

ARTICLE 5: GENERAL REQUIREMENTS

5.1 Conformance Required:

No property shall be used, and no building or structure or portion thereof shall be located, erected, constructed, reconstructed, extended, enlarged, converted or structurally altered, except in conformance with the regulations of this Zoning Ordinance.

The Board of Appeals may grant variances from the height, setback, lot width and lot area requirements of a zoning district or special exceptions from the permitted uses of a zoning district. Only those special exceptions specifically enumerated in each district will be considered by the Board of Appeals. Property owners or other interested parties may apply for a variance or special exception in accordance with the procedures set forth in Article 24 of this Ordinance.

5.2 Prohibited Buildings/Structures and Uses:

The following buildings, structures or uses are prohibited in all zoning districts:

- A. billboards;
- B. private or public shooting ranges; and
- C. junk and salvage yards, including those for the storage of wrecked, dismantled and abandoned motor vehicles and parts thereof, and for the storage and/or sale of other similar scrap materials.

5.3 Non-Conforming Uses:

A Non-Conforming use, as defined in Article 4, may continue to exist provided that there is no abandonment or discontinuance of the use beyond a period of one year. After one year of abandonment or discontinuance, the use will no longer be legally non-conforming, and shall not resume.

However, residential uses (dwellings) in the Open Space District, or in any commercial or industrial zoning district may be repaired or rebuilt in the event of a fire or other disaster notwithstanding discontinuance or abandonment. The right to rebuild will be limited to the property owner or heirs of the property owner and will terminate with the transfer of that property to another owner.

Commercial or industrial uses (building/structures) in the Open Space District may be repaired or rebuilt in the event of fire or other disaster within one year. After one year, the repair or reconstruction of a building/structure for a commercial use shall conform to the requirements of Article 8 of this Ordinance. After one year industrial uses shall not resume.

Should any other non-conforming use be destroyed by fire or other disaster to the extent that its worth is equal to or less than twenty-five percent (25%) of its market value previous to the disaster, the right to continue or resume as legal and non-conforming shall terminate. The burden of proving the value of the property shall be on the applicant/property owner.

Substitution: The substitution of one non-conforming use for another and/or the expansion of any principal or accessory building or structure containing any non-conforming use will be permitted with Board of Appeals approval only, in accordance with the provisions of Section 24.3D.

Temporary Use: The casual, temporary or illegal use of land, buildings, or structures does not establish the existence of a legal non-conforming use.

The burden of proof shall be upon the applicant/property owner seeking non-conforming use recognition to prove that such use was legally established and has not been discontinued or abandoned for a period of one year.

(Ord. 417)

5.4 Non-Conforming Principal Buildings and Structures:

A legal non-conforming principal building or structure, as defined in Article 4, may, in the event of fire or other disaster, be rebuilt in the same location and to the original dimensions of the building or structure, but shall not increase the original non-conformity and shall meet all other requirements.

Additions to or expansions of non-conforming principal buildings and structures must conform, at minimum, to the modified setback requirements as stated in Section 21.3, as applicable, except as provided for in Section 24.3(F).

(Ord. 444)

5.5 Non-Conforming Accessory Buildings/Structures and Architectural Features:

A legal non-conforming accessory building/structure or architectural feature, as defined in Article 4, may continue to exist, provided that the accessory building or structure or architectural feature, if removed or destroyed for any reason, is rebuilt within one (1) year in the same location and to the original dimensions.

5.6 Unsafe Buildings:

Nothing in this Ordinance shall prevent the strengthening or maintenance to a safe condition of any part of any building or structure declared unsafe by a proper authority so long as such action does not conflict with the requirements of Section 5.3, 5.4 or 5.5.

5.7 Road Frontage Required:

A Zoning Certificate for the construction of a new principal building/structure or use shall not be approved unless the property has minimum ten feet (10') of frontage on an existing paved public road or a future public road that has been approved by the Planning Commission for construction and acceptance into the City's Public Street and Alley System. For the purposes of this section,

paved shall be defined as bituminous concrete or asphalt. Also for the purposes of this section, alleys shall not be considered a public road. The Mayor and Council shall have the authority to waive this requirement following review and comment by the Planning Commission, City Engineer and planning staff. In granting any waiver, the Mayor & Council shall consider the following:

- A. the distance of the property to a paved public street section;
- B. accessibility of the property to emergency vehicles;
- C. availability of municipal services such as street lighting, water and sewer service, trash collection, and others;
- D. physical characteristics of the property, such as steepness, and the potential for future public street construction; and
- E. the Brunswick Master Plan.

