wastewater treatment works.

(17) Septage shall not be discharged to the sewerage system.

(18) Leachate shall not be discharged to the sewerage system.

(E) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 4-2404(d), and which in the judgment of the City may have a deleterious effect upon the sewage works, processes, equipment or receiving waters or sludge management, or which otherwise create a hazard to life or constitute a public nuisance, the City may, upon giving official notice to the discharger:

(1) Reject the wastes;

(2) Require pretreatment according to the Pretreatment Standards as adopted by the City to an acceptable condition for discharge to the public sewers;

(3) Require control over the quantities and rates of discharge;

(4) Require payment to cover the added costs of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of this Article; and/or

(5) Require immediate discontinuance of the waste discharge until such time as it meets the requirements of these regulations.

Any person so notified shall immediately stop or eliminate the discharge. In the event the discharger shall fail to comply with the notice, the approving authority shall take such actions as are deemed reasonably necessary to prevent or minimize damage to the sewerage system or danger to persons or property, including, where in the opinion of the approving authority the danger is clear, present and substantial, immediate severance of the discharger's sewer connection to the sewerage system.

If the City permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the City, and subject to the requirements of all applicable Codes, ordinances, regulations and laws.

(F) Grease, oil and sand interceptors shall be provided when, in the opinion of the City, they are necessary for the proper handling of liquid wastes containing floatable grease in

excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owners shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal which are subject to review by the City. Any removal and hauling of the collected materials not performed by owner's personnel must be performed by currently licensed waste disposal firms.

(G) Where pretreatment or flow equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(H) When required by the City, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control structure together with necessary meters and other appurtenances in the control structure to facilitate observation, sampling and measurement of the wastes. Such structure, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the City. The structure shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

(I) The City may require a user of sewer services to provide information needed to determine compliance with this Title. The City may review and copy records to obtain the required information. These requirements may include:

- (1) Wastewater discharge peak rate and volume over a specified time period.
- (2) Chemical analyses of waste waters.
- (3) Information on raw materials, processes and products affecting wastewater volume and quality.
- (4) Quantity and disposition of specific liquid, sludge, oil, solvent or other material important to sewer use control.
- (5) A plot plan of sewers of the user's property showing sewer and pretreatment facility locations.
- (6) Details of wastewater pretreatment facilities.
- (7) Details of systems to prevent and control the losses of materials through spills to the municipal sewer.
- (8) Any other information required by the Flow Measurement, Sampling, Analysis and Monitoring Standards as adopted by the City Council.

(J) All measurements, tests and analyses of the characteristics of water and wastes to which reference is made in this Title shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined by or under the direct supervision of a qualified analyst at the control structure provided, or upon suitable samples

taken at said control structure. In the event that no special structure has been required, the control structure shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling methods, locations, times, durations and frequencies are to be determined on an individual basis by the Superintendent of Public Works.

(K) No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore, by the industrial concern. Any national categorical pretreatment standards or State standards will not be waived by a special agreement.

#### Section 4-2405. Discharge of Wastewater into Storm Sewers

Discharge of wastewater into storm sewers shall not be permitted.

#### Section 4-2406. Industrial Waste Discharge Permit

(A) Prior to discharging or continuing the discharge of any industrial waste to the sewerage system, the owner of the improved property from which such discharge is proposed to be made shall apply to the City in writing for a permit to make such discharge. Application to continue discharge of individual waste shall be made within sixty (60) days after passage of this Title.

(B) Application shall be made with all pertinent data, including but not limited to, estimated quantity of flow, character of waste, maximum rate of discharge and pretreatment facilities, together with any other information considered pertinent in the judgment of the approving authority.

(C) A fee of Ten Dollars (\$10) shall be charged for issuance of a discharge permit.

(D) An industrial waste discharge permit shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period of less than a year or may be stated to expire on a specific date. The discharger shall apply for permit re-issuance a minimum of one hundred eighty (180) days prior to the expiration of the discharger's existing permit. The terms and conditions of the permit shall be subject to modification by the City during the term of the permit as discharge limitations or requirements as identified in Section 16-4 are modified or other just cause exists. The discharger shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(E) Within nine (9) months of the promulgation of a National Categorical Pretreatment standard, the Industrial Waste Discharge Permit of dischargers subject to such standards shall be revised to require and impose conditions to insure compliance with such standard within the time frame prescribed by such standard. Where a discharger, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for an Industrial Waste Discharge Permit as required by Subsection (A) of this Section, the discharger shall apply for an Industrial Waste Discharge Permit within one hundred eighty (180) days after the promulgation of the applicable National Categorical Pretreatment Standard. In addition, a discharger with an existing Industrial Waste Discharge Permit shall submit to the approving authority within one hundred eighty (180) days after the promulgation of an applicable National categorical Pretreatment standard, on forms to be

provided by him, the information required by 40 CFR, Section 403.12(b) and the compliance schedule required by Subsection (c) of that Section. Within ninety (90) days following the date for final compliance with applicable Pretreatment Standards, or in the case of a new discharger, following commencement of discharge to the sewage system, any discharger of industrial waste subject to Pretreatment Standards shall submit a report to the approving authority upon forms to be provided by him containing the information required by 40 CFR 40J.12(d) and thereafter semi-annually in the months of June and December the report required by 40 CFR 403.12(e).

(F) Industrial Waste Discharge Permits will contain the following applicable special permit conditions:

- (1) An exception to the discharge standard set forth in Section 4-2404.
- (2) Limits on the average and maximum wastewater constituents and characteristics.
- (3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.
- (4) Requirements for installation and maintenance of inspection and sampling facilities.
- (5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule.
- (6) Compliance schedules.
- (7) Requirements for submission of discharge reports.
- (8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the approving authority and affording access by the City thereto for reviewing and copying the plant records.
- (9) Requirements for notification of the City of any new introduction of wastewater constituents or any substantial change in volume or character of the wastewater constituents being introduced into the wastewater treatment system.
- (10) Requirements for notification of slug discharges.
- (11) Other conditions as deemed appropriate by the approving authority to ensure compliance with this Title.

Section 4-2407. Industrial Waste Contribution Report

(A) Ten (10) days prior to the first (1st) day of March, June, September and December, each major contributor of industrial waste shall file with the City a report on the quality and quantity of their discharge. The report forms shall be similar to EPA 7550-22, Page IV-1.

(B) Major contributors shall consist of those whose total discharge exceeds 500 gallons per day, has in its waste a toxic pollutant or in the judgment of the approving authority would have a significant impact on the qualities of the City treatment plant effluent.

#### Section 4-2408. Pretreatment Compliance Enforcement

Notwithstanding the existence of any delegation agreement and to ensure compliance with the pretreatment requirements, the City may take any of the following action against an industrial user:

- (A) Seek injunctive relief necessary to prevent irreparable harm to the wastewater facility, to the health and safety of plant workers, or to the environment.
- (B) Seek civil penalties.
- (C) Seek criminal penalties.
- (D) Impose a penalty or fine of not less than Two Hundred Fifty Dollars (\$250) for each day a violation of pretreatment standards or requirements occurs.

#### Section 4-2409. Drainage of Swimming Pools

Drain lines from all commercial swimming pools in the City may be connected to storm sewers, and filter backwash lines shall be discharged to the sanitary sewerage system as follows:

- (A) Sand filter backwash shall be discharged to the sanitary sewer, subject to the provisions set forth in Section 4-2404(f).
- (B) Diatomaceous earth filter backwash shall be connected to the sanitary sewer through settling tanks with three (3) months storage capacity of spent diatomaceous earth, which tanks shall be readily accessible for removing solid waste for disposal.

#### Section 4-2410. Protection from Damage

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works. Violation of this provision shall be a misdemeanor. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

#### Section 4-2411. Powers and Authority of Inspectors

- (A) The Superintendent of Public Works and other duly authorized employees or representatives of the City bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Title.
- (B) The Superintendent of Public Works or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.
- (C) While performing the necessary work on private properties referred to in Subsection (A) of this Section, the Superintendent of Public Works or duly authorized employees or representatives of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to

the City employees or representatives and the City shall indemnify the company against loss or damage to its property by City employees or representatives and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operations, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 4-2404.

(D) The Superintendent of Public Works and other duly authorized employees or representatives of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private properties involved.

#### Section 4-2412. Sewer Extensions

(A) The City shall be solely responsible for any and all sewer extensions. No extension will be made except upon the written request of a property owner.

(B) The owner or owners applying for such sewer extension shall be responsible for the cost of making such an extension. Title to the sewer will be vested in the City, and the sewer shall at all times remain the sole property of the City and shall not be trespassed upon or interfered with in any respect. This property shall be maintained by the City and may be used as the City deems fit.

(C) When sewer facilities are to be constructed, the owner will furnish plans for review by the City and all other agencies having jurisdiction. These plans will denote location, profile and any other pertinent details required by agencies having jurisdiction. The City will also require a public works agreement spelling out the conditions by which a sewer will be extended.

(D) Before an extension of a sewer is made by the City, the owner or Applicant shall post security for the estimated cost of the sewer extension. Final adjustments will be made upon the receipt of all bills and expenses that may be incurred in the extension of a sewer. Any surplus security will be returned to the owner. Any deficit held by the City will be billed to the owner upon final accounting.

(E) The City will not be required to make any reimbursement to the owner for additional connections to such sewers or enter into any type of buy-back agreements.

#### Section 4-2413. Penalties

(A) Any person found to be violating any provision of this Title, except Section 4-2410, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. In the event the violation has caused or can potentially cause physical damage to the sewerage works and/or degradation of the treatment plant effluent to the degree that it does not meet the current requirements of appropriate state or Federal regulatory agencies, the City shall require immediate correction of the violation or denial of service until satisfactory corrections are made.

(B) Any person violating any of the provisions of this Title shall become liable to the City for any expenses, loss or damage occasioned the City by reason of such violation.

Section 4-2414. Validity

(A) All ordinances or part of ordinances in conflict with this Title are hereby repealed.

(B) The invalidity of any section, clause, sentence or provision of this Title shall not affect the validity of any part of this Title which can be given effect without such invalid part of parts.

Title 5. Water and Sewer Rules and Regulations

Section 4-2401. Adoption of Water and Sewer Rules and Regulations

The City of Brunswick Water and Sewer Rules and Regulations, dated March 9, 2004 are hereby adopted as part of this Chapter as though they were set out in full. A copy of the Rules and Regulations shall be kept in the City office and made available to the public during normal business hours.

## CHAPTER 5

### COMMERCIAL REGULATIONS

#### Article 1. Licenses and Permits

##### Title 1. General Provisions

##### Section 5-1101. Exemptions

Nothing in this Article shall be construed to require that a City license or permit be obtained by:

- (A) Any person, firm or corporation required to obtain a State license under the provisions of the Business Regulation Article or the Business Occupations and Professions Article, Annotated Code of Maryland, unless expressly declared by this Article as necessary for regulatory purposes in the interest of the public health, safety or morals.
- (B) Any person, firm or corporation making a sales presentation at a City residence in response to a request initiated by an occupant of that residence.
- (C) Any person, firm or corporation making a sales presentation at a City residence in response to a request initiated by an occupant of that residence.
- (D) Any news person who takes orders for the delivery of newspapers.
- (E) Any person expressly excluded from the requirements of this Article.

*Revisor's Note: For State law regarding the provisions of Subsection (A), see the Business Regulation Article and the Business Occupations and Professions Article of the Annotated Code of Maryland. The following business activities or occupations are among those required to obtain State licenses. (The specific number of the Section within the Business Regulation (BR) or Business Occupations and Professions (BOP) Article is indicated by the parenthesis following each business or occupation): billiard tables (BR 17-501 et seq.), coin operated musical devices (BR 17-1301 et seq.), hawkers or peddlers (BR 17-901 et seq.), traders and chain stores (BR 17-1801 et seq.), cigarettes (BR 16-101 et seq., 16-201 et seq. and 16-301 et seq.), vending machines (BR 17-1901 et seq.), private detectives (BOP 13-101 et seq.), boxing and wrestling events (BR 4-301 et seq.), motor vehicle fuel (BR 10-301 et seq.), outdoor music festivals (BR 17-1401 et seq.), garages for storage or for keeping vehicles for hire (BR 17-801 et seq.), employment agencies (BR 9-101 et seq.), trading stamp companies (BR 13-101 et seq.), wholesale dealers of farm machinery (BR 17-701 et seq.), soda water fountains (BR 17-1701 et seq.), storage warehouses (BR 17-1201 et seq.), dry cleaners and laundries (BR 17-1101 et seq.), restaurants and eating places (BR 17-1601 et seq.), plumbers and gas fitters (BOP 12-101 et seq.), construction firms (BR 17-601 et seq.), real estate brokers (BOP Title 17), junk dealers (BR 17-101 et seq.), landscape architects (BOP 9-101 et seq.), foresters (BOP 7-101 et seq.), land surveyors (BOP 15-101 et seq.), franchises (BR 14-201 et seq.), sale of business opportunities (BR 14-101 et seq.), pawnbrokers (BR 12-101 et seq.), barbers (BOP 4-201 et seq.), barbershops (BOP 4-501 et seq.), plumbing work (BR 17-1501 et seq.), architects (BOP 3-101 et seq.), cosmetologists and beauty shops (BOP 5-101 et seq.), hearing aid dealers (See Section 2-101 et seq. of the Health Occupations Article, Annotated Code of Maryland), master electricians (BOP 6-101 et seq.) and pharmacists (See Section 12-301 of the Health Occupations*

*Article, Annotated Code of Maryland; also note that the State requires distribution permits for prescription drugs, Section 12-602, and pharmacy permits for the operation of a pharmacy, Section 12-401). Also see those business activities and occupations which are listed at Section 5-1102 and for which municipalities may not issue licenses under the exemption described at Subsection (A) of Section 5-1101.*

#### Section 5-1102. State Preempted Licenses

Nothing in this Article shall be construed to apply to the following areas of regulation which have been reserved by the State of Maryland for its exclusive control:

- (A) Manufacturers, located and doing business in the State, who sell and deliver at the same time to licensed dealers or retailers in the State, but not directly to consumers.
- (B) Growers or producers who sell fresh fruits, vegetables or other country produce at retail from a wagon.
- (C) Nonresident traveling salesmen, sample merchants or representatives of foreign mercantile or manufacturing firms who sell to or solicit orders from licensed merchants in this State.
- (D) The qualifications of persons engaged in the home-improvement business through the repair, replacement, remodeling, alteration, conversion, modernization, improvement, or addition to any land or building designed to be used as a dwelling unit; including:
  - (1) the construction, replacement or improvement of driveways, swimming pools, porches, garages, landscaping, fences, fall-out shelters,
  - (2) the installation of central heating or air conditioning systems, storm windows, awnings, fire alarms, and
  - (3) the installation of dishwashers, disposals, refrigerators with icemakers or other appliances to existing exposed household plumbing lines unless such lines require alteration.
- (E) The privilege of engaging in the business of a collection agency.
- (F) Persons engaged in buying, acquiring or trading commercially with members of the public in secondhand precious metals and gems.

*Revisor's Note: For State laws preempting municipal licensing regulations in these areas, see the following sections of the Annotated Code of Maryland: for Subsection (A) - Business Regulation (BR) Article, Section 17-803(a); for Subsection (B) - BR Article, Section 17-912(b) and (c) (municipalities may require that such growers or producers apply for identification tags or cards); for Subsection (D) - BR Article, Section 8-102; for Subsection (E) - BR Article, Section 7-104; for Subsection (F) - BR Article, Section 12-102(d).*

#### Section 5-1103. Licenses or Permits Required; Conditions

No person shall engage in or carry on any business in the City of Brunswick for which a license or permit is required by the County or by the terms of this Article without first having obtained a license to do so. Applications for City licenses or permits shall be made to the City

Clerk. The Mayor and City Council or their duly authorized representative shall review each application and shall assure themselves that all City Code and ordinance provisions are complied with. No City license or permit shall be granted until payment for same shall have been made. The City license year shall begin on May 1 and extend to and include April 30.

Section 5-1104. Issuance of Licenses or Permits

Each license or permit issued under the provisions of this Article shall contain the name and address, and if an individual, the description of said individual to whom issued, and if issued to a firm, partnership, company or corporation, such license or permit shall contain the name of the firm, partnership, business, company or corporation, the address of its principal office or place of business, and in the case of a corporation, the name and address of its resident agent.

Section 5-1105. Authorized Licensees or Permittees

A license issued under the provisions of this Article to a firm, partnership, business, company, or corporation may be used by any of the employees of such firm, partnership, business, company, or corporation in the ordinary course of his, her, or their business.

Section 5-1106. Display of Licenses or Permits

Each person, firm, business, company, partnership or corporation, or business enterprise of an type or description, authorized to operate by the City, County or State shall carry said license either in the vehicle, if any, operated in the course of said business, or upon his person, if an individual, or upon the premises of the business, if said business is conducted in a premises in the City of Brunswick, at all times while conducting said business, and the same shall be exhibited upon demand of any police officer of the City of Brunswick. Said license or permit shall be attached to the vehicle, if any, on the inside right hand side of such vehicle and shall be visible at all times.

Section 5-1107. Suspensions and Revocations

(A) All City licenses or Permits for the conduct of a business shall be subject to suspension by the City Clerk and to revocation by the Mayor and City Council after a public hearing, if it is shown that such license or permit was erroneously issued or was obtained by fraud, misrepresentation or concealment of material facts, or that the business or the manner in which such business is conducted constitutes a public nuisance or a danger to the public health, safety or morals, or if such business is being conducted in violation of any law or ordinance of the United States, the State of Maryland, Frederick County or the City of Brunswick, or if such place of business is being used for any illegal purpose.

(B) Before any City license or permit shall be finally revoked, a notice of suspension shall be served on the holder by delivery to the holder's place of business or last known address, advising the holder of the reason for suspension of the license or permit and of the holder's right to appeal and to appear before a public hearing of the Mayor and City Council no sooner than five (5) days from the date of notice and at a date and time to be stated therein to show cause why such license or permit should not be revoked. Failure to file a written appeal with the City Clerk before the date of the public hearing shall constitute a waiver of the holder's right of appeal and public hearing and shall result in an automatic final revocation of the holder's license or permit.

(C) If such a license or permit be suspended or revoked, it shall thereafter be unlawful for

any person, firm or corporation to engage in or be employed in any business at any such location until a suspension be stayed or until license or permit shall again be obtained. Filing of an appeal shall stay suspension of a license or permit, but shall not stay a revocation unless the Council shall grant such a stay.

#### Section 5-1108. Payment of License or Permit Fees

All persons required to obtain an annual City license or permit shall apply in person to the City Clerk of the City of Brunswick for the same on or before the first Monday in May in each and every year, or if said day be a legal holiday, on the next succeeding business day thereafter and shall, at the time of so doing pay therefore to the City Clerk an annual fee as specified at Article 2. When a license or permit is issued for a part of a year, the fee shall be calculated on a pro-rata basis.

### Title 2. Regulated Establishments

#### Section 5-1201. Licensed Establishments

It shall be unlawful for any person, persons, firm, firms, company, companies, partnership, partnerships, or corporation or corporations, within the corporate limits of the City of Brunswick, Maryland, to own, keep, or operate, without having first obtained a license, the following establishments:

(A) Skating rinks.

(B) Beer taverns not otherwise qualifying as restaurants or eating places.

*Revisor's Note: Restaurants and eating places are regulated by the State Health Department and are subject to State licensing and inspection requirements.*

#### Section 5-1202. Prohibited Establishments

It shall be unlawful to maintain hogs or hog pens of any type or description within the corporate limits of the City of Brunswick.

### Title 3. Regulated Activities

#### Section 5-1301. Public Dances

It shall be unlawful for any person or persons, club or clubs, organization or organizations, firm or firms, corporation or corporations, of whatever type or description, within the corporate limits of the City of Brunswick, Frederick County, Maryland, to hold a public dance between the hours of 12:00 o'clock midnight and 12:00 o'clock noon and on national holidays, except that any bona fide civic or service organization may, by obtaining a permit as hereinafter provided, hold or conduct a public dance until the hour of 1:00 o'clock a.m. or upon a national holiday within the corporate limits aforesaid, provided that the purpose of such organization or organizations in holding such public dance is to raise funds for charitable, religious or civic purposes or enterprises. This Section shall not apply to private homes wherein dancing may be conducted or dance music performed for the amusement and enjoyment of the householders, members of their families and guests.

#### Section 5-1302. Fortunetelling and Palmistry

It shall unlawful for any person to engage in or practice clairvoyance, astrology, mind reading, palmistry, phrenology, divination or other psychological means or pretense of fortunetelling for gain, either directly or indirectly, within the City.

#### Section 5-1303. Public Entertainment

It shall be unlawful for any person, persons, firm, company, partnership or corporation without first having obtained therefore a license, as hereinafter provided, from the City Clerk, within the corporate limits of the City of Brunswick, to conduct, manage or in anywise engage in as manager, proprietor, lessee or otherwise, or to exhibit any circus, carnival, merry-go-round or sideshow of any type or description, either for showing or parading in the City of Brunswick, or to have any theatrical performance or moving picture show or exhibition of any type or description, or for any exhibition of public entertainment of any type or description, whether or not an admission fee is charged for the same; provided that lectures on scientific, benevolent, artistic, religious or literary subjects, and any necessary apparatus for the conduct of the same, and the use of specimens for fine art, and any exhibition, show or amusement for the benefit of any fire company of said City of Brunswick, or for any charitable, religious, or educational purposes shall be exempt from the provisions of this ordinance. The Mayor of the City of Brunswick shall have the power to direct the said City Clerk not to issue a license for any show, circus, theatrical performance or other entertainment of any type or description, whenever in his judgment the production or exhibition thereof would tend to demoralize the community and its citizens or create a disturbance or disorder in the community, or be against the best interests of the City of Brunswick and its citizens; provided, however, that if the City Council should, by unanimous vote of its members, authorize the issuing of said license, then the same shall be issued by the City Clerk.

#### Section 5-1304. (Reserved)

#### Section 5-1305. Solicitors

No salesman, person, firm, partnership, corporation or any other business enterprise of any type or description, not having an established place of business within the corporate limits of the City of Brunswick, on the effective date of this Ordinance, shall sell, hawk, peddle, offer for sale, solicit orders, for merchandise or otherwise, at retail, unless said salesman, person, firm, corporation, partnership or business enterprise of whatever type or description shall have previously obtained an identification tag from the City Clerk of the City of Brunswick.

*Revisor's Note: For State law prohibiting the sale or distribution of drugs and medicines on public streets or by means of a public show, see Section 21-1112 of the Health-General Article, Annotated Code of Maryland.*

### Title 4. Taxicabs

#### Section 5-1401. Definitions

The following words and phrases when used in this Title shall have the meanings respectively ascribed to them in this Section, except in those instances where the context clearly indicates a different meaning.

Driver. The person in control of and operating or driving a taxicab on the streets of the

City of Brunswick.

Owner. The person in whose name the taxicab has been registered by the State Department of Motor Vehicles.

Person. An individual, firm, partnership, association, corporation owner or driver as herein described.

Taxicab. Any motor vehicle for hire, designed to carry seven or fewer individuals, including the driver, and used to accept or solicit passengers for transportation for hire between those points along highways in this State as the passengers request.

Section 5-1402. Special Taxicab License Required

No taxicab owner shall operate or permit a taxicab to be operated within the corporate limits of the City of Brunswick without securing a special taxicab license for each vehicle from the City Clerk. A photograph of the driver shall be affixed by the owner to each license and a duplicate copy thereof shall be delivered to the City Police Department.

Section 5-1403. Safety Certificate Required

No special taxicab license renewal application shall be processed without being accompanied by a safety certificate issued by the City Police Department within 30 days prior to the application. Each such certificate shall certify the results of an inspection conducted by the Police Department and shall affirm that the taxicab and all equipment used in connection with its operation is in proper physical condition so as not to present a threat to the safety of passengers or the general public.

Section 5-1404. Insurance Required

No taxicab shall operate within the corporate limits of the City of Brunswick nor shall any license be issued therefore, unless and until the owner shall deposit with the City Clerk for each such taxicab a certificate of coverage by a public liability and property damage insurance policy in the sum to be established from time to time by the City Council, such insurance policy to be procured from a liability insurance company authorized and licensed to do business in the State of Maryland. No certificate of insurance coverage shall be accepted by the City Clerk as complying with this Section if it contains any provision relieving the insurance company from liability because of the failure of the owner or driver to notify the insurance company of the happening of any accident resulting in bodily injury or property damage. Each certificate or policy shall contain a clause obligating the insurance company to give twenty days written notice to the City Clerk before cancellation thereof. The license for the operation of any taxicab issued under this policy shall expire upon the lapse or termination of said policy, subject to reinstatement upon compliance with the provisions of this Section. In the event of reinstatement within the licensing period covered by the license previously issued, no new license fee shall be charged.

Section 5-1405. Display Required

Each taxicab shall display in full public view each of the following:

- (A) Special taxicab license as required by Section 5-1106;

(B) Rate Schedule Card not less than three inches in width and four inches in length on which shall be printed in letters as large as the space will permit, a clear and understandable schedule of the rates established for the use of such taxicab.

Section 5-1406. Driving Record Restrictions

No person shall drive a taxicab within the City who shall have two or more convictions by a court of competent jurisdiction within twelve months for reckless driving or for three convictions by such Court within said period of exceeding speed limits or failure to observe signs or signals erected in accordance with law for the regulation and control of traffic. No person shall drive a taxicab within the City who shall have been convicted of manslaughter by automobile.

*Revisor's Note: See Section 16-69 of the Municipal Charter of Brunswick.*

**Article 2. Revenues and Administrative Charges**

Title 1. Fees

Section 5-2101. State Preempted Fees

Nothing in this Article shall be construed to authorize a fee or occupational tax upon any person, firm or corporation for transacting any business or engaging in any occupation for which a State license must be obtained under the provisions of Article 56, Annotated Code of Maryland.

*Revisor's Note: For State law prohibiting a municipality from levying a fee or tax on a business or occupation licensed by the State, see Section 1-204 of the Business Regulation Article, Annotated Code of Maryland.*

Section 5-2102. Annual License or Permit Fees

Except as otherwise stated in this Title, the annual license or permit fee for each business activity and occupation within the jurisdiction of this Article shall be fifty dollars (\$50).

Section 5-2103. Taxicab License Fees

The annual license fee for each taxicab operated within the City shall be one hundred dollars (\$100).

Section 5-2104. Parking Space Fees

The City Council may establish an annual fee and authorize the City Clerk to issue annual Parking Space Permits for metered or non-metered parking spaces to provide ready office access for persons receiving or providing medical, dental, legal, or other professional services within the City.

**Article 3. Franchises and Agreements**

Title 1. Cable Television

### Section 5-3101. Definitions

For the purposes of this Title, the following terms, phrases, words and derivations shall have the meaning given herein.

City. The City of Brunswick, Maryland.

Operator. GS Communications, Inc.

Person. The governing body of Brunswick, Maryland.

Cable Television System (or CATV System). A facility that, in whole or in part, receives directly, or indirectly over the air, and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals by wire, cable, or satellite transmission to subscribing members of the public who pay for such service, but such term shall not include: (1) any such facility that serves fewer than 50 subscribers, or (2) any such facility that serves only the residents of one or more apartment dwellings under common ownership, control, or management, and commercial establishments located on the premises of such apartment house.

System. The poles, lines, fixtures, equipment, attachments, and all appurtenances thereto which are used in the construction, operation, and maintenance of the cable television and satellite transmitted systems herein authorized.

Utility. Any utility doing business in the City, whose facilities may be used by the cable television system operator.

### Section 5-3102. Grant of Non-Exclusive Authority

(A) GS Communications, Inc. is hereby granted a franchise to construct, erect, operate and maintain in, upon, along, across, above, over and under, the streets, alleys, public ways, and public places, now laid out or dedicated and all extensions thereof and additions thereto in the City, wires, poles, cables, underground conduits, conductors and fixtures necessary for the maintenance and operation in the City of a cable television system for the reception and distribution of television signals and energy, radio signals, and visual and aural signals which are not otherwise herein prohibited. The rights granted extend to any area annexed to the City and the Operator shall be bound by the same rules and regulations as to such area as are otherwise herein or hereafter provided. This grant extends to the leased or rented use of poles and other facilities of any utility now or in the future operating in the City.

(B) The right to use and occupy streets, alleys, public ways and places for the purpose herein set forth, shall not be exclusive and the City reserves the right to grant the use of streets, alleys, public ways and places to any person at any time during the period of any franchise granted under authority of this ordinance.

(C) The franchise granted under authority of this Title shall remain in full force and effect until November 11, 2009, and shall be subject to renewal for a reasonable term.

### Section 5-3103. Compliance with Federal Laws, Rules, and Regulations

(A) The exercise of the franchise shall conform with all provisions affecting the franchising

of cable television operators contained in the Federal Communications Act of 1934, as amended.

(B) The Operator shall comply with all rules and regulations of the Federal Communications Commission, including such technical standards as are promulgated by the Federal Communications Commission.

(C) Any modification of the franchise standards of the Federal Communications Commission resulting from amendments to such standards by the Federal Communications Commission, shall be incorporated into this Title within one (1) year of the adoption of the modification by the Federal Communications Commission.

#### Section 5-3104. System Capacity

The system authorized by this franchise shall be capable of providing at least 12 channels of video service and may include a selection of FM radio stations.

#### Section 5-3105. Service Standards

(A) The Operator shall maintain and operate the system and render efficient service in accordance with the rules and regulations as are or may be set forth by the City or the Federal Communications Commission.

(B) The Operator shall take all necessary steps so that the system shall maintain at all times:

(1) Use of all band equipment capable of passing the VHF television and FM radio spectrum

(2) Equipment that passes standard color television signals without material degradation

(3) A system and all equipment designated and rated for 24-hour per day continuous operation

(C) The Operator shall provide and keep accurately calibrated test equipment on hand in the service area at all times for the testing of all service and operational standards outlined in this Title and shall conduct tests as reasonably requested by the City under the supervision of a City representative, in order to establish the level of performance of the system.

(D) The Operator shall not be deemed or declared to be in default under any of the conditions, provisions, requirements or limitations of this Title in any case in which the performance of any such condition, provision, requirement or limitation is prevented by reason of strikes, injunctions or other causes beyond the control of the company, provided that the company shall not have instigated such strike, or shall not have been responsible for suits or injunctions or other causes of delay.

#### Section 5-3106. Operational Standards

The Operator shall:

(A) Distribute signals of adequate strength to produce good pictures and good sound at all outlets without unreasonable interference with other electrical or electronic systems.

(B) Upon request by any subscriber, demonstrate by instruments and otherwise that a signal of adequate strength and quality is being delivered.

(C) Limit failures to a minimum by locating and correcting malfunctions promptly.

(D) Render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible, and to keep and maintain such a proper and adequate inventory of maintenance and repair parts for the cable system as will assure the continuity of the service of the system and to have maintenance and repair crews available in accordance with good engineering practices.

(E) Attempt to resolve individual service complaints within 24 hours and attend major disruptions of service immediately.

(F) Maintain an agent, or a local office which shall be open during usual business hours, have a listed telephone and be so operated that complaints regarding the quality of service, equipment malfunctioning and similar matters, and requests for repairs or adjustments may be received at any time. A report of the investigation and resolution of such complaints and requests shall be made to the City on request.

(G) Not interfere with the proper use of streets, alleys, and other public ways and places, nor with the rights or reasonable convenience of property owners who adjoin any streets, alleys, or other public ways and places by means of transmission and distribution structures, lines and equipment erected by the Operator within the City.

(H) In case of any disturbance of pavement, sidewalks, driveways, or other surfacing, at its own expense replace and restore such places so disturbed to as good condition as before said work was commenced, so far as is reasonably possible.

(I) Upon reasonable notice by the Mayor, remove, re-lay and relocate its equipment in the event that at any time during the period of any franchise granted under authority of this Title, the City shall lawfully elect to alter or to change the grade of any street, alley, or other public way, or require existing utilities to be located underground.

(J) On request of the City, temporarily raise or lower its wires to permit the moving of buildings. This expense shall be charged to the person moving the building.

Section 5-3107. Indemnification and Liability Coverage

The Operator shall save the City, its officers and employees harmless from all loss sustained by the City, its officers and employees on account of any suit, judgment, execution, claim, or demand whatsoever arising out of negligent construction, operation and maintenance of the system by the Operator. The Operator shall maintain and keep in full force and effect at all times during the term of its franchise, sufficient liability insurance coverage to protect the City, its officers and employees against any such claim, suits, judgments, executions, or demands in a sum not less than \$100,000 per person as to any one claim, \$300,000 as to any one accident or occurrence, and not less than \$50,000 for property damage as to any one accident occurrence. There shall be filed and maintained in the Office of the City Clerk a Certificate of Insurance and copies of each current liability and indemnification policy required by this Title.

Section 5-3108. Performance Bond

There shall be filed and maintained in the office of the City Clerk a performance bond running to the City from a responsible surety in the sum of \$5,000. In case of any breach of the terms or conditions of this Title, the amount of the requisite performance bond shall be recoverable from the principal and surety thereof by the City. Operator shall maintain such bond in force throughout the term of its franchise. Operator shall not be liable for any loss caused by strikes, riots, fires, acts of God or other cause beyond Operator's control.

Section 5-3109. Subscriber Rates

The rates to be charged subscribers for basic service provided by the Operator shall not be increased except as authorized by the City Council after an appropriate public hearing.

Section 5-3110. Payments to the City

(A) The rights and privileges granted to the Operator are upon the condition that said Operator shall pay to the City as consideration therefore an annual franchise fee of an amount not exceeding three percent (3%) of the annual gross revenue of the Operator received by it for cable television service in the City with the exception of those revenues received by the Operator for satellite transmitted programs in which case a fee of three percent (3%) of the net income for service received by the Operator would be paid to the City.

(B) For the purpose of ascertaining the gross revenue received by the Operator for cable television service upon which the said percentage payments are to be computed as aforesaid an accurate account thereof shall be kept by said Operator and an abstract and account thereof made available during business hours by it to the City.

(C) The franchise fee shall be in lieu of all other business, occupation or franchise taxes, or other City taxes or fees required to be paid by Operator, or shall be applied as a credit against said taxes or fees.

**CHAPTER 6**

**PUBLIC SAFETY AND CONDUCT**

**Article 1. Vehicular Regulations**

Title 1. General Provisions

Section 6-1101. Definitions

In this Article, the following words, terms, phrases, and their derivations shall have the meanings indicated.

Bicycle. Shall have that meaning as defined for the term “bicycle” in Title 11 of the Transportation Article of the Annotated Code of Maryland and any subsequent amendments thereto.

Official Signs. Places where stopping, standing, and/or parking is prohibited by official signs shall be posted in conformity with the manual and specifications for a uniform system of traffic control devices adopted from time to time by the State Highway Administration pursuant to Section 25-104 of the Transportation Article, Annotated Code of Maryland as amended.

Operator. Every individual who shall operate a vehicle as the owner thereof, or as the agent, employee or permittee of the owner, or who is in actual physical control of a vehicle.

Park or Parking. The halting, stopping or standing of a vehicle, whether occupied or not, upon a street otherwise than temporarily, while actually engaged in receiving or discharging passengers or loading or unloading merchandise or while complying with traffic regulations, signs, signals or the directions of a police officer or while involuntarily stopping by reason of causes beyond the control of the operator of the vehicle.

Parking Meter. Any mechanical device or meter not inconsistent with this Article placed or erected for the regulation of parking by authority of this Article. Each parking meter installed shall indicate by proper legend the legal parking time established by the City and when operated shall at all times indicate the balance of legal parking time, and at the expiration of such period shall indicate illegal or overtime parking.

Parking Meter Space. Any space within a parking meter zone, adjacent to a parking meter and which is duly designated for the parking of a single vehicle by lines painted or otherwise durably marked on the curb or on the surface of the street adjacent to or adjoining the parking meters.

Parking Meter Zone. Any restricted area of a street upon which parking meters are installed and in operation.

Recreational Vehicle. Any vehicle used or intended to be used as a conveyance upon public streets or highways, including self-propelled and non-self-propelled vehicles so designed, constructed and reconstructed or added to by means of accessories, including slide-in campers, as to permit the occupancy thereof as a temporary dwelling or sleeping place for one or more persons, but not including a customized van or a pick-up truck with a cap.

Roller Skate. Any device worn on or attached to feet, which has two or more wheels attached for the purpose of gliding or rolling on a floor, sidewalk or other ground surface. “Roller skate” includes those devices commonly known as “roller skates,” “roller blades,” and “in-line skates.”

Scooter. Any wheeled, non-motorized device, similar in nature to a skateboard, which includes in its construction a vertical bar and handles that are used by the rider or operator for purposes of control and/or support.

Skateboard. A short oblong board, having two or more wheels at each end, which is

intended to be ridden.

Street. Any public street, avenue, road, alley, highway, lane, path, or other public place located in the City of Brunswick and established for the use of vehicles.

Taxicab. Any motor vehicle for hire, designed to carry seven persons or less, including driver, operated upon any public street or highway, and accepting or soliciting passengers indiscriminately, on call or demand, for transportation between such points as may be directed by the passenger or passengers.

Trailer. Any type of wheeled unit built or designed to be attached to a motorized vehicle, including camping trailer, travel trailer, boat trailer, or trailer for moving materials of any kind whatsoever.

Vehicle. Any device in, upon or by which any person or property is or may be transported upon a highway, except a bicycle or any device which is operated upon rails or tracks. (Am. Ord. 488, passed 2-23-2010)

Section 6-1102.      Enforcement

(A) It shall be the duty of the Police Department to enforce the provisions of this Article. The provisions of Section 26-301 et seq. of the Transportation Article, Annotated Code of Maryland as amended from time to time, shall be fully applicable to the enforcement of this Article.

(B) A notice of violation shall be attached to any vehicle parked in violation of the provisions of this Article; such notice shall indicate the nature of the violation, the time of violation, the payment due date, and the amount of liability for fines and penalties as determined from time to time by the City Council.

Section 6-1103.      Penalty for Violation

It is a municipal infraction to violate any of the provisions of this Article, except that parking violations shall be handled as prescribed in Section 26-303 of the Transportation Article, Annotated Code of Maryland and Section 10-1102 of this Code of Ordinances, entitled, Misdemeanor Procedures. (Ord. 474, passed 11-27-2007)

*Revisor's Note: Section 26-303, of the Transportation Article, Election to pay or stand trial; presence of officer at trial, provides the following:*

*(a) Election by person receiving citation. (1) The person receiving a citation under this subtitle shall: (i) Pay for the parking violation directly to the political subdivision or State agency serving the citation; or (ii) Elect to stand trial for the violation. (2) An election to stand trial shall be made by sending a notice of intention to stand trial to the political subdivision or State agency at least 5 days before the payment date specified in the citation.*

*(b) When presence of officer required. (1) If a person elects to stand trial and desires the presence at trial of the officer who issued the citation; he shall so notify the political subdivision or State agency at the time the notice of intention to stand trial is given. (2) If proper notification is not given, the officer need not appear at the trial, and the copy of the citation bearing the certification of the officer is prima facie evidence of the facts stated in*

*it.*

**[Exception for parking violations inserted by because parking violations are misdemeanors under State law (See 64 Op. Att’y Gen. 307 (1979)) and, therefore, under Article 23A, Section 3(b)(1) cannot be declared municipal infractions. Rather than repeat State law within the Section, include as note.]**

## Title 2. Parking

### Section 6-1201.      Installation of Signs and Meters

(A) Whenever it is necessary for the safety or control of vehicular or pedestrian traffic or for the regulation of the use of parking areas, the Council of Brunswick is authorized to provide by resolution for the erection of “STOP”, “NO PARKING”, “SPEED LIMIT”, “ONE WAY”, and other traffic control and parking restriction signs designed to control, regulate, warn or guide traffic or limit parking on public streets, highways, parking lots, or other areas in the City of Brunswick. The Mayor and Council or their designee may authorize the placement of temporary traffic control devices to control, regulate, warn or guide traffic or limit parking on public streets, highways, parking lots, or other areas in the City. The Mayor and City Council may also from time to time authorize, by resolution, the installation of parking meters in those places in the City as conditions may necessitate.

(B) The Superintendent of Public Works shall provide for the installation, regulation, control, operation and use of the parking meters provided for in this ordinance, and shall maintain parking meters in designated areas in a good and workable condition.

(C) Meters installed in designated parking meter zones shall be placed upon the curb immediately adjacent to the individual parking space. Meters shall be placed in such a manner as to display by signal whether the meter is, or is not, legally in use. Each parking meter so installed shall indicate by a proper legend the times for its use established by the Mayor and Council and, when operated, shall indicate on and by its dial and pointer the duration of the period of legal parking, and on the expiration of such period shall indicate illegal or over-parking.

(D) Lines or markings shall be placed upon the curb and/or upon the street, adjacent to each parking meter, so as to designate the parking space for which said meter is to be used. Vehicles parking adjacent to meters shall park within the lines or markings provided.

(E) The Mayor and Council may provide by resolution that certain parking spaces, whether adjacent to a parking meter or not, may be used for a limited duration in order to prevent “meter feeding”, or the parking in a single space for an extended duration of time by an operator of a motor vehicle. In the event that the Mayor and Council so restrict the duration of parking, signs shall be posted adjacent to the areas so restricted to notify operators of motor vehicles of the restrictions.

(Ord. 472, passed 11-27-2007)

### Section 6-1202.      Meter Revenues

The City Council may from time to time establish, by resolution, a schedule of parking meter rates.

The funds generated from the use of parking meters shall be used:

- (A) To defray the expense of proper regulation of traffic upon the public streets of the City;
- (B) To provide for the cost of supervision, regulation and control of the parking of vehicles in parking meter zones;
- (C) To cover the cost of purchase, supervision, protection, inspection, installation, operation maintenance, control and use of parking meters.

Section 6-1203.      Meter Hours

No charge shall be made for the use of the parking meter zones on Sundays, legal holidays observed by Maryland State Government (on the actual date of the holiday and the date of the holiday observance), or during hours other than those specified in this section.

Meters shall be used between the hours of 9:00 a.m. and 5:00 p.m. daily.  
(Ord. 472, passed 11-27-2007)

Section 6-1204.      Meter Operation

Meters shall be maintained in a good and workable condition. Upon the deposit of a coin or combination of coins of the United States indicated upon the meter, the party wishing to park may do so for a limited time as indicated on the parking meter.

Section 6-1205.      Resident Parking

The Mayor and Council may by resolution, from time to time, establish and modify a program for on-street parking by residents who meet established qualifications and who pay any designated registration fee for residential parking privileges.

Section 6-1206.      Temporary Prohibition of Parking

The Mayor and Council or their designee may, from time to time, prohibit parking on all public streets, or those streets designated to permit the cleaning of streets, removal of trash, removal of snow, passage of parades, or other like purposes.  
(Ord. 472, passed 11-27-2007)

Title 3. Licensing of Bicycles

Section 6-1301.      Inspection of Bicycles

Every operator of a bicycle within the corporate limits of the City of Brunswick shall be required to submit his or her machine for inspection on or before the first of January in every year. Inspection will be conducted under the supervision of the Chief of Police who shall approve or disapprove of the mechanical condition of such bicycle. Inspection shall include brakes, tires, wheels, frame, handlebars and such other inspection as shall be required. Upon satisfactory inspection, the operator will be issued a license tag, bearing an identification number, certifying that the bicycle has been inspected.

*Revisor's Note: See Note at Section 6-1406.*

Section 6-1302.      Bicycle License Tags

No person shall be permitted to operate any bicycle within the City of Brunswick without having first obtained a permit. A license tag shall be attached to each bicycle and must remain on said bicycle at all times.

Applications for registration are available from the Chief of Police. Licenses shall be issued upon completion of registration, inspection and payment of a fee established from time to time by resolution of the Mayor and Council.

In the event that any license tag is lost, stolen or destroyed, the persons owing or having possession of such bicycle shall report the same to the Chief of Police within 24 hours after the incident. Upon payment of a fifty cent (\$.50) fee, a new license tag will be furnished to that person.

No license tag issued under the provisions of this Title shall be transferred from one bicycle to another but shall be transferable only from one person to another person pursuant to a change in ownership of the bicycle and in accordance with a change in registration of the bicycle.

Section 6-1303.      Impoundment of Bicycles

Any bicycle found abandoned in any public thoroughfare, or being operated within the corporate limits of the City without a license shall be impounded by the police. The police department shall keep such bicycle impounded until the owner shall have obtained the required license tag.

Any bicycle operated contrary to the provisions of this Ordinance shall also be impounded. The bicycle so impounded shall be held at Police Headquarters until the owner thereof, if the owner is an adult, or the parent or parents of the owner, if said owner is a juvenile, satisfies the Police Chief that he or she will obey all the provisions of this Ordinance.

No impounding fee will be charged. If a bicycle is not redeemed within thirty (30) days from the date of impoundment, such bicycle will be sold at public auction, after the sale has been duly advertised by publishing a notice of the time, place and date of such sale at least ten (10) days prior to the sale in some newspaper having a general circulation in the City.

Title 4. Prohibitions

Section 6-1401.      All Vehicles-Prohibitions

(A) No person shall operate a vehicle within the corporate limits of the City of Brunswick at a speed of greater than twenty-five (25) miles per hour or as otherwise posted.

(B) No person shall operate a motor vehicle in a school zone at greater than fifteen (15) miles per hour during school hours and as otherwise posted during non-school hours.

Section 6-1402.      Commercial Vehicles-Prohibitions

(A) No person shall park a vehicle designed or used for carrying freight or merchandise, on any public highway, except when actually loading or unloading merchandise, or when the operator or owner of such vehicle is actually engaged in rendering a service at or to such

premises or as authorized by a permit issued under the provisions of Section 5-1401 et seq. of this Code.

(B) No person shall park any vehicle which has three or more axles, gross vehicle weight over 10,000 pounds and width in excess of ninety-six (96) inches, within the corporate limits of the City in zoning districts other than Industrial at any time except for a maximum limit of one (1) hour only while loading or unloading such vehicle from an unmetered space and a maximum of thirty (30) minutes while loading or unloading such vehicle from a metered space.

(C) No passenger shall enter or leave any taxicab by way of the left side of such taxicab.

(D) No taxicab shall be parked in any space other than a space designated by the City of Brunswick.

(E) No railroad car or engine of any description shall occupy a street crossing so as to prevent the passage of vehicles or pedestrian for more than five (5) minutes. In the event of an emergency, notification shall be made to the Frederick County Emergency Communications Center, who will in turn notify the CSX Corporation.

(Ord. 472, passed 11-27-2007)

#### Section 6-1403. Trailers and Recreational Vehicles-Prohibitions

No person shall park for any length of time whatsoever, within the limits of the City of Brunswick any trailer or recreational vehicle upon any public lands, streets or public thoroughfares, unless the parking of such vehicle is necessary for purposes of loading or unloading, in which event such loading or unloading shall be completed within two (2) hours time, or unless authorized by a permit issued under the provisions of Section 5-1401 et seq. of this Code.

#### Section 6-1404. Parking-Prohibitions

No person shall:

(A) Cause, allow, permit or suffer any vehicle registered in the name of, or operated by such person, to be parked overtime or beyond the period of legal parking time established for any parking meter zone as herein described.

(B) Permit any vehicle to remain or be placed in any parking space adjacent to any parking meter while said meter is displaying a signal indicating that the vehicle is parked beyond the period of time paid for by the operator.

(C) Park any vehicle across any line or marking of a parking meter space or in such a position that the vehicle shall not be entirely within the area designated by such lines or markings.

(D) Deface, injure, tamper with, open or willfully break, destroy, or impair the usefulness of any parking meter installed under the provisions of this Article.

(E) Deposit or cause to be deposited in any parking meter any slug, device, or metal substance, or other substitute for legal coins.

(F) Park delivery trucks or commercial vehicles to load or unload in parking meter zones for a period longer than thirty (30) minutes without depositing coins into the parking meter.

(G) Park on any street in violation of a temporary prohibition of parking enacted by the Mayor and Council under the authority of Section 6-1206.

(H) Park in a metered space in excess of the time established by the Mayor and Council under the authority of Section 6-1201(E), or engage in “meter feeding”.

(I) No person shall stop, stand or park a vehicle in any of the following places, unless necessary to avoid conflict with other traffic or unless in compliance with the direction of a police officer or traffic control device or unless as otherwise posted:

(1) Within ten (10) feet, unless otherwise marked, of the intersection of any public or municipal street or alley, corner or crossing, in the City;

(2) Within fifteen (15) feet of a fire hydrant;

(3) Within twenty (20) feet of the driveway entrance to the fire station or any building used as fire halls;

(4) Lengthwise and parallel to the side of the street, with the wheels of such vehicle next to the sidewalk at a distance greater than twelve (12) inches from the curb;

(5) Across any street, lane or alley so as to obstruct the passage of vehicles or pedestrians;

(6) In any other manner other than headed with the flow of traffic; provided that any such vehicle, while loading or unloading between the hours of 7:00 a.m. and 5:00 p.m., may stand against the flow of traffic so long as it does not interfere with the flow of traffic.

(7) In restricted areas, properly designated by painting the curb yellow or by the appropriate signs or markers.

(J) Park a vehicle on any street, alley or roadway designated as a snow removal route, within one (1) hour of the Maryland State Snow Emergency Plan being enacted.

(Ord. 472, passed 11-27-2007)

*Revisor’s Note: Section 25-101.1 of the Transportation Article, Annotated Code of Maryland expressly prohibits the making or enforcing of any local law, ordinance or regulation on any subject covered by the Maryland Vehicle Law, unless such power is otherwise provided in a public general law. Section 25-101.1 also provides that all public local laws, ordinances and regulations which are inconsistent, identical or equivalent to any provision in the Maryland Vehicle Law are repealed. Section 26-301 of the Transportation Article, Annotated Code of Maryland does otherwise empower political subdivisions of the State to adopt vehicular parking ordinances or regulations which may supplement the State’s vehicular parking laws set forth at Section 21-1001 et seq. While Section 25-102 of the Transportation Article, Annotated Code of Maryland provides that local authorities are not prevented by the Maryland Vehicle Law from exercising enumerated regulatory powers within certain specified activities, it does not appear that Section 25-102 expressly empowers the adoption of ordinances as does Section 26-301. See 65 Op. Att’y. Gen. 483, 486 (1980). Also see 65 Op. Att’y. Gen. 476, Fn. 2 (1980) and*

*Duncan and Smith v. State, 281 Md. 247, Fn. 4 (1977).*

Section 6-1405. Bicycles-Prohibitions

- (A) No person other than that person properly licensed, shall operate a bicycle in the City.
- (B) No person shall fail to exercise full control over a bicycle within the corporate limits of the City, and any person operating a bicycle shall keep his or her feet on the pedals and hands on the handles of said bicycle.
- (C) No person shall ride within the corporate limits of the City any bicycle which has tires 30 inches or more in diameter.
- (D) No person licensed to ride within the corporate limits of the City of Brunswick shall ride at a speed greater than 25 miles per hour and 15 miles per hour when in the act of turning any corner or crossing any street intersection.

*Revisor's Note: For State laws regarding the operation of bicycles, see Title 21, Subtitle 12 of the Transportation Article, Annotated Code of Maryland, including therein Section 21-1204 (Clinging to Vehicles) and Section 21-1207 (Lamps and other Equipment on Bicycles). Also see Revisor's Note at Section 10-1401.*

Section 6-1406. Skateboards-Prohibitions

- (A) No person other than that person to whom a skateboard has been properly registered shall operate that skateboard within the corporate limits of the City of Brunswick.
- (B) No person shall fail to exercise full control over a skateboard within the corporate limits of the City of Brunswick.
- (C) No person shall operate a skateboard between dusk and dawn within the corporate limits of the City of Brunswick.
- (D) No person shall operate a skateboard from a sitting or prone position within the corporate limits of the City of Brunswick.
- (E) No person registered to ride within the corporate limits of the City of Brunswick shall ride at a speed greater than twenty-five (25) miles per hour and fifteen (15) miles per hour when in the act of turning a corner or crossing any street intersection.
- (F) No person shall violate any skateboard regulations adopted from time to time by the Mayor and Council.
- (G) No skateboard shall be operated on Potomac Street.

Section 6-1407. Skateboards, Roller Skates, Roller Blades and In-line Skates-Prohibitions

- (A) No person shall ride, propel or otherwise operate or use any skateboards, roller skates, roller blades, or in-line skates on the roadway or sidewalks located on East Potomac Street from Maple Avenue to Third Avenue, or on West Potomac Street from Maple Avenue to Dayton Avenue, or on South Maple Avenue from Potomac Street to the Brunswick Railroad Station, or on North Maple Avenue from Potomac Street to a street.

(B) No person shall operate a skateboard on any public sidewalk.

(C) No person shall, unless otherwise permitted and posted, ride, propel or otherwise operate any skateboard, roller skates, roller blades, or in-line skates on any public tennis court or multipurpose athletic courts located in the public parks.

(D) The provisions of this Section shall not apply to any facilities provided by the City for skateboarding, roller-skating, roller-blading or in-line skating and/or to any events authorized and approved by the Mayor and Council.

(E) No person shall operate a skateboard from a sitting or prone position.

(F) No person shall ride a skateboard at a speed greater than 25 miles per hour and 15 miles per hour when in the act of turning a corner or crossing any street intersection.

(G) No person shall operate a skateboard, roller skates, roller blades, or in-line skates between dusk and dawn.

(H) Violation of this Section shall constitute a municipal infraction Class E. In addition, the skateboard, roller skates, roller blades, or in-line skates involved in such municipal infraction may be impounded by a police officer. Upon payment of the fine, the skateboard, roller skates, roller blades, or in-line skates may be reclaimed by the parent or other legal guardian if the violator is under the age of 18.

(I) The Mayor and Council may from time to time by resolution revise the prohibitions herein set forth.

(Ord. 441, passed 8-22-2006)

#### Section 6-1408. Helmets Required

(A) A person sixteen (16) years of age and under may not operate, use or ride upon as an operator or a passenger, a bicycle, skateboard, scooter or roller skates within the corporate limits of the City of Brunswick, unless that person is wearing a helmet that meets or exceeds the standards of the American National Standards Institute, the Snell Memorial Foundation's standard, or the standards of the American Society of Testing and Measurements for Protective Headgear for use in bicycling.

(B) Violation of this section shall constitute a municipal infraction Class E.

(Ord. 488, passed 2-23-2010)

### Title 5. Registration of Skateboards

#### Section 6-1501. Inspection of Skateboards

Every operator of a skateboard within the Corporate Limits of the City of Brunswick shall be required to submit his or her skateboard for inspection. Inspection will be conducted under

the supervision of the Chief of Police who shall approve or disapprove the mechanical condition of such skateboard. Inspection shall include board, trucks, wheels, bearings and such other inspection as shall be required to insure the safe operation and use of the skateboard. Upon satisfactory inspection, the operator will be issued a registration sticker which bears an identification number, certifying that the skateboard has been inspected. Parents or guardians of minors shall be required to sign a statement acknowledging that their child has been informed and instructed in skateboard requirements.

#### Section 6-1502. Skateboard Registration Stickers

No person shall be permitted to operate any skateboard within the Corporate Limits of the City of Brunswick without having first obtained a registration sticker for his or her skateboard, which registration sticker shall be attached to each skateboard and must remain on said skateboard at all times.

Applications for registration are available from the Chief of Police. Registration stickers shall be issued upon completion of registration, inspection and payment of a fee established from time to time by resolution of the Mayor and Council.

In the event that any registration sticker is lost, stolen or destroyed, the person owning or having possession of such skateboard shall report the same to the Chief of Police within twenty-four (24) hours after the incident. Upon payment of a Fifty Cent (\$.50) fee, a new registration sticker will be furnished to that person.

No registration sticker issued under the provisions of this Section shall be transferred from one skateboard to another, but shall be transferable only from one person to another person pursuant to a change in ownership of the skateboard and in accordance with a change in registration of the skateboard.

#### Section 6-1503. Impoundment of Skateboards

Any skateboard found abandoned in any public thoroughfare or way, or being operated within the Corporate Limits of the City of Brunswick without a registration sticker shall be impounded by the police. The Police Department shall keep such skateboard impounded until the owner obtains the required registration sticker.

Any skateboard operated contrary to the provisions of this Ordinance shall also be impounded. Any skateboard so impounded shall be held at Police Headquarters until the owner thereof, if the owner is an adult, or the parent or parents or guardian of the owner, if said owner is a juvenile, satisfies the Police Chief that he or she will obey the provisions of this Ordinance.

No impounding fee will be charged. If a skateboard is not redeemed within thirty (30) days from the date of impoundment, such skateboard will be sold at public auction, after the sale has been duly advertised by publishing a notice of the time, place and date of such sale at least ten (10) days prior to the sale in some newspaper having a general circulation in the City of Brunswick.

#### Section 6-1504. Skateboard Registration Fees

(A) Registration fees shall be used to defray the administrative costs incurred in implementing the provisions of this Title.

(B) Registration fees shall be used to establish a fund for the construction of a safe skateboard recreation area.

#### Section 6-1505. Skateboard Rules and Regulations

The Mayor and Council may, from time to time, adopt rules and regulations to control the operation and safety of skateboards and their riders. Copies of rules and regulations in effect at the time shall be issued to each owner upon registration of his or her skateboard.

### **Article 2. Police Regulations**

#### Title 1. General Provisions

#### Section 6-2101. Purposes

The provisions of this Article are declared as necessary for the purposes of protecting and promoting the public safety, preserving peace and good order, securing persons and property from violence, danger and destruction, suppressing vagrancy and gambling, and suppressing, abating and discontinuing all nuisances.

*Revisor's Note: The State of Maryland has enacted police regulations which apply within jurisdictions throughout the State. For State law as to crimes and offenses generally, see the Criminal Law Article of the Annotated Code of Maryland.*

#### Section 6-2102. Definitions

In this Article, the following words, terms, phrases, and their derivations shall have the meanings indicated.

Civil Emergency or Disorder. Any riot and/or disorderly picketing or demonstrating or an unlawful assembly characterized by the actual use of force and violence or of any threat to use force and violence, if accompanied by the immediate ability to execute the same by two or three persons acting together, or any natural disaster or man-made calamity, including, but not limited to, flood, conflagration, cyclone, earthquake, tornado, explosion or complete electrical blackout or power failure within the corporate limits of the City of Brunswick, Maryland, resulting in the death or injury to persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public safety and welfare.

Child in Need of Supervision. A child who requires guidance, treatment, or rehabilitation and who has committed an offense applicable only to children.

Curfew Hours. The hours of 12:00 a.m. through 6:00 a.m. on or during any day or days of the week.

Curfew Order. A prohibition against any person or persons walking, running, loitering, standing, remaining or motoring upon any of the alleys, streets, highways, public property, private or vacant property within the corporate limits of the City of Brunswick, Maryland, excepting such person who may have been officially designated to perform certain duties in connection with a civil emergency or disorder.

Dangerous Weapon. Any knife, slingshot, billy club, metal knuckles or firearm, of any

kind or description, capable of being used to inflict bodily harm.

Emergency. Unforeseen circumstances, or the status or condition resulting therefrom, requiring immediate action to safeguard life, limb or property. The term includes, but is not limited to, fires, natural disasters, automobile accidents, or other similar circumstances.

Establishment. Any privately-owned place of business within the town operated for a profit, to which the public is invited, including but not limited to, any place of amusement or entertainment.

Firearms. Any gun, spring gun, rifle, air rifle, pistol, revolver, cannon, torpedo, or other dangerous weapon of any character, capable of propelling a projectile of any kind whatsoever.

Fireworks. Any firecracker, rocket, squib or other unauthorized explosive, but not including sparklers containing no chlorates or perchlorates.

Intoxicating Beverage. Any alcohol, brandy, whiskey, rum, gin, cordial, beer, ale, port, stout, wines, ciders, and any other spirituous, vinous, malt or fermented liquor, liquor or compound, by whatever name called, containing one-half of one per centum or more of alcohol by volume, which is fit for beverage purposes.

Juvenile. Any person under eighteen (18) years of age who has not been emancipated within the meaning of Maryland law.

Loiter. To remain idle in one location; to saunter; to stand around; to linger; to “hang around”.

Obstruction. Any act to, or tending to, hinder, impede or prevent the free and uninterrupted, lawful use of property by and lawful passage of pedestrians, vehicles or traffic, including acts to prevent free and uninterrupted ingress to or egress from a public place or establishment.

Officer. A police or other law enforcement officer charged with the duty of enforcing the laws of the State of Maryland, the County of Frederick, and/or the ordinances of the City of Brunswick.

Operator. Any person, firm, limited liability company, association, partnership (and members or partners thereof), corporation (and the officers thereof), and/or any other legal entity conducting or managing any establishment.

Parent. Refers to:

(1) A person who is a juvenile's biological or adoptive parent and who has legal custody of a juvenile (including either parent, if custody is shared under a court order or agreement);

(2) A person who is the biological or adoptive parent with whom a juvenile regularly resides; and/or

(3) A person judicially appointed as a legal guardian of the juvenile.

Person. Refers only to an individual, and not to any association, corporation, or any other legal entity.

Public Place. Any place to which the public or a substantial group of the public has access, including but not limited to, streets, highways, roads, sidewalks, alleys, avenues, parks, and/or the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities and shops.

Remain. Refers to the following actions:

(1) To linger or stay at or upon a place; and/or

(2) To fail to leave a place when requested to do so by an officer or by the owner, operator or other person in control of that place.

Sound-Amplifying Equipment. The words “sound-amplifying equipment” shall mean any machine or devices for the amplification of the human voice, music or other sound. “Sound-amplifying equipment” shall not be construed as including standard automobile radios when used and heard only by occupants of the vehicle in which installed or warning devices on authorized emergency vehicles or other vehicles used only for traffic safety purposes.

Sound Truck. The words “sound truck” shall mean any motor vehicle having mounted thereon, or attached thereto, any sound-amplifying equipment.  
(Am. Ord. 489, passed 2-23-2010)

## Title 2. Public Safety Offenses

### Section 6-2201. Discharge of Firearms

It shall be unlawful for any person to fire, discharge or set off any firearm within the City without a written permit from the Chief of Police; provided, however, that this Section shall not apply to the use of firearms by law enforcement officers in the lawful discharge of their duties, or by members of any military company when engaged in drilling or target practice under the command or direction of an officer thereof.

### Section 6-2202. Possession of Dangerous Weapons

It shall be unlawful for any person, other than a law enforcement officer, to wear or carry concealed, without a valid license, or to carry openly in a threatening or reckless manner, any dangerous weapon within the City; provided, however, that this Section shall not act as a restriction on the wearing, carrying or transporting of handguns nor on the possession by private parties of pistols and revolvers as are exclusively regulated by the State of Maryland.

*Revisor’s Note: For State laws regarding the carrying of small firearms, see Sections 4-101 and 4-201 et Seq., of the Criminal Law Article and Title 5, Subtitle 3 of the Public Safety Article, Annotated Code of Maryland.*

### Section 6-2203. Discharge of Fireworks

It shall be unlawful for any person to discharge fireworks within the City without a written permit from the Mayor and Council; provided, however, that this Section shall not apply to the industrial or commercial use of explosives in the normal course of business, to the use of signal

devices essential to promote safety in the operation of motor vehicles, boats or railroads, or to State Fire Marshal permitted uses by farmers of firecrackers, salutes or cherry bombs, with slow-burning fuse ropes, to control destructive birds and animals; and further provided that this Section shall not be enforced in contradiction to the laws of the State of Maryland.

*Revisor's Note: For State laws regarding fireworks, see Title 10 of the Public Safety Article, Annotated Code of Maryland.*

#### Section 6-2204. Throwing of Objects

It shall be unlawful for any person to intentionally throw or propel any object, including but not limited to bricks, stones or other missiles, into the air with the result of injuring the person or property of another within the City.

*Revisor's Note: For State law regarding the throwing of missiles into occupied vehicles or instrumentalities of public transportation, see Section 6-302 of the Criminal Law Article, Annotated Code of Maryland.*

#### Section 6-2205. Resisting a Law Enforcement Officer

It shall be unlawful for any person to interrupt, resist, interfere with, strike, injure or oppose any City police officer engaged in the discharge of official duties.

#### Section 6-2206. Riotous and Tumultuous Acts

(A) It shall be unlawful for any person to participate in any assemblage of three or more persons engaged within the City in an affray, riotous demonstration or other violent and turbulent behavior by which property is taken away, injured or destroyed, and thereafter to fail to obey the lawful command of any law enforcement officer to disperse or peacefully disengage and leave the scene of such assembly.

(B) It shall be unlawful for any person to violate a General Curfew Order or any other order issued by written proclamation of the Mayor and Council declaring the existence of a civil emergency or disorder.

*Revisor's Note: For State law regarding municipal liability to property owners for property taken away, injured or destroyed by any riotous or tumultuous assemblage of people, see Sections 14-1001 et Seq., Public Safety Article, Annotated Code of Maryland.*

#### Section 6-2207. Assault and Battery

It shall be unlawful for any person to cause an apprehension of and unlawful application of force to the person of another.

*Revisor's Note: For State laws regarding assault and abuse, see Sections 3-201 et Seq. and 3-601 et Seq., Criminal Law Article, and Section 5-901 et Seq., Family Law Article, Annotated Code of Maryland.*

### Title 3. Public Conduct Offenses

#### Section 6-2301. Destruction of Property

(A) It shall be unlawful for any person to injure, remove or destroy any property of any kind, real or personal, in any of the public parks, playgrounds or public places within the City.

(B) It shall be unlawful for any person to willfully and maliciously injure, destroy, deface or, without express authorization from the owner, tamper with or otherwise interfere with the functioning of any lawfully existing private or public structure, including any dwelling house, outbuilding, fence, gate, sign, streetlight, fire hydrant, dumpster, or temporary safety barrier, light or flare indicating a need for caution.

(C) It shall be unlawful for any person to willfully and maliciously injure, destroy, unlawfully disturb or, without express authorization from the owner, otherwise break any private or public grounds, tree or cultivated planting.

*Revisor's Note: For State laws regarding destruction of the property of another, destruction of railroad property, destruction of water meters, and destruction of grocery carts, see Sections 6-301, 6-305, 6-501 et seq., and 7-201, Criminal Law Article, Annotated Code of Maryland.*

#### Section 6-2302. Use or Possession of Intoxicating Beverages

(A) It shall be unlawful for any person to consume any intoxicating beverage in or on private property within the City without the express consent of the owners of such property.

(B) It shall be unlawful for any person, without a City permit, to give away or distribute any intoxicating beverage on any public property within the City.

(C) It shall be unlawful, from any private property within the City, for any person to give away or distribute any intoxicating beverage with the result that a public disturbance is caused on or about such private property.

(D) It shall be unlawful for any person to consume any intoxicating beverage in or on any of the public parks, any of the public ways, streets and alleys, or any other public areas within the City.

(E) A person may not possess in an open container any alcoholic or intoxicating beverage while in or on any of the public parks, public ways, streets and alleys, or other public areas of the City or on any private property, including parking lots or areas, that is used by the public in general unless authorized by the owner.

*Revisor's Note: State law preempts municipalities from adopting ordinances identical or supplemental to prohibitions against persons: (1) being intoxicated and endangering the safety of another person or property, or (2) being intoxicated or drinking any alcoholic beverage in a public place and causing a public disturbance. See Section 207 of Article 2B, Annotated Code of Maryland.*

#### Section 6-2303. Disorderly Conduct

It shall be unlawful for any person:

(A) To run after, hold to or hand onto any moving vehicle within the City.

(B) To hold to or hang onto any standing vehicle within the City without the express consent of the vehicle owner.

(C) To interfere with any person within the City by taking hold of him or in any way obstructing the free passage of any person upon or along the sidewalks, footways, streets, parks, picnic area, or in any public building or place for the purpose of begging or soliciting from him any monies or things.

*Revisor's Note: For State law concerning disorderly conduct, see Section 10-201, Criminal Law Article, Annotated Code of Maryland.*

#### Section 6-2304. Indecent Exposure

It shall be unlawful for any person to make an indecent and offensive exposure of his person in any public place.

*Revisor's Note: For State law regarding indecent exposure, see Section 11-107, Criminal Law Article, Annotated Code of Maryland.*

#### Section 6-2305. Juvenile Curfew

(A) The purpose of this section is to:

- (1) Promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the City of Brunswick;
- (2) Promote the safety and well-being of the city's youngest citizens, persons under the age of eighteen (18), whose inexperience renders them particularly vulnerable to becoming participants in unlawful activities, particularly unlawful drug activities, and to being victimized by older perpetrators of crime; and

(3) Foster and strengthen parental responsibility for children.

(B) It shall be unlawful for a juvenile, during curfew hours, to remain in or upon any public place within the city, to remain in any motor vehicle operating or parked therein or thereon, or to remain in or upon the premises of any establishment within the city, unless:

- (1) The juvenile is accompanied by a parent; or
- (2) The juvenile is involved in an emergency; or
- (3) The juvenile is engaged in an employment activity, or is going to or returning home from such activity, without detour or stop; or
- (4) The juvenile is on the sidewalk directly abutting a place where he or she resides with a parent; or
- (5) The juvenile is attending an activity sponsored by a school, religious, or civic organization, by a public organization or agency, or by another similar organization or entity, which activity is supervised by adults, and/or the juvenile is going to or returning from such an activity without detour or stop; or

(6) The juvenile is on an errand at the direction of a parent, and the juvenile has in his or her possession a writing signed by the parent containing the following information: the name, signature, address and telephone number of the parent authorizing the errand, the telephone number where the parent may be reached during the errand, the name of the juvenile, and a brief description of the errand, the juvenile's destination(s) and the hours the juvenile is authorized to be engaged in the errand; or

(7) The juvenile is involved in interstate travel through, or beginning or terminating in the City of Brunswick; or

(8) The juvenile is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly.

(C) It shall be unlawful for a juvenile's parent to knowingly permit, allow or encourage such juvenile to violate this section.

(D) It shall be unlawful for a person who is the owner or operator of any motor vehicle to knowingly permit, allow or encourage a violation of this section.

(E) It shall be unlawful for the operator of any establishment, or for any person who is an employee thereof, to knowingly permit, allow or encourage a juvenile to remain upon the premises of the establishment during curfew hours. It shall be a defense to prosecution under this subsection that the operator or employee of an establishment promptly notified the Police Department that a juvenile was present at the establishment after curfew hours and refused to leave.

(F) It shall be unlawful for any person (including any juvenile) to give a false name, address, or telephone number to any officer investigating a possible violation of this section.

(G) A violation of this section shall be a municipal infraction "D", punishable by a fine not to exceed twenty-five dollars (\$25.00).

(Am. Ord. 489, passed 2-23-2010)

#### Section 6-2306. Loitering

(A) It shall be unlawful for any person to loiter, loaf, wander, stand or remain idle, either alone or in consort with others, in a public place, including any place to which the general public has access and right to resort for business, entertainment, or other lawful purpose, or the front or immediate area of an establishment, in such a manner so as to:

(1) Obstruct any public street or highway, public sidewalk or any other public place or building by hindering or impeding, or tending to hinder or impede, the free and uninterrupted passage of vehicles, traffic, or pedestrians.

(2) Commit in or upon any public street or highway, public sidewalk or any other public place or building any act which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street or highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress and egress, therein, thereon and thereto.

(B) It shall be unlawful for any person to loiter at or in a public place or a place open to the public in such a manner as to hinder or impede the free passage of pedestrian or vehicular traffic.

(C) When any person causes any of the conditions or commits any of the acts enumerated above, a police officer or any law enforcement officer shall order that person to stop causing or committing such conditions and to move on or disburse. Any person who fails or refuses to obey such orders shall be guilty of a misdemeanor.

(D) Any violation of the provisions of this section shall be a municipal infraction as enumerated at section 10-2202.

*Revisor's Note: For State laws regarding trespassing and disorderly conduct, see Sections 6-401 et seq. and 10-201, Criminal Law Article, Annotated Code of Maryland.*

#### Title 4. Public Nuisance Offenses

##### Section 6-2401. Refusal or Neglect to Abate

It shall be unlawful for any person, being responsible for creating or causing or maintaining any of the public nuisances set forth in this Code, to refuse or neglect to comply with the order of a City official or officer to remove, abate or discontinue a public nuisance within a reasonable time indicated by such official or officer.

##### Section 6-2402. Enumerated Public Nuisances

It shall be a public nuisance to create or to cause or to maintain within the City or within one half mile of the City limits, any of the following conditions which directly or by their consequence cause injury or annoyance to the general public:

(A) Bawdyhouses. For purposes of this Section, a bawdyhouse is defined as a blatant and/or noisome place for licentious commerce, including a house of ill fame, a disorderly house and a house of prostitution, lewdness or assignation.

(B) Unremoved Snow or Ice. For purposes of this Section, unremoved snow or ice is defined as a hazardous condition resulting from an accumulation of snow or ice upon any sidewalk within the City. The owners and occupants of properties abutting a sidewalk shall:

(1) Remove or cause the removal of snow and ice for a width of at least four feet for the entire length of any sidewalk abutting their property,

(2) Refrain from depositing or causing a deposit of removed snow or ice upon any public street, road, highway or alley.

(3) Remove or cause the removal of snow and ice within eight (8) hours after a snowfall or before 2:00 p.m. in the event of a snowfall between the hours of 5:00 p.m. and 7:00 a.m.

(4) Be charged a removal cost in the event that the City shall have caused the removal of accumulated snow and ice upon failure of the owner and occupant to comply with the City's notification and order to remove such snow and ice.

(C) Unreasonable Noise.

(1) For purposes of this Section, unreasonable noise is defined as any loud, disturbing and unnecessary noise of such character, intensity and duration as to be detrimental to the life or health of any person or to unreasonably disturb or annoy the quiet, comfort or repose of any person, including any noise which may cause:

- (a) Temporary or permanent hearing loss;
- (b) Interference with sleep, speech communication, work, or other human activities;
- (c) Adverse physiological responses;
- (d) Psychological distress;
- (e) Harm to animal life;
- (f) Devaluation of or damage to property; and
- (g) Unreasonable interference with the enjoyment of life or property.

(2) No person shall create, cause or maintain an “unreasonable noise” public nuisance, including:

- (a) The sounding of a horn or other warning device of any motor vehicle except as a danger signal or in compliance with the requirements of a motor vehicle law or regulation;
- (b) The sounding of a radio or phonograph or any musical instrument in such manner or with such violence as to annoy or disturb any person;
- (c) The operation of any sound truck for commercial sound advertising with sound amplifying equipment without the consent of the Mayor or Chief of Police.
- (d) The operation of any sound device attached to a vehicle and used for the purpose of attracting attention thereto for advertising purposes without the consent of the Mayor or Chief of Police.
- (e) The calling or crying out for advertising purposes from any vehicle without the consent of the Mayor or Chief of Police.

*Revisor’s Note: For State laws regarding or related to noise control, see the following sections of the Annotated Code of Maryland: Environmental Article, Sections 3-105, et seq.*

Title 5. Special Enforcement Provisions

Section 6-2501. Curfew; Civil Emergencies or Disorders

Whenever the existence of a civil emergency or disorder has been declared by the Mayor or, in the Mayor’s absence, by a majority of the Council, the mayor shall issue a written

proclamation to the general public through the public news media and by a public posting at the City Hall. The proclamation may include a General Curfew Order to apply to the City, in whole or in part, for specified hours of the day and/or night as necessary to protect the safety and general welfare of the City. In addition to a General Curfew Order, the proclamation may:

- (A) Order the closing of all retail liquor outlets.
- (B) Order the closing of all outlets, including taverns, which sell beer or other intoxicants.
- (C) Order the closing of all private clubs wherein the consumption of intoxicants is permitted.
- (D) Ban the distribution, whether by sale, gift or otherwise, of all flammable or combustible liquid products, including, but not limited to, gasoline in any container other than directly into the gasoline tank of an automobile which gasoline tank must be affixed to and be an integral part of such motor vehicle.
- (E) Order the closing of any and all establishments whose chief activity or purpose for being open is to distribute in any fashion, whether by sale or otherwise, flammable and/or combustible liquid products, including, but not limited to, gasoline.
- (F) Order the discontinuance of the distribution in any fashion, whether by sale or otherwise, of any firearms or ammunition of any type or description whatever.
- (G) Order the closing of some, or all, establishments which distribute in any fashion, whether by sale or otherwise, firearms or ammunition of any type or description.
- (H) Order the closing of all streets, ways, alleys and other public passageways within the corporate limits of the City of Brunswick.
- (I) Issue any and all other orders deemed necessary for the protection of the citizens and property of the City of Brunswick, Maryland.

### **Article 3. Fire Regulations**

#### Title 1. Offenses

##### Section 6-3101. Fire Lines

It shall be unlawful at the scene of a fire for any person, unless expressly authorized by firefighter or law enforcement personnel, to pass beyond lines established by such personnel to secure the fire scene and to protect persons or property from injury.

##### Section 6-3102. Interference with Fire Apparatus

It shall be unlawful for any person to tamper with, abuse, injure, deface, harm or destroy any fire hydrant or any fire apparatus, whether or not in use.

*Revisor's Note: For State laws regarding obstruction of firefighters and false representation of a firefighter, see Sections 6-602 and 7-402, Public Safety Article, Annotated Code of Maryland. For State laws regarding driving over fire hose, see Section 21-1110 of the Transportation Article, Annotated Code of Maryland.*

## **CHAPTER 7**

### **DEVELOPMENT REGULATIONS**

#### **Article 1. Ordinances Included by Reference**

##### Title 1. Zoning Ordinance

###### Section 7-1101. Inclusion of Zoning Ordinance by Reference

The City of Brunswick Zoning Ordinance, adopted 1967, and all amendments and revisions thereto are hereby incorporated into the Brunswick Code of Ordinances by reference. A copy of the Zoning Ordinance shall be maintained at City Hall.

##### Title 2. Subdivision Regulations

###### Section 7-1201. Inclusion of Subdivision Regulations by Reference

The City of Brunswick Subdivision Regulations, adopted 1967, and all amendments and revisions thereto are hereby incorporated into the Brunswick Code of Ordinances by reference.

##### Title 3. Floodplain Ordinance

###### Section 7-1301. Inclusion of Floodplain Ordinance by Reference

The City of Brunswick Floodplain Ordinance, adopted 2007, and all amendments and

revisions thereto are hereby incorporated into the Brunswick Code of Ordinances by reference. (Ord. 470, passed 8-28-2007)

#### Title 4. Adequate Public Facilities Ordinance

Section 7-1401. Inclusion of Adequate Public Facilities Ordinance by Reference

The City of Brunswick Adequate Public Facilities Ordinance, adopted 1999, and all amendments and revisions thereto are hereby incorporated into the Brunswick Code of Ordinances by reference.

#### Title 5. International Property Maintenance Code

Section 7-1501. Inclusion of International Property Maintenance Code by Reference

The City of Brunswick International Property Maintenance Code, adopted 2014, and all amendments and revisions thereto are hereby incorporated into the Brunswick Code of Ordinances by reference. Copies of the International Property Maintenance Code shall be maintained at City Hall. (Ord. 508, passed 5-13-2014)

### **CHAPTER 8**

#### **DEVELOPMENT IMPACT FEES**

##### **Article I. In General**

Section 8-1101. Title

This Chapter shall be known and cited as the City of Brunswick Development Impact Fee Ordinance. (Ord. 480, passed 4-14-2009)

Section 8-1102. Purpose and Intent

The purposes and intent of these development impact fees and procedures are:

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

(B) To ensure that new development is reasonably benefited by the provision of the public facilities provided with the proceeds of development impact fees; and

(C) To ensure that all applicable legal standards and criteria are properly incorporated in these procedures.

(Ord. 480, passed 4-14-2009)

Section 8-1103. Definitions

(A) In the interpretation and construction of this Chapter, the following rules of

construction shall apply:

- (1) The word "shall" is always mandatory and not discretionary and the word "may" is permissive.
- (2) Words used in the present tense shall include the future; and words used in the singular shall include the plural and the plural the singular, unless the context clearly indicates the contrary; use of the masculine gender shall include the feminine gender.
- (3) The phrase "used for" includes "arranged for", "designed for", "maintained for", or "occupied for".
- (4) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or" or "either... or," the conjunction shall be interpreted as follows: materials or equipment, land excavation, land clearing, land improvement, landfill operation, or any combination thereof; and any change in the use of a building for which a building permit/zoning certificate is required by law.
  - (a) "and" indicates that all of the connected terms, conditions, provisions or events shall apply.
  - (b) "or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
  - (c) "either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- (5) The words "includes" and "including" shall not limit a term to the specific example but are intended to extend its meaning to all other instances or circumstances of like kind or character.

(B) The words or phrases used in this Chapter shall have the meaning prescribed in the current Code of Ordinances except as otherwise indicated herein:

Applicant. Any individual, firm, corporation, partnership, association, society, syndication, trust, or other legal entity which files an application with the City for a building permit/zoning certificate.

Appropriation or To Appropriate. An action by the Mayor and Council to identify specific public facilities for which development impact fee funds may be utilized. Appropriation shall include: listing of a public facility in the adopted City budget or Capital Improvements Program; execution of a contract or other legal encumbrance for construction of a public facility using development impact fee funds in whole or in part; or actual expenditure of development impact fee funds through payments made from a development impact fee account.

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

Building Permit/ Zoning Certificate. The official document or certificate issued by the City and the County under the authority of ordinance or law, authorizing the commencement of construction of any building or part thereof or authorizing a change in use.

City. City of Brunswick, Maryland.

City Administrator. The City employee or officer designated by the Mayor and Council as responsible for assisting the Mayor and Council in the preparation of the City budgets.

City Attorney. The person appointed by the Mayor and Council to serve as its counsel, or designee.

Developer. Any individual, firm, corporation, partnership, association, society, syndication, trust, or other legal entity that is responsible for creating a demand for public facilities and services.

Development. Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, dumping, extraction, dredging, grading, paving, storage or materials or equipment, land excavation, land clearing, land improvement, landfill operation, or any combination thereof; and any change in the use of a building for which a building permit/zoning certificate is required by law.

Development Impact Fee. A fee adopted by the Mayor and Council which is imposed on new development on a pro rated basis in connection with and as a condition of the issuance of a building permit/zoning certificate and which is calculated to defray all or a portion of the costs of the public facilities required to adequately accommodate new development at City-designated level of service (los) standards and which reasonably benefits new development. It may also be referred to as an Impact Fee.

Dwelling Unit. A room or group of rooms forming a single, residential unit containing living, sleeping and cooking accommodations and facilities and designed to be used for living purposes.

(a) Single-family detached dwelling unit. A building containing not more than one dwelling unit.

(b) All other residential. Includes any dwelling unit typically designed and used only for a single family, but which is located in a building containing two or more dwelling units.

Effective Date of This Chapter. April 28, 2009.

Governing Body. The Mayor and Council of Brunswick.

Municipal Facilities Development Impact Fee. A fee imposed on new residential and nonresidential development to fund the proportionate share of the costs for future municipal facilities and equipment.

New development. Any new development commencing construction after the effective date of this Chapter, except as provided in Section 8-2105.

Nonresidential use. Any use of a building not for dwelling purposes.

Parks and Recreation Development Impact Fee. A fee imposed only on new residential

development to fund the proportionate share of the costs to expand park amenities and parks and recreation facilities, land and park vehicles and equipment.

Planning Director. The Director of the Division of Planning for the City, or designee.

Police Development Impact Fee. A fee imposed on new residential and nonresidential development to fund the proportionate costs of law enforcement services infrastructure within the City.

Property Owner. Any individual, firm, corporation, partnership, association, society, syndication, trust, or other legal entity holding legal title to the property.

Public Facilities. Public improvements or facilities necessitated by new development. For the purposes of this Chapter, Public Facilities are limited to parks and recreation, police and municipal facilities.

Public Facilities Expenditures. Includes amounts appropriated in connection with the planning, design, engineering and construction of public facilities; planning, legal, appraisal and other costs related to 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 facilities.

Residential Use. Any use of a building as or for a dwelling unit.  
(Ord. 480, passed 4-14-2009)

## **Article 2. General Provisions; Applicability**

### Section 8-2101. Term

This Chapter and the procedures established herein shall remain in effect unless and until repealed, amended or modified by the Mayor and Council in accordance with applicable state law and City Code, ordinances and resolutions.  
(Ord. 480, passed 4-14-2009)

### Section 8-2102. Annual Review

(A) Preparation of annual report. At least once every year, but no later than June 1 of each year, beginning June 1, 2010, and prior to the Mayor and Council's adoption of the annual budget and Capital Improvements Program, the City Administrator or designee shall coordinate the preparation and submission of an annual report to the Mayor and Council on the subject of development impact fees.

(B) Annual report. The annual report may include any or all of the following:

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

(2) Proposed changes to the City Capital Improvements Program, including the identification of additional public facility projects anticipated to be funded wholly or partially with development impact fees;

- (3) Proposed changes to the boundaries of development impact fee districts, if applicable;
- (4) Proposed changes to development impact fee schedules as set forth in the ordinances imposing and setting development impact fees for particular public facilities;
- (5) Proposed changes to any development impact fee calculation methodology; and
- (6) Any other data, analysis or recommendations as the City Administrator or appropriate designee may deem appropriate, or as may be requested by the Mayor and Council.

(C) Submission of development impact fee annual report and Mayor and Council action. The City Administrator shall submit the development impact fee annual report to the Mayor and Council, 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 or public hearings.

(Ord. 480, passed 4-14-2009)

#### Section 8-2103. Affected Area

This chapter shall apply to all new development within the City.

(Ord. 480, passed 4-14-2009)

#### Section 8-2104. Type of Development Affected

This Chapter shall apply to all new development as herein defined and as defined in the specific articles of this Chapter for particular public facilities.

(Ord. 480, passed 4-14-2009)

#### Section 8-2105. Type of New Development Not Affected

Based upon the significant required contribution to the improvement of public infrastructure and public facilities that benefits other property and residents in the City, the significant costs and fees expended and the time required in the developer's/property owner's preparation, review and approval of certain development projects, the Mayor and Council find that there is a rational basis for not subjecting certain new development within the City to the impact fee. Therefore, the requirements of this Chapter will not apply to:

(A) Previously-issued building permits/zoning certificates. No development impact fee shall be imposed on new development for which a building permit/zoning certificate has been issued prior to the effective date of this Chapter.

(B) No net increase in dwelling units. No development impact fee shall be imposed on any new residential development which does not add a new dwelling unit. No impact fee shall be imposed for alteration or expansion of an existing dwelling unit where no additional dwelling unit is created.

(C) Development agreements. The provisions of this Chapter shall not apply to development projects which are the subject of a development agreement and which contain

provisions for a development impact fee or other provisions in conflict with this chapter, but only to the extent of the conflict or inconsistency.

(D) Special taxing districts.

(1) A property or properties used as or constituting a development that as of the effective date of this Chapter is subject to a special taxing district to fund public improvements to City infrastructure and the requisite special obligation bonds for that special taxing district have been issued by the Mayor and Council to support the funding of said infrastructure; and

(2) The residential component of the development has obtained PUD Phase III preliminary plan approval per Section 21.5(i)(3) of the Brunswick Zoning Ordinance; and

(3) The commercial component of the development satisfies the permitted land use requirements of Section 21.5(f) of the Brunswick Zoning Ordinance; and

(4) The development has obtained Mixed-Use Development (MXD) overlay approval by the Mayor and Council if requested. In the event that the property or properties used as or constituting the development subject to the special taxing district is no longer subject to the special taxing district or if the approved PUD or Mixed-Use employment designation lapse or are not carried out by the developer, then in that event the Mayor and Council may eliminate this exemption and impose the impact fees on the property or properties and the development.

(Ord. 480, passed 4-14-2009)

Section 8-2106. Effect of Payment of Development Impact Fee on Other Applicable City Regulations

(A) The payment of development impact fees shall not entitle the applicant to a building permit/zoning certificate unless all other applicable land use, zoning, planning, adequate public facilities, forest resource, platting, subdivision or 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.

(B) Nothing in this Chapter shall affect, in any manner, the permissible use of property, density/intensity of development, design and improvement standards or other applicable standards or requirements of the land development regulations of the City, where applicable.

(Ord. 480, passed 4-14-2009)

**Article 3. Procedures for Imposition, Calculation and Collection of Development Impact Fees**

Section 8-3101. In General

An applicant shall be notified by the Planning Director of the applicable development impact fee requirements at the time of application for a building permit/zoning certificate. At such time, the development impact fees shall be calculated by the Planning Director or designee and shall be paid by the applicant prior to the issuance of a building permit/zoning certificate.

(Ord. 480, passed 4-14-2009)

## Section 8-3102. Calculation

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

- (1) Whether it is a residential or a nonresidential use;
- (2) The specific category (type) of residential or nonresidential development, if applicable, and
- (3) If residential, the number of new dwelling units.

(B) Upon receipt of an application for a building permit/zoning certificate, the Development Review Coordinator, or designee, shall determine whether it is for a change of use. In such cases, the development impact fee shall be based only on the incremental increase in the fee for the additional public facilities needed for the change in use. An applicant shall not be entitled to a refund where the change of use is to a category of development that imposes a lower demand on public facilities.

(C) After making these determinations, the Planning Director, or designee, shall calculate the applicable Development impact fee by multiplying the demand added by the new development by the amount of the applicable development impact fee per unit of development, incorporating any applicable offset if set forth in the particular development impact fee calculation methodology.

(D) 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, or designee shall:

- (1) Identify the most similar residential or nonresidential development type listed and calculate the development impact fee based on that residential or nonresidential type; or
- (2) At the option of the applicant, or the Planning Director, determine the basis used to calculate the fee pursuant to an independent impact analysis for development impact fee calculation. If elected, this option shall be requested by the applicant on a form provided by the City for each purpose. If this option is chosen, the following shall apply:
  - (a) 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.
  - (b) The independent impact analysis shall measure the impact that the proposed development will have on the particular public facility at issue, and shall be based on the same methodologies used in the development impact fee calculation methodology report, and shall be supported by professionally acceptable data and assumptions.
  - (c) 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 45 days. If the independent impact analysis is rejected, the written notice shall provide an explanation of the insufficiencies of the

analysis.

(d) The final decision of the Development Review Director may be appealed pursuant to Section 8-4105 herein.

(E) An applicant may, at any time, request a non-binding estimate of development impact fees due for a particular new development by filing a request on a form provided for such purpose by the City Administrator; provided, however, that such estimate may be subject to change when a formal application for a building permit/zoning certificate for new development is made. Such non-binding estimate is solely for the benefit of the prospective applicant and shall in no way bind the City nor preclude it from making amendments or revisions to any provisions of this Chapter, or the Development Impact Fee Schedule.

(F) The calculation of development impact fees due from a residential multiple-use new development shall be based upon the type and number of dwelling units created in the new development.

(G) The calculation of development impact fees due from a phased new residential development shall be based on the development impact fees due for each dwelling unit within the phase of development for which building permits/zoning certificates are requested.

(H) Development impact fees shall first be calculated based on the development impact fee amount in effect at the time of application for a building permit/zoning certificate, but the amount of the development impact fee due is the amount of the development impact fee in effect on the date of issuance of the building permit/zoning ordinance.

(Ord. 480, passed 4-14-2009)

### Section 8-3103. Offsets

(A) Offsets against the amount of development impact fee due from a new development may be provided for, among other things, contribution made concurrently or to be made in the future in cash, or by actual construction of all or part of a public facility by the affected property owner/developer for public facilities meeting or exceeding the demand generated by the new development for the specific facility and the contribution is determined by the Mayor and Council to be a reasonable substitute for the cost of public facilities which are included in the particular development impact fee calculation methodology. Offset may be provided for the dedication of land as determined by the Mayor and Council

(B) The amount of the offset and any excess contribution (above the offset amount) shall be determined by the Mayor and Council upon receipt of a City-approved application form requesting an offset; provided, however, that:

(1) The Mayor and Council will make no reimbursement for excess contribution unless and until the particular public facility fund has sufficient revenue to make the reimbursement without jeopardizing the continuity of the City's Capital Improvements Program, and

(2) The excess contribution may not be transferred or credited to any other type of development impact fees calculated to be due from that development for other types of public facilities.

(C) No offset shall be allowed unless the Mayor and Council have approved the contribution expenditure before it is made.

(D) Offsets for provision of public facilities shall be applicable only as to development impact fees imposed for the same types of public facilities which are proposed to be dedicated or provided. Even if the value of the public facility provided exceeds the development impact fee due for the type of public facility, the excess value may not be transferred to development impact fees calculated to be due from the applicant for other types of public facilities for which development impact fees may be imposed. Offsets may, however, be transferred to the same applicant or to other applicants for new development which are proposed within the final approved plan for a single development and for the same type of public facility.

(E) Notwithstanding any other provision of this Section, no credit or offset shall be given for land dedicated, cash contributed or actual construction undertaken prior to the effective date of this Chapter.

(Ord. 480, passed 4-14-2009)

#### Section 8-3104. Collection

(A) City Administrator, or designee, shall collect all applicable development impact fees at the time of issuance of a building permit/zoning certificate and shall issue a receipt to the applicant for such payment unless:

- (1) The applicant has been determined to be entitled to a full offset; or
- (2) The applicant has been determined to be not subject to the payment of a development impact fee; or
- (3) The applicant has filed an appeal, and a letter of credit in the amount of development impact fee, as calculated by the Planning Director, or designee, has been posted with the City. Such letter of credit must first be approved by the City attorney and City Administrator.

(B) The Planning Director shall collect a development impact fee at the time of issuance of a building permit/zoning certificate even if the development impact fees were paid by the applicant at an earlier time in the development permit or approval process, including at the time of application for a building permit/zoning certificate, if the amount of the Development Impact Fees has increased since such prior approval. The applicant shall be charged for the difference between the Development Impact Fee paid earlier and those in effect at the time of the issuance of the subsequent building permit/zoning certificate.

(Ord. 480, passed 4-14-2009)

### **Article 4. Establishment of Development Fee Accounts; Appropriation of Development Impact Fee Funds; Refunds**

#### Section 8-4101. Development Impact Fee Accounts

A Development Impact Fee Account shall be established by the Mayor and Council 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. All development impact fees collected by the Mayor and Council shall be deposited into the appropriate Development Impact Fee Account or subaccount, which shall be interest bearing. All interest earned on monies deposited to such account shall be credited to and shall be considered funds of the account. The funds of each such account shall be capable of being accounted separately from all other City funds, over time. The Mayor and Council 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 Chapter, and any other applicable legal requirement.  
(Ord. 480, passed 4-14-2009)

#### Section 8-4102. Appropriation of Development Impact Fee Funds

(A) In general. Development impact fee funds may be appropriated for public facilities, for public facility expenditures as defined in Section 8-1103 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 Mayor and Council. All appropriations from development impact fees accounts shall be documented by the City Administrator.

(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; and

(2) Within six years of the beginning of the fiscal year immediately succeeding the date of collection, unless a longer time period is established as provided herein. 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 the public facility.

(C) Appropriation of development impact fee funds beyond six years of collection. Notwithstanding Section 8-4102(B) above, development impact fee funds may be appropriated beyond six years from the beginning of the fiscal year immediately succeeding the date of collection if the appropriation is for a public facility which requires more than six 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 where the Capital Improvements Program prepared by the Mayor and Council for a particular category of public facility has used a longer time frame. Such appropriations shall be documented by the Mayor and Council.

(Ord. 480, passed 4-14-2009)

#### Section 8-4103. Procedure for Appropriation of Development Impact Fee Funds

(A) The City Administrator shall each year identify public facility projects anticipated to be funded in whole or in part with development impact fees. The public facilities so identified shall be based upon such information as may be relevant, and may be part of the Mayor and Council's annual budget and capital improvements programming process.

(B) All such identification of public facility projects shall be consistent with the provisions of this Chapter or other applicable legal requirements and any guidelines adopted by the Mayor and Council.

(C) The Mayor and Council may include development impact fee-funded public facilities in the City annual budget and Capital Improvements Program. Prior to including such public

facilities in the budget and Capital Improvements Program, the Mayor and Council shall consider the nature of the facility, the location of the public facility, the capacity to be added by the public facility, the service area of the public facility, the need/demand for the public facility, and the anticipated timing of completion of the public facility.

(D) The Mayor and Council may authorize development impact fee-funded public facilities at such times as may be deemed necessary and appropriate by a majority vote of the Mayor and Council.

(E) The Mayor and Council shall verify that adequate development impact fee funds are or will be available from the appropriate development fee account for the particular public facility.

(Ord. 480, passed 4-14-2009)

#### Section 8-4104 Refunds

(A) Eligibility for refund.

(1) Expiration or revocation of building permit/zoning certificate. A developer who has paid a development impact fee for a new development for which the necessary building permit/zoning certificate has expired or for which the building permit/zoning certificate has been revoked prior to construction shall be eligible to apply for a refund of development impact fees paid on a form provided by the City Administrator for such purpose.

(2) Failure of City 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 a developer if the Mayor and Council has failed to use or appropriate the development impact fees collected from the developer within the time limit established in Sections 8-4102 and 8-4103. The refund application shall be made on a form provided by the City Administrator for such purpose.

(3) Abandonment of development after initiation of construction. A developer who has paid a development impact fee for a new development for which a building permit/zoning certificate has been issued 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.

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

(B) Except as provided in Sections 8-4104(A)(1) and (3) hereof, refunds shall be made only to the current owner of the property on which the new development was proposed or occurred.

(C) Applications for a refund shall be made on a form provided by the City Administrator for such purposes and shall include all information required in Section 8-4104(D) or (E) hereof, as appropriate. Upon receipt of a complete application for a refund, the City Administrator, or designee, shall review the application and documentary evidence

submitted 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 City Administrator, or designee.

(D) Applications for refunds due to abandonment of a new development prior to completion or due to expiration or revocation of a building permit/zoning certificate shall be made on forms provided by the City Administrator and shall be made within 60 days following expiration or revocation of the building permit/zoning certificate. The property owner shall submit:

- (1) Evidence that it is the property owner or the duly designated agent of the property owner;
- (2) The amount of the development impact fees paid by public facilities category and receipts evidencing such payments; and
- (3) Documentation evidencing the expiration or revocation of the building permit/zoning certificate prior to construction or approval of demolition of the structure pursuant to a valid City-issued demolition permit. Failure to apply for a refund within 60 days following expiration or revocation of the building permit/zoning certificate or demolition of the new structure shall constitute waiver of entitlement to a refund. No interest shall be paid by the City in calculating the amount of the refunds.

(E) Applications for refunds due to the failure of the Mayor and Council to appropriate development impact fees collected from the developer within the time limits established in Section 8-4102(B) shall be made on forms provided by the City Administrator and shall be made within one year following the expiration of such time limit. The property owner shall submit:

- (1) Evidence that it is the property owner or the duly designated agent of the property owner;
- (2) The amount of the development impact fees paid by public facility category and receipts evidencing such payments; and
- (3) Description and documentation of the Mayor and Council's failure to appropriate development impact fee funds for relevant public facilities.

(F) The Mayor and Council 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.

(Ord. 480, passed 4-14-2009)

#### Section 8-4105. Appeals

(A) An appeal from any decision of a City official pursuant to this Chapter shall be made to the Mayor and Council by filing a written appeal on the appropriate City form within 30 days following the decision which is being appealed or such right to appeal shall be barred; provided, however, that if the notice of appeal is accompanied by a cash bond or letter of credit in a form satisfactory to the City attorney and the City Administrator in an amount equal to the development impact fee calculated to be due, a building permit/zoning

certificate may be issued for the new development. The filing of an appeal shall not stay the imposition of the collection of the development impact fee as calculated by the Mayor and Council unless a cash bond or letter of credit has been provided.

(B) The burden of proof shall be on the appealing party to demonstrate that the decision of the City official is erroneous.

(C) All appeals shall detail the specific grounds therefore and all other relevant information and shall be filed on a form provided by the City Administrator for such purposes.

(Ord. 480, passed 4-14-2009)

#### Section 8-4106. Exemptions/Waivers

(A) Filing of application. Petitions for waivers from specific development impact fees shall be filed with the Mayor and Council on forms provided by the City Administrator.

(B) Effect of grant exemption. If an exemption from the application of the provisions of this Chapter is authorized by the terms of this Chapter, the Mayor and Council shall not be required to provide any funds equal to the amount of any development impact fee which would have been due without exemption.

(C) Effect of grant of waiver. If the Mayor and Council grant a waiver in whole or in part of the development impact fee otherwise due, the amount of the development impact fees waived shall be provided by the Mayor and Council from non-development impact fee funds, and such funds shall be deposited to the appropriate Development Impact Fee Account within a reasonable period of time consistent with the applicable City Capital Improvements Program.

(D) Development agreements. Nothing herein shall be deemed to limit the City's authority or ability to enter into development agreements (including but not limited to annexation agreements and development rights and responsibilities agreements) with developers and property owners for new development which may provide for dedication of land, payments in lieu of development impact fees, or actual infrastructure improvements. Such development agreements may allow offsets against development impact fees for contribution made or to be made in the future in cash, or by taxes or assessments or dedication of land or by actual construction of all or part of a public facility by the affected property owner.

(Ord. 480, passed 4-14-2009)

#### Section 8-4107. Enforcement

(A) It is unlawful for any person or entity to enlarge, alter, or change any use of property subject to this Chapter or to erect, construct, enlarge, alter, repair, move, improve, make, put together or convert any building in the City subject to this Chapter, or attempt to do so, or cause the same to be done, without first paying all development impact fees imposed by this Chapter. Any person or entity who shall so violate this Chapter shall be guilty of a municipal infraction.

(B) In the event a fee is not paid as required hereunder, the City Attorney may institute an action on behalf of the Mayor and Council to recover the fee and enjoin the use of the

property until the fee is paid. The person who fails to pay shall be responsible for the costs of such suit, including reasonable attorney's fees.

(C) If not paid as required by this Chapter, development impact fees shall constitute a lien against the property being developed and shall be levied, collected, and enforced in the same manner as City real property taxes, and shall have the same priority and bear the same interest and penalties as City real property taxes for lien purposes.  
(Ord. 480, passed 4-14-2009)

## **Article 5. Parks and Recreation Development Impact Fee**

### Section 8-5101. Purpose and Intent

This Article is for the purpose of requiring that new residential development pay for its appropriate share of park development and improvement through the imposition of a parks and recreation development impact fee which will be used to finance, defray or reimburse the City for all or a portion of the costs to expand park amenities and parks and recreation facilities, land and park vehicles and equipment which serve such residential development.  
(Ord. 480, passed 4-14-2009)

### Section 8-5102. Applicability

Any person who undertakes a residential development project subject to this Chapter shall pay a parks and recreation development impact fee and shall not receive a building permit/zoning certificate until such parks and recreation development impact fee is paid.  
(Ord. 480, passed 4-14-2009)

### Section 8-5103. Impact Fee Schedule

<i>Land Use Type</i>	<i>Impact Fee</i>
Single Family	\$1,021.00
All Other Housing	701.00

(Ord. 480, passed 4-14-2009)

### Section 8-5104. Adjustment to Fee Schedule

The Mayor and Council shall have the right to implement periodic adjustments to the Impact Fee Schedule based on the "construction cost index" published for the Washington D.C. Metropolitan area.  
(Ord. 480, passed 4-14-2009)

## **Article 6. Police Development Impact Fee**

### Section 8-6101. Purpose and Intent

This Article is for the purpose of requiring that new residential and nonresidential development pay for their appropriate share of law enforcement infrastructure through the imposition of a police development impact fee which will be used to finance, defray, or

reimburse the City for all or a portion of the costs of police protection, facilities and vehicles.  
(Ord. 480, passed 4-14-2009)

Section 8-6102. Applicability

Any person who undertakes a new residential or nonresidential development project subject to this Chapter shall pay a police impact fee and shall not receive a building permit/zoning certificate until such police development impact fee is paid.  
(Ord. 480, passed 4-14-2009)

Section 8-6103. Impact Fee Schedule

<i>Land Use Type</i>	<i>Impact Fee</i>
Residential	Per housing unit
Single Family	\$306
All Other Housing	\$210
Nonresidential	Per 1,000 square feet
Commercial Shopping Center up to 50,000 square feet	\$265
Commercial Shopping Center 50,001 - 100,000 square feet	\$221
Commercial Shopping Center 100,001 - 200,000 square feet	\$189
Commercial Shopping Center 200,001 - 400,00 square feet	\$161
Office/Institutional up to 50,000 square feet	\$77
Office/Institutional 50,001 - 100,000 square feet	\$66
Office/Institutional 100,001 - 200,000	\$56
Business Park	\$63
Light Industrial	\$34
Warehousing	\$24
Manufacturing	\$19
Lodging	\$28 (per room)

(Ord. 480, passed 4-14-2009)

Section 8-6104. Adjustment to Fee Schedule

The Mayor and Council shall have the right to implement periodic adjustments to the Impact Fee Schedule based on the "construction cost index" published for the Washington D.C. Metropolitan area.  
(Ord. 480, passed 4-14-2009)

**Article 7. Municipal Facilities Development Impact Fee**

Section 8-7101. Purpose and Intent

This Article is for the purpose of requiring that new residential and nonresidential development pay for their appropriate share of municipal facility costs through the imposition of a municipal facilities development impact fee which will be used to finance, defray or reimburse the City for all or a portion of the costs of future municipal facilities and equipment. (Ord. 480, passed 4-14-2009)

Section 8-7102. Applicability

Any person who undertakes a residential or nonresidential development project subject to this Chapter shall pay a municipal facilities development impact fee and shall not receive a building permit/zoning certificate until such municipal facilities development impact fee is paid. (Ord. 480, passed 4-14-2009)

Section 8-7103. Impact Fee Schedule

<i>Land Use Type</i>	<i>Impact Fee</i>
Residential	Per housing unit
Single Family	\$307
All Other Housing	\$211
Nonresidential	Per 1,000 square feet
Commercial Shopping Center up to 50,000 square feet	\$134
Commercial Shopping Center 50,001 - 100,000 square feet	\$117
Commercial Shopping Center 100,001 - 200,000 square feet	\$104
Commercial Shopping Center 200,001 - 400,00 square feet	\$93
Office/Institutional up to 50,000 square feet	\$183
Office/Institutional 50,001 - 100,000 square feet	\$172
Office/Institutional 100,001 - 200,000	\$163
Business Park	\$148
Light Industrial	\$108

<i>Land Use Type</i>	<i>Impact Fee</i>
Warehousing	\$60
Manufacturing	\$84
Lodging	\$21 (per room)

(Ord. 480, passed 4-14-2009)

Section 8-7104. Adjustment to Fee Schedule

The Mayor and Council shall have the right to implement periodic adjustments to the Impact Fee Schedule based on the "construction cost index" published for the Washington D.C. Metropolitan area.  
(Ord. 480, passed 4-14-2009)

## **Article 8. Conflict**

### Section 8-8101. Conflict

To the extent of any conflict between other City ordinances and this Chapter, this Chapter shall be deemed to be controlling; provided, however, that this Chapter is not intended to amend or repeal any existing City ordinance, resolution or regulation.  
(Ord. 480, passed 4-14-2009)

## **Article 9. Separability**

### Section 8-9101. Separability

(A) If any section, subsection, sentence, clause, phrase or portion of this Chapter is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such section, subsection, sentence, clause, phrase or portion of this Chapter shall be deemed to be a separate, distinct and independent provision and such holding shall not affect the validity of the remaining provisions of this Chapter nor impair or nullify the remainder of this Chapter which shall continue in full force and effect.

(B) If the application of any provision of this Chapter to any new development is declared to be invalid by a decision of any court of competent jurisdiction, the intent of the Mayor and Council is that such decision shall be limited only to the specific new development expressly involved in the controversy, action or proceeding in which such decision of invalidity was rendered. Such decision shall not affect, impair, or nullify this Chapter as a whole or the application of any provision of this Chapter to any other new development.  
(Ord. 480, passed 4-14-2009)

**CHAPTER 9**

**[RESERVED]**

**CHAPTER 10**  
**CODE VIOLATIONS**

**Article 1. Procedures**

Title 1. General Provisions

Section 10-1101. Definitions

In this Article, the following words, terms, phrases, and their derivations shall have the meanings indicated.

Misdemeanor. The violation of any ordinance, Code or state statute provision which has been deemed to be a criminal offense not amounting to a felony and which has not been specifically declared to be a municipal infraction.

Municipal Infraction. The violation of any ordinance or Code provision specifically declared to be punishable as a municipal infraction and not otherwise deemed to be a criminal offense under state or county law; a municipal infraction is a civil offense.

Section 10-1102. Misdemeanor Procedures

The violation of any City of Brunswick Code provision not specifically declared to be punishable as a municipal infraction may be evidenced by the issuance of a notice of violation as an alternative to arrest or the obtaining of a warrant for such violation. A police officer, or an authorized agent of the City witnessing a violation shall be authorized to issue such notice of violation to any person when that alternative would best meet the needs of justice and expediency under the circumstances; provided that the person shall be personally served by such officer or agent and that the person consents voluntarily in writing to accept such notice and to appear in court as provided herein.

- (A) The notice of violation shall contain and specify:
- (1) The violation with which such person is charged.
  - (2) The hour, date, and location of the court for the county in which such person will be summoned to appear.
  - (3) A place in which the person may endorse the notice by signing his name and address, indicating his receipt thereof and willingness to appear.

(B) If a person does not willingly consent to the issuance of the notice of violation the officer or agent may:

- (1) If the agent who has witnessed the violation is a police officer, proceed to arrest the person.
- (2) If the authorized agent is not a police officer, proceed to obtain an arrest warrant in the manner provided by law.

(C) The person serving the notice of violation shall make proof of his service to the court promptly and, in any event, within the time during which the person served must respond to the notice. Failure to make proof of service to the court, however, shall not affect the validity of the notice.

(D) A vehicle may be towed and stored or mechanically immobilized with a wheel boot device, if it is in violation of any of the following parking regulations:

- (1) Having received six (6) parking violations without payment or adjudication.
- (2) Parking an unauthorized vehicle in a handicapped space.
- (3) Parking in a fire lane.
- (4) Parking in a reserved space, as designated by the Mayor and Council.
- (5) Parking in the traveled portion of a roadway.
- (6) Parking in violation of Section 6-1201.
- (7) Parking in snow removal zone.

(E) The removal fee to the owner of a vehicle that has a wheel boot in place, will be thirty-five dollars (\$35.00), in addition to any parking fines. The owner shall have three (3) business days to pay outstanding parking fines in addition to the wheel booted fee. After three (3) business days, if the owner has not paid the wheel boot fee and all parking fines and made arrangements for release of the wheel boot, the vehicle will be towed with additional towing and storage fees.

(F) Attempts to remove or tamper with a wheel boot device on a vehicle after being installed, will cause the vehicle to be towed and impounded at the owner's expense.

(G) Any person(s) who tampers with or damages a wheel boot device will be held responsible for any and all damages to City property and may be charged criminally.

(H) The vehicle owner will be responsible for a six hundred dollar (\$600.00) replacement cost for any intentional damage to a wheel boot. This cost must be paid prior to the release of a wheel boot or release of towed vehicle.

(I) Upon the payment of the wheel boot fee the wheel boot will be released, and in the case of an impounded vehicle, a stored vehicle release authorization certificate will be issued.

(J) No vehicle impounded pursuant to this section shall be released until all fines have been

paid in full.  
(Ord. 471, passed 11-27-2007)

Section 10-1103. Abatement of Public Nuisances

If any person shall fail to abate any public nuisance condition after receipt of the City's notice to abate and within a reasonable time as may be specified in such notice, the condition may be abated by the City at the expense of the person named in such notice. Abatement by the City shall not bar the prosecution of the person responsible for the condition abated.

Title 2. Municipal Infraction Procedures

Section 10-1201. Declaration of Municipal Infractions

The City Council shall by ordinance declare the violation of which Code or Ordinance provisions shall be municipal infractions.

Section 10-1202. Issuance of Citation for Municipal Infractions

Those enforcement officials authorized by the Council to enforce City ordinances may deliver a citation to any person alleged to be committing a municipal infraction. The issuing officer shall file copies of any such citation at the headquarters of the police department and in the office of the City Administrator.

Citations issued under this ordinance shall contain the following information:

- (A) Name and address of the person charged.
- (B) The nature of the infraction.
- (C) The location and time that the infraction occurred.
- (D) The amount of the infraction fine assessed and the amount which shall be due upon failure to make timely payment.
- (E) The manner, location and time in which the fine may be paid to the municipality; and
- (F) The right of the accused to elect to stand trial for the municipal infraction.

(Ord. 473, passed 11-27-2007)

Section 10-1203. Payment of Fine

The fine is payable by the recipient of the citation to the City Administrator within twenty (20) calendar days of receipt of the citation.

(Ord. 473, passed 11-27-2007)

Section 10-1204. No Formal Hearing

The City shall not conduct any formal hearing for those persons in receipt of a citation for a municipal infraction. Any offender so cited may pay the fine as indicated in the citation or elect to stand trial for the offense. This provision shall not prevent an offender from requesting,

either personally or through an attorney, additional information concerning the municipal infraction.

Section 10-1205. Election to Stand Trial

A person who receives a citation for an infraction may elect to stand trial for the offense by giving notice to the City Clerk at least five (5) days prior to the date by which payment shall be required under the citation. Upon receipt of such notice the City Administrator shall forward to the District Court of Maryland for Frederick County a copy of the citation indicating the recipient's intention to stand trial.

(Ord. 473, passed 11-27-2007)

Section 10-1206. Failure to Pay Fine

(A) In the event that an individual, who is charged with a violation the fine for which is designated as Classes A through D in Section 10-2202 does not pay the fine set forth on the citation within twenty (20) days from the date of the citation; the fine shall be doubled, provided that any resulting fine which exceeds \$400.00 shall be waived. If the recipient of the citation has not made payment of the fine noted thereon within twenty (20) days from the date of the notice from the Police Department, the City may request adjudication of the case in the District Court of Maryland for Frederick County, which will thereupon schedule the trial and summon the recipient of the citation to appear.

(B) Upon failure of an individual to pay the fine noted on the citation of an offense which has a maximum fine of Classes E through G within thirty (30) days after the date noted on the citation, the Police Department shall "flag" the registration of the vehicle involved in the infraction by notifying the Motor Vehicle Administration of the non-payment of the fine in the case of an automobile registered in the State of Maryland. In the event that the vehicle involved in the citation is registered in a State other than Maryland, the Police Department shall immobilize or tow and store the vehicle at the owner's expense in accordance with Section 10-1102.

(Ord. 473, passed 11-27-2007)

Section 10-1207. Rights of Accused

In any proceeding for municipal infraction, the accused shall have the right to cross-examine witnesses, to testify or introduce evidence, and to be represented by an attorney of his own selection and at his own expense.

**Article 2. Penalties**

Title 1. General Provisions

Section 10-2101. General Misdemeanor Penalties

Unless otherwise specifically enumerated in this Code, any person found guilty of violating any provision of this Code for which violation is a "misdemeanor," as defined in Section 10-1101, shall be subject to a fine not to exceed \$1,000 and imprisonment not to exceed six months or both such fine and imprisonment for each offense.

Section 10-2102. General Municipal Infraction Penalties

The general penalty for commission of a municipal infraction shall be fifty dollars (\$50.00), unless another fine has been enumerated. In no event shall the fine actually imposed exceed three hundred dollars (\$300.00) for the first offense or six hundred dollars (\$600.00) for each repeat offense.

Section 10-2103. Continuing Violations

Each day a violation of this Code or any City Ordinance continues, shall, unless otherwise provided, constitute a separate or repeat offense.

Title 2. Enumerated Penalties

Section 10-2201. Enumerated Penalties for Misdemeanors

Any violation of the Code provisions listed in this Section shall constitute and be punishable as a misdemeanor and shall be subject to the maximum fine and/or jail term for the class of penalty specified. If a violation has not been declared a municipal infraction and the class of penalty is not specified in this Section, the general misdemeanor penalties at Section 10-2101 shall apply.

<u>SECTION</u>	<u>MISDEMEANOR PENALTY CLASS</u>
<u>2-3101 to 2-3404</u>	<u>A</u>
<u>5-1401 to 5-1407</u>	<u>C</u>
<u>6-1401</u>	<u>C</u>
<u>6-2201 to 6-2207</u>	<u>A</u>
<u>6-2301</u>	<u>A</u>
<u>6-2302</u>	<u>B</u>
<u>6-2303</u>	<u>C</u>
<u>6-2304</u>	<u>A</u>
<u>6-2306</u>	<u>C</u>
<u>6-2501</u>	<u>A</u>
<u>6-3101</u>	<u>C</u>
<u>6-3102</u>	<u>A</u>

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*Mayor and Council of Brunswick Code of Ordinances*

*Revisor's Note: All enumerated misdemeanor classes should be referenced to the Section number and inserted at this Section.*

Section 10-2202. Enumerated Penalties for Municipal Infractions

Any violation of the Code provisions listed in this Section shall constitute and be punishable as a municipal infraction and shall be subject to the maximum fine for the class of penalty specified for a first offense. If a violation has been declared a municipal infraction and the class of penalty is not specified in this section, the general municipal infraction penalties at Section 10-2102 shall apply.

MUNICIPAL INFRACTION  
PENALTY CLASS

SECTION

<u>3-1102 to 3-1104</u>	<u>C</u>	<b>[Section 3-1103 is included here as Class C]</b>
<u>3-1103</u>	<u>D</u>	<b>[Section 3-1103 is specified separately as Class D]</b>
<u>3-1105 to 3-1106</u>	<u>D</u>	
<u>3-1107 to 3-1109</u>	<u>C</u>	
<u>3-1110</u>	<u>F</u>	
<u>3-1201 to 3-1202</u>	<u>D</u>	
<u>3-1203 to 3-1205</u>	<u>D</u>	
<u>3-1207</u>	<u>D</u>	
<u>3-2104</u>	<u>C</u>	
<u>3-2201</u>	<u>A</u>	
<u>3-2202</u>	<u>C</u>	
<u>3-2204</u>	<u>B</u>	
<u>5-1103</u>	<u>D</u>	
<u>5-1106</u>	<u>D</u>	
<u>5-1107</u>	<u>B</u>	
<u>6-1301</u>	<u>D</u>	
<u>6-1302</u>	<u>D</u>	
<u>6-1402</u>	<u>D</u>	
<u>6-1403</u>	<u>D</u>	
<u>6-1404(A) and (B)</u>	<u>G</u>	
<u>6-1404(C)</u>	<u>E</u>	
<u>6-1404(D) and (J)</u>	<u>C</u>	
<u>6-1404(E) and (F)</u>	<u>D</u>	
<u>6-1404(G)</u>	<u>F</u>	
<u>6-1404(H) and (I)</u>	<u>E</u>	
<u>6-1405</u>	<u>D</u>	
<u>6-1406</u>	<u>D</u>	
<u>6-1408</u>	<u>E</u>	
<u>6-2305</u>	<u>D</u>	
<u>6-2401</u>	<u>D</u>	

(Ord. 473, passed 11-27-2007; Am. Ord. 488, passed 2-23-2010)

*Revisor's Note: All enumerated municipal infraction classes should be referenced to the Section number and inserted at this Section.*

Section 10-2203.      Maximum Fines

(A) The maximum fine and/or jail term for enumerated misdemeanors shall be:

	<u>MAXIMUM FINE</u>	<u>MAXIMUM JAIL TERM</u>
Class A Misdemeanors:	\$ 1,000	90 Days
Class B Misdemeanors:	\$ 300	
Class C Misdemeanors:	\$ 100	

(B) The maximum fine for enumerated municipal infractions shall be:

Class A Municipal Infractions:	\$ 300
Class B Municipal Infractions:	\$ 100
Class C Municipal Infractions:	\$ 50
Class D Municipal Infractions:	\$ 25
Class E Municipal Infractions:	\$ 10
Class F Municipal Infractions:	\$ 5
Class G Municipal Infractions:	\$ 5

If the person charged with a Class F or G municipal infraction fails to pay the fine within twenty-four (24) hours of the issuance of the citation, the fine shall be increased to ten dollars (\$10.00). If the person charged with a Class E, F, or G municipal infraction does not pay the fine within thirty (30) days after the payment date noted on the citation, the fine shall be increased to thirty-five dollars (\$35.00).

(Ord. 473, passed 11-27-2007)

# **APPENDIX A**

## **TEMPORARY DUMPSTER REQUEST PROCEDURES JANUARY 8, 2004**

### **BACKGROUND**

Temporary dumpsters are generally not permitted within the Public Ways of the City of Brunswick. However, in cases where either there is not sufficient area on the subject parcel, access prohibits truck entry, and reasonable alternatives for placement within the Public Ways has been exhausted, a request for placement of a Temporary Dumpster may be submitted to the City.

### **PROCEDURES**

The request with detailed information shall be submitted on or attached to the City of Brunswick Citizen's Concern Form to City Hall.

Required information:

1. Applicant name
2. Applicant address
3. Applicant phone number
4. Site address
5. Temporary Dumpster provider name
6. Temporary Dumpster provider address
7. Temporary Dumpster provider phone
8. Purpose of Temporary Dumpster
9. Requested location of Temporary Dumpster
10. Requested time period
11. Additional requests for use of Public Ways
12. Standard Approval Conditions to be noted in all requests:

\*Dumpsters shall not block Fire Hydrants

\*Dumpsters shall not be placed in Handicap Parking Spaces

\*Dumpsters shall not be placed within 15' of a corner, private driveway, and/or alley entrance (property owners are permitted to block their own private entrance with City approval)

\*Dumpsters shall be located as close to curb as possible and shall not extend into the travelway of a normal size passenger vehicle van

\*Dumpsters shall not impede the Sight Distance Standard for the classification of the Street of the proposed location

- Request will be routed to the Chief of Police, City Public Works and City Planning & Zoning for review and comment
- If granted, Temporary Dumpsters are not generally permitted on within the Public Way longer than thirty (30) days
- All required City Zoning Certificates and/or County Permits must be obtained in conjunction with the request prior to placement of the Temporary Dumpster
- Temporary blockage of any pedestrian way must included in the request and granted by the Chief of Police and City Public Works
- Applicant is liable for any damage to Public Improvements as determined by City Public Works
- Failure to comply with Conditions of Approval will result in Impoundment of the receptacle

# APPENDIX B

City of Brunswick  
Dept. of Public Works  
1 West Potomac Street  
Brunswick, MD 21716  
(301) 834-7500

DATE OF APPLICATION:

PERMIT NO: BR-UP-

## *Right-of-Way Obstruction Permit*

(Please Print)

Applicant or Company's Name:

Phone No:

Mailing Address:

Street/Alley Name:

Type of Utility Work:

---

THIS PERMIT EXPIRES 12 MONTHS FROM THE DATE OF APPROVAL ABOVE. SHOULD THE AFFECTED PUBLIC IMPROVEMENTS NOT BE PROPERLY INSTALLED BY THAT TIME ACCORDING TO THE STANDARDS OF THE CITY OF BRUNSWICK AT IT'S REASONABLE DISCRETION MAY DRAW UPON THE GUARANTEE OR REQUIRE A NEW PERMIT AND A NEW GUARANTEE. *UPON EXPIRATION, A FEE OF \$50.00 MAY BE SUBMITTED TO THIS OFFICE TO RENEW THE PERMIT FOR ONE YEAR FROM THE DATE OF RECEIPT OF THE FEE. PLEASE NOTE THAT A REINSPECTION FEE MAY BE CHARGED FOR EACH CONSECUTIVE INSPECTION AFTER THE FIRST.*

THE REQUIRED GUARANTEE SHALL REMAIN IN FULL FORCE AND EFFECT FOR ONE YEAR FROM DATE OF APPLICATION, OR UNTIL APPLICANT COMPLETES THE REQUIRED WORK IN ACCORDANCE WITH THE APPROVED PLANS. THE CITY OF BRUNSWICK RESERVES THE RIGHT TO DRAW FUNDS GUARANTEED IF NOT DONE IN ACCORDANCE WITH ABOVE TERMS.

THIS PERMIT IS BINDING ON THE APPLICANT AND THEIR HEIRS, SUCCESSORS OR ASSIGNS.

APPLICANT'S

SIGNATURE:

DATE:

NOTES:

1) ALL WORK MUST COMPLY WITH FREDERICK COUNTY CODE, SECTION 1-10. CONTACT FREDERICK COUNTY TECHNICAL SUPPORT (301) 694-1132 FOR ADDITION INFORMATION.

2) THE APPLICANT SHALL NOTIFY THE CITY DEPARTMENT OF PUBLIC WORKS (301) 834-6270 AT LEAST 24 HOURS PRIOR TO COMMENCING WORK AND FOR FINAL INSPECTION TO RELEASE OF THE MONETARY GUARANTEE.

CITY OF BRUNSWICK OFFICE USE ONLY BELOW THIS LINE

THE CITY OF BRUNSWICK HEREBY GRANTS YOUR COMPANY PERMISSION TO EXCAVATE ALONG AND/OR ACROSS THE ABOVE MENTIONED CITY RIGHT-OF-WAY IN ACCORDANCE WITH YOUR REQUEST. IT IS UNDERSTOOD THAT YOUR COMPANY WILL BE RESPONSIBLE FOR THE SAFE MAINTENANCE OF ALL TRAFFIC ALONG YOUR CONSTRUCTION PROJECT AND THAT THE CONSTRUCTION AREA WILL BE LEFT IN AS GOOD OR BETTER CONDITION AS IT IS FOUND AT PRESENT TIME. ANY PAVEMENT THAT IS DISTURBED DURING THIS OPERATION IS EXPECTED TO BE REPLACED, IN ACCORDANCE WITH THE SKETCH FOR MACADAM ROADWAYS, WHICH YOU OBTAINED AS PART OF THIS PERMIT. COMPLETE SPECIFICATIONS ARE AVAILABLE UPON REQUEST.

ALL DISTURBED SHOULDER SLOPES AND DITCHES MUST BE PUT BACK TO ORIGINAL GRADE.

THIS PERMIT IS GRANTED IN ACCORDANCE WITH THE CITY OF BRUNSWICK CHARTER, ARTICLE I,

**SECTION 16-3 AND ARTICLE X, SECTION 16-76.**

**DPW SIGNATURE:**

**DATE:**