



CITY OF
Brunswick MARYLAND
"BIG TOWN, SMALL CITY"

ZONING ORDINANCE

REVISED 2022
CITY OF BRUNSWICK
Planning and Zoning Department

City of Brunswick, Maryland

ZONING ORDINANCE

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ARTICLE 1: PURPOSE

The purpose of this Ordinance is to promote public health and general welfare, to secure safety from fire, panic, and other dangers, to lessen congestion in the streets, to provide adequate light and air, to prevent the overcrowding of land, to conserve the value of property, and to facilitate adequate provision of schools, water, sewerage, circulation, and other public requirements, according to policies outlined in the Brunswick Master Plan.

ARTICLE 2: JURISDICTION

This Ordinance shall apply to all incorporated territory of the City of Brunswick, within which its powers may be exercised, excluding properties and structures owned by the United States Government and/or by the State of Maryland.

ARTICLE 3: INTERPRETATION OF STANDARDS

In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements. Wherever the requirements of this Ordinance impose a greater restriction than is imposed or required by other provisions of law or by other rules, regulations or ordinance, or by private restrictions, the provisions of this Ordinance shall govern.

ARTICLE 4: DEFINITIONS

Accessory Use: A use of a building, structure or lot (or portion thereof), which is customarily incidental and subordinate to the principal use of the principal building, structure, or lot.

Accessory Building/Structure: A building or structure located on the same lot as a principal building/structure, which is subordinate to (and the use of which is clearly incidental to) that of the principal building/structure or to the use of the land, and which is not attached by any part of a common wall or common roof to the principal building/structure.

Adaptive Reuse: Rehabilitation or renovation of existing obsolescent or historic structure(s) from their original or most recent use to a new use.

Addition Plat: A plat, certified as correct by a land surveyor licensed in the State of Maryland, prepared in accordance with the applicable State of Maryland Minimum Standards of Practice for Professional Land Surveyors and Property Line Surveyors, which meets the platting requirements of the Brunswick Subdivision Regulations while depicting the addition of one or more lots, parcels, or portions thereof, to another, including but not limited to the elimination of one or more common lot lines between two or more lots owned by a single property owner, for the purpose of establishing a single lot to be recorded in the land records of Frederick County, Maryland.

Adult Day Care Home: Any agency, institution, or establishment that provides care for senior citizens, including medical attention, for up to ten (10) hours per day. (Adult Day Care Homes are not regulated by this Ordinance.)

Affordability: The extent to which enough rental housing units of different costs can provide each renter household with a unit it can afford (based on the 60-percent or less of the Frederick County area median income standard.

Age-Restricted Community (ARC): A development or portion thereof which has been designated as an age-restricted community in accordance with Section 21.15 of the Zoning Ordinance.

Agriculture: The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, fish culture, and animal husbandry; provided that such uses do not include the business of garbage feeding of hogs, fur farms, or the raising of animals for use in medical or other tests or experiments.

Alley: A right-of-way, which provides secondary service access for vehicles to the side or rear of abutting properties.

Amend or Amendment: Any new regulation or repeal, modification or addition to an existing regulation, including any change in the number, shape, boundary or area of a zoning district or repeal or abolition of any map, part thereof, or addition thereto.

Animal Boarding Place: Any property used, designed, or arranged for the boarding, breeding, or care of dogs, cats, or other domestic animals and pets for profit, but not including animals raised for agricultural purposes.

Architectural Feature: Any cornice, canopy, eave, fire escape, unenclosed porch, portico, patio, stoop, terrace, veranda, balcony, bay window, dormer window or other projection. Architectural features are regulated according to the requirements of Section 21.3 D.

Automobile Filling and Service Station: A property used for the retail sales of motor vehicle fuels, oils and accessories, where repair service is incidental, where no storage or parking space is offered for rent, and where no junk autos or other vehicles are parked or otherwise stored on the premises. **Automobile Garage, Private:** An accessory building or portion of a principal building designed, arranged, or used for the housing of private motor vehicles, only one of which may be a commercial vehicle.