All decisions shall be made in public session at a regular City of Brunswick Mayor and Council meeting.

(Ord. 417)

5.8 Accessory Buildings/Structures:

- A. Accessory buildings/structures, as defined in Article 4, shall not be permitted in the front yard and shall be set back at least six feet (6') from lot lines and from any other buildings or structures. Sheds without foundations up to 200 square feet may be placed within one foot (1') of the lot line if it does not adversely affect drainage and utilities within six feet (6') of the lot line, as determined by the Zoning Administrator.
- B. Accessory buildings/structures may be erected as a part of the principal buildings/structure by use of a common wall, or, if at least six feet (6') therefrom, may be connected thereto by a breezeway or similar structure, provided that all setback requirements for the principal building/structure are complied with.
- C. In any zoning district, any accessory building/structure on a corner lot shall be set back from all abutting streets a distance equal to the front yard setback requirement of the zoning district in which it is located.
- D. In any natural resource or residential zoning district, when a corner lot joins in the rear a lot that fronts on the side street of the corner lot, any accessory building/structure on the corner lot shall be setback from the rear common lot line a distance equal to the side yard setback of the zoning district in which it is located.
- E. Accessory structures/buildings shall be no more than one story, or eighteen feet (18') in height, except as provided in Section 21.3 C.

- F. In accordance with Section 21.12, Solar Collection System located on principal or accessory structure(s) are permitted in any zoning district.
- G. Solar arrays will be considered accessory structures, permitted in accordance with Section 21.13.

(Ord. 417, 487)

5.9 Traffic Visibility Across Corner Lots:

On any corner lot in any district, no fence, structure or planting shall be erected or maintained greater than three feet (3') above street grade within twenty feet (20') of the intersection of the edges of the road pavement.

5.10 Fences:

Fences may be constructed on any lot in any zoning district, and may project into the required setback to the lot lines, provided they conform to the requirements of Section 5.9 (if applicable).

- A. In any residential or natural resource district, no fence shall exceed six feet (6') in height, and no fence more than four feet (4') in height may project into the front yard beyond the front facade of the principal building.
- B. In any commercial or industrial district, no fence shall exceed twelve feet (12') in height.

5.11 Home Occupations and Resident Professional Offices:

Home occupations and resident professional offices, as defined in Article 4, are permitted in any zoning district in which residential uses are permitted, provided that:

- A. equipment used does not emit uncomfortable or harmful amounts of noise, vibration, heat, glare, smoke, odor, or other obnoxious elements;
- B. there is no exterior evidence that the property is used for anything other than the principal residential use of the dwelling, except for the display of a permitted sign, which does not exceed two square feet and does not project more than one foot beyond the dwelling;
- C. no more than twenty-five percent (25%) of the living area (as defined in Article 4) of the dwelling is utilized for the operation of a home occupation, or no more than thirty percent (30%) is utilized for the operation of a resident professional office. If more than one (1) home occupation or resident professional office is conducted on the property, the combination of the two uses may not exceed forty percent (40%) of the total living area of the dwelling;

- D. tenants obtain written permission from the property owner to conduct a home occupation/resident professional office on the premises;
- E. the Zoning Administrator or authorized agent has determined that the proposed home occupation/resident professional office complies with all of the requirements of one of the two following permitted uses:
 - 1. No-Impact Home Occupations:
 - a. a Maryland Trader's License is not required to conduct the business;
 - b. no customers are expected to visit the dwelling;
 - c. only the applicant will be employed on the premises by the home occupation;
 - d. deliveries to the dwelling will be limited to dual-axle vehicles which customarily deliver to residential areas; and
 - e. there will be no significant increase in traffic in the neighborhood directly attributable to the home occupation.
 - 2. Minor-Impact Home Occupations/Resident Professional Offices:
 - a. the home occupation may require a Trader's License (merchandise will be bought, sold or inventoried);
 - b. only the applicant and family members who reside in the dwelling will be employed on the premises by the home occupation.
Resident professional offices will employ on the premises only the applicant, family members who reside in the dwelling, and no more than one (1) non-resident;
 - c. deliveries to the dwelling will be limited to dual-axle vehicles, which customarily deliver to residential areas;
 - d. only one customer will be expected to visit the property at any given time on a routine basis;
 - e. a minimum of two (2) off-street parking spaces are provided;
 - f. additional off-street parking spaces will be established in the side or rear yard only; and
 - g. there will be little significant increase in the neighborhood traffic directly attributable to the home occupation/resident professional office.
- F. The following uses shall not be permitted as home occupations:

1. auto repair;
2. boarding and rooming houses, bed and breakfasts, tourist homes, hotels and motels;
3. private educational institutions; and
4. commercial child care centers, as defined and regulated by the Maryland Department of Human Resources Child Care Administration.

5.12 Planning Commission Site Plan Review:

A. Generally

1. Sound future development of the City requires that most development receive site plan review and approval by the Planning Commission, for the purpose of evaluating the merits of each proposal. No Zoning Certificate and/or building permit, as described in Section 6.2, will be issued, and no structure or use will be established except in conformity with the required site plan as approved by the Planning Commission. Applicable submission fees shall be as established by resolution of the Mayor and Council. (Amended Ord. 03- 07) The following are the types of site plans required for each type of development:
 - a. Non-Residential Site Plan: Required for any proposed construction for the purpose of establishing a commercial, industrial, mixed use or other non-residential use in any district in which such use is permitted, or for modifications, alterations, or improvements (as described in Section 6.2) to commercial, industrial or other non-residential sites.
 - b. Residential Site Plan: Required for the proposed development and/or construction of any Multiple-Family Dwelling or the development of two (2) or more Single-Family Dwellings or Duplex Dwelling units on adjacent or adjoining lots of record by a single builder/developer. If the development of the second or subsequent adjacent or adjoining lot occurs within one year of the start of the construction on the first or previous lots, the builder/developer shall submit a Residential Site Plan which includes information regarding the first or previous lot(s) as well as those lots which are proposed for development (BR-TA-99-1 passed 1/12/99). The intent of this requirement is to allow for Planning Commission review of significant residential development when no subdivision of land occurs.
2. Notwithstanding any other provision of this Zoning Ordinance, no Zoning Certificate and/or building permit will be issued, and no structure or use will be established except in conformity with a final site plan and a final site development plan (as defined in the Subdivision Regulations) approved by the Planning Commission, or their authorized representatives. (Ord. 448)

3. After a site plan has been approved by the Planning Commission and construction of the development has been completed in accordance with the site plan, a change in use which does not affect the design of the development and which requires no new construction other than minor remodeling or changing of permitted signs, will not require an additional site plan review by the Planning Commission. The Zoning Administrator may process minor changes. However, he will, in his discretion, refer any proposed changes to the Planning Commission for approval.

B. Procedures

1. Each application requiring site plan approval, together with the required fee and information described below, shall be submitted to the Planning and Zoning Office at least 60 days prior to a regularly scheduled Planning Commission meeting. The site plan may be scheduled for a Technical Advisory Committee (TAC) meeting, as described in the Subdivision Regulations, for review by agency representatives and representatives of the applicant. The applicant may also file for a Zoning Certificate with the City's Planning and Zoning Office before receiving site plan approval, however, such Zoning Certificate shall not be issued except as provided herein.
 - a. The applicant shall place a sign advertising the Planning Commission Site Plan Hearing within 10 feet of each property line which abuts a public road. If the property does not abut a public road, a sign shall be placed in such a manner so that it may be most readily seen by the public.
 - i. The Zoning Administrator shall provide the required sign(s).
 - ii. The sign(s) shall be placed on the property at least 30 days prior to the Planning Commission meeting at which the site plan is to be considered.
 - iii. The sign(s) shall be affixed to a rigid board and maintained in visible and legible condition at all times by the applicant until the initial hearing is held. Failure by the applicant to maintain the sign may cause a continuance of the Planning Commission Meeting.
 - iv. The applicant shall file a notarized affidavit certifying that the required signage has been posted.
 - b. If any person removes or tampers with a posted sign during the above 30 day posting period, that person, upon conviction, shall be guilty of a misdemeanor.
2. Approval of a site plan submitted under the provisions of this Section shall expire 2 years after the date of the Planning Commission action approving the site plan at a public meeting unless construction has begun. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date, and for good cause shown by the applicant, a 1-time extension for a period not to exceed 6 months may be granted by the Zoning Administrator. However, the length of site

plan approval, or extension thereof, may not exceed the length of the approval under the Adequate Public Facilities Ordinance (APFO) if APFO approval is required.

- a. Approval of a site plan at the Planning Commission Public Meeting shall only constitute “conditional” and not final site plan approval. Final site plan approval only occurs when all conditions imposed by the Planning Commission on the site plan at the public meeting are satisfied, and the site development plan with all required public works agreements, easements, cost estimates, and financial sureties have been approved by the Planning Commission. (Ord. 448)
3. Site plans may be prepared and submitted by an applicant. It may be required by the Planning and Zoning Office that such site plan, if found deficient, incomplete, or in error, is resubmitted with the certification of any engineer, architect, landscape architect, land surveyor, or other certified professional.
4. Site plans will be prepared to a scale of not smaller than one inch equals one-hundred feet (1"=100'), unless approved by the Zoning Administrator or authorized agent; each sheet shall be no less than eighteen inches (18") by twenty inches (20"), nor more than twenty-four inches (24") by thirty-six inches (36"), including a one-and-one-half inch (1 1/2") margin for binding along the left edge. A site plan may be prepared on one or more sheets. If more than one sheet is used, match lines and an index sheet must be provided.
5. Any changes to approved site plans prior to construction must be submitted for review by the Planning and Zoning Office. If found to be significant, such changes will be submitted for Planning Commission review at a public meeting.
6. Site Plans will require the following information (as applicable):
 - a. A vicinity map at a scale of one inch equals two thousand feet (1"=2,000') or more to the inch, indicating the location of the property with respect to surrounding property and streets. The map will show all streets and highways and other rights-of-way and zoning within two-thousand feet (2000') of the applicant=s property.
 - b. A plan of the Applicant=s entire holding, showing all boundaries, bearings, distances, permanent monuments and pipe markers, and including the following information:
 - i. The actual shape and dimensions of the lot or lots to be built upon, based on a survey of the property, including front, rear, and side building restriction lines.
 - ii. Tax map, parcel, lot numbers, and deed and plat references for all properties shown on plan.
 - iii. Topographic information for the property at a minimum of two foot (2') contour intervals, unless otherwise specified. Site plans

submitted for proposed development in the Open Space District shall show contours at two foot (2') intervals, extending twenty-five feet (25') beyond the property boundaries, and highlighting sloped areas in the range of 15 to 35 percent (15% - 35%) and those over 35 percent (35%).

- iv. The existing and proposed land surface, including the location of any impervious surface areas, and natural features such as streams, rock outcrops, and wooded areas, and the types of soil found on the property.
- v. All existing and proposed improvements including the location, proposed use, and height of all buildings, the location of sidewalks, curbs and gutters, the location of any outdoor storage areas, and dumpsters, the location and type of any recreational facilities, the location of all proposed grading, the location and design of outdoor lighting facilities, the location, size and type of all signs, the location, size and type of all proposed storm water management facilities, the location and size of or plan for extension of sewer and water lines (including manholes and/or blow-offs), the location of all overhead and underground utilities, and the location of all parking and truck loading areas and access and egress drives thereto, and the location of any landscaping and screening or buffering techniques.
- c. An area summary table listing the total areas of the lot, the footprint of the building/structure, its height, the area designated for roads and parking, and the floor area of the building/structure for each lot and for each type of proposed use.

In addition, proposed development in the Open Space District requires an area summary table as follows:

<u>Land</u>	<u>Square feet</u>	<u>Acres</u>	<u>Percentage of Total</u>
Disturbed			
Undisturbed			
Total			

- d. The specific uses proposed and the number of employees and hours of operation or the number of dwelling units for which the building is designed.
- e. Industrial uses shall show the type of power to be used for any manufacturing processes, the type of wastes or by-products produced by processing, and the proposed method of disposal of such wastes or by-products. Additionally, the Planning Commission may require an engineer's

certification that the proposed industrial use complies with all applicable Performance Standards, as stated in Section 18.6.

- f. A statement as to the ownership and maintenance of any common areas shall be included in the site plan to ensure the preservation of such areas, property and facilities for their intended purposes.
 - g. Other information may be required by the Planning Commission to determine the impact of a particular use on adjoining properties, such as architect=s renderings of a proposed building (to ensure that the appearance of the building is in conformity with that of the surrounding neighborhood and the purpose and intent of the zoning district in which it is proposed to be located).
 - h. A signature box for the Chairman of the Planning Commission.
- 7.
- a. Soil type(s) information shall be provided and appropriate boundaries shown. In the event “wet soils” are located on or within 100 feet of any proposed Residential Site Plan, then a soils delineation report shall be prepared by a soils scientist or professional engineer registered in the State of Maryland. The Planning Commission may waive this requirement if the “wet soils” are located within open space areas. The soils report shall be submitted for review by the Soil Conservation District (SCD) prior to Planning Commission approval of the site plan, unless such a report was completed earlier within the development review process.
 - b. If residential structure(s) with basements are proposed within “wet soils” a geotechnical report is required to be submitted by a professional engineer registered in the State of Maryland. A note shall be placed on the site plan that all construction shall be in accordance with the findings of the geotechnical report.

C. Specific Standards and Conditions

The following specific standards must be complied with and included in all site plans, as applicable:

1. Lighting. Lighting emitting objectionable glare observable from surrounding properties or streets will be directed and shielded.
2. Public utilities. The Frederick County Health Department shall certify that the proposed water and sewage facilities are adequate to service the proposed development.
3. Screening. The Planning Commission may require screening along the property line and around and within the parking areas. Minimum standards are: planting strips will be no less than 5 feet wide, planted with shrubs or trees, which are of a

type and spaced at intervals which may be expected to form a year-round dense screen at least 6 feet high within 3 years; and opaque fencing may be used in lieu of trees and shrubs, subject to approval of the Planning Commission.

4. Common areas. If the plan of development includes common areas, property, and/or facilities, the Planning Commission as a condition of approval shall establish such conditions on the ownership, use, and maintenance of such lands or property as it deems necessary to ensure the preservation of such areas, property, and facilities for their intended purposes.
5. Public or private infrastructure improvements required as part of Site Plan shall be required to adhere to the requirements of the Subdivision Regulations, Article 2, Section 2.3 (Improvement Plans) and 2.5 (Completion of Guarantee of Improvement); the Design Manual, Article 4 hereof; and all applicable City Policies and Procedures for Infrastructure improvements, as amended from time to time.

(Ord. 417)

5.13 General Commercial, Highway Service and Industrial Districts:

The following provisions shall be applicable in General Commercial, Highway Service and Industrial Districts.

- A. Access requirements. One combined entrance/exit is permitted for each 200 feet of public road frontage. Access to corner lots will be at least 100 feet from intersecting public street rights-of-way. Entrances to individual lots or a frontage road will be a minimum of 200 feet apart, except when developing on the circumference at the end of a cul-de-sac, then entrances may be less than 200 feet apart; however, combined entrances with adjoining properties shall be provided to limit the number of access points and give the maximum separation possible.
- B. Vehicle and pedestrian circulation. A plan for the internal circulation of vehicles and pedestrians will be reviewed and approved by the Planning Commission as part of the site plan application.
- C. Signs. Square footage may be increased by 25% if no free-standing or pylon-type signs are used.
- D. Storage of flammable liquids in excess of 60,000 gallons in the General Commercial and Highway Service districts requires a special exception approval of the Board of Appeals. The placement of storage containers for flammable liquids in excess of 60,000 gallons shall comply with the setback requirements of Article 18, Section 18.6, and Article 19, Section 19.6.

(Ord. 417)