Automobile Parking Lot, Commercial: A lot or portion thereof, other than an automobile sales lot, used for the storage or parking of six or more motor vehicles for a consideration, where service or repair facilities are not permitted. Such parking lots shall not be considered an accessory use; nor shall it be used for the storage of dismantled or wrecked motor vehicles, parts thereof, or junk.

Automobile Repair or Service Shop: Any property used for the purpose of general motor vehicle repair and service, including major automobile repair and/or body work and the sale of fuels, oils, and parts and accessories. Junk/salvage yards and/or auto wrecking businesses are not considered automobile repair or service shops.

Automobile Sales and Service Center: A property used for the sales and complete servicing of new or used automobiles. Junk/salvage yards and/or auto wrecking businesses are not considered automobile sales and service centers.

Automobile Sales Lot: A property used for the storage and display for sale of new or used motor vehicles or trailers, where no repair work is done except minor incidental repair of those automobiles or trailers displayed and sold on the premises. Junk/salvage yards and/or auto wrecking businesses are not considered automobile sales lots.

Basement: That portion of a building below the first floor joists at least half of whose clear ceiling height is above the average level of the adjacent ground.

Bed & Breakfast: A dwelling in which, for compensation, lodging and meals are furnished for up to nine guests. A Bed & Breakfast shall not be deemed a home occupation.

Billboard: A sign that is not necessarily related to the other uses permitted on the premises upon which it is located. Billboards are not permitted in any zoning district.

Block: That property abutting one side of a street and lying between the two nearest intersecting or intercepting streets or the nearest intersecting or intercepting street and railroad right-of-way, unsubdivided acreage, river or live stream or between any of the foregoing and any other barrier to the continuity of development.

Board: The Brunswick Board of Appeals.

Boardinghouse: A dwelling in which, for compensation, lodging and/or meals, are furnished for up to nine guests. A boardinghouse shall not be deemed a home occupation.

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 Height: The height of any building/structure as measured from the average finished grade ground level along the side of the building nearest the street to the highest point of the roof or any architectural feature extending above the roofline. Building height restrictions are listed in each zoning district text.

Building Restriction Line: A line beyond which the foundation wall of any building or structure or portion thereof shall not project, as determined by the setback requirements of each particular zoning district. No building/structure or portion thereof shall project beyond the building restriction line, with the exception of architectural features as defined in this Article, and as regulated in Section 21.3D. The building restriction line for any accessory structure will be in accordance with the setback requirements of Section 5.8.

Bus Terminal: A property in which buses may be dispatched, parked, serviced, repaired and stored. Passenger boarding, disembarking or transfers may occur on site. Unregistered buses or buses which are not in running condition may not be stored on site.

Business Office: Rooms and/or buildings used for office or administrative purposes only, such as insurance, real estate, etc., but not including retail sales, repair, workshops, manufacturing facilities, warehouse and storage facilities, or laboratories.

Cellar: That portion of a building below the first floor joists at least half of whose clear ceiling height is below the average level of the adjacent ground. A cellar shall not be used for habitation.

Cemetery: A property used for the permanent interment of dead human bodies or the cremated remains thereof. It may be either a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments, or a combination of one or more thereof.

Child Care Center: An agency, institution, or establishment that, for part or all of a day, or on a 24-hour basis on a regular schedule, and at least twice a week, offers or provides child care to children who do not have the same parentage except as otherwise provided for in law or regulation, including a nonpublic nursery school in which an instructional program is offered or provided for children who are under the age of five (5), in accordance with the Maryland Department of Human Resources Child Care Administration regulations. A child care center shall not be deemed a home occupation.

Commission: The Brunswick Planning Commission.

Communication Tower: A structure intended to facilitate communication, such as paging, cellular, microwave, broadcast television, and radio. Communication towers exceeding two hundred feet (200') in height (as measured from the ground to the highest point of the structure), must comply with all applicable state and federal regulations.

Council: The Mayor & Council of Brunswick.

County: Frederick County, Maryland.

Correction Plat: A plat, certified as correct by a land surveyor licensed in the State of Maryland, prepared in accordance with the applicable State of Maryland Minimum Standards of Practice for Professional Land Surveyors and Property Line Surveyors, which depicts a change or changes to be made to a previously recorded plat, as long as no new (as in reconfigured) or additional lots are created, and which is submitted to the Planning Commission for review under the Subdivision Regulations and is recorded in the land records of Frederick County, Maryland.

Development: Any activity, other than agricultural activity, which materially affects the existing condition or use of any land or structure.

Developer: An individual, partnership or corporation (or agent thereof) that undertakes the responsibility for any or all of the activities covered by this Ordinance, particularly the designing of a subdivision or development plan or plat showing the layout of the land and the public improvements involved therein. Inasmuch as the subdivision plat is merely a necessary means to an end of assuring a satisfactory development, the term "developer" is intended to include the term "subdivider", even though the personnel involved in successive stages of the project may vary.

Domiciliary Care/Assisted Living Facility: Any agency, institution, or establishment that provides living facilities for senior citizens, including furniture, three meals per day, and medical attention.

Dwelling: A building or portion thereof arranged or designed to provide living facilities, but not including a tent, tourist cabin, trailer, motor vehicle, or a room in a motel or hotel.

Dwelling, Attached: A building designed to provide living facilities for more than one family, with individual units separated by a common wall.

Dwelling, Detached: A building designed to provide living facilities for one family entirely separated from any other building or structure by space on all sides.

Dwelling, Duplex: Two attached dwelling units arranged or designed to be located on abutting and separate lots and separated from each other by a continuous vertical party wall, without openings from the lowest level to the highest point of the roof, which lies along the dividing lot line. Such dwellings are separated from any other structure by yards on all other sides.

Dwelling, Multiple-Family: A building or portion thereof containing three or more dwelling units. For example, an apartment house.

Dwelling, Single-Family: A building containing not more than one dwelling unit.

Dwelling, Two-Family: A building containing not more than two dwelling units, arranged one above the other or side-by-side and located on one lot.

Dwelling Unit: A room or group of rooms forming a single residential unit with facilities for living, sleeping and cooking purposes which are exclusively used for the family living therein.

Educational Institution, Private: Any private school or educational or training institution however designated, which offers a program of college, professional, preparatory, high school, junior high school, elementary, kindergarten or nursery school instruction, or any combination thereof, or any other program of trade, technical, or artistic instruction, but not including any educational institution of Frederick County Public Schools. Private educational institutions shall not be deemed home occupations.

Entertainment Activities: A public presentation (live or synthetic) is an accessory use to a restaurant in the B-2 Zoning District, that includes theater, dancing, musical performances and other substantially similar activities. (Ord. 416)

Essential Services and Facilities: Services and the associated facilities which are necessary for the provision of those services by public utility companies, state and local governments, or other parties, which include electrical, gas, communication, steam, water, sewer, etc., or for the protection of public health, safety, or general welfare. Facilities included are: poles, cross arms, guy wires, towers, repeaters, boosters, switches, transformers, substations, regulators, pumps, mains, drains, sewers, pipes, lines, conduits, wire cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar accessories and equipment used in connection with and constituting integral parts of such services and reasonably necessary for the provision of those services. Facilities not included are buildings, yards or stations used for the storage, repair or processing of equipment or material. Essential services and associated facilities are subject to the requirements of Section 21.1.

Fair Housing Act: 42 United States Code, Section 3607 et seq., as amended.

Family: An individual or two or more persons related by blood or marriage, or a group of not more than five persons (excluding servants) not related by blood or marriage, living together as a single housekeeping group in a dwelling unit.

Family Day Care Home: A residence in which family day care is provided in accordance with the Maryland Department of Human Resources Child Care Administration regulations. (Family day care homes are not regulated under this Ordinance.)

Farm: A parcel of land not less than five (5) acres in size used for agriculture as defined hereinabove.

First floor: That portion of a building which is between the first floor joists and the second floor joists or ceiling, and which is nearly entirely above the average level of the adjacent ground.

Flood: General and temporary conditions of partial or complete inundation of normally dry land areas from overflow of inland or tidal waters, or rapid unusual accumulation of runoff from any source.

Floodplain: That land typically adjacent to a body of water with ground surface elevations that are inundated by the base flood.

Floodway: The channel and adjacent land area required to discharge the waters of the 100-year flood of a watercourse without increasing the water surface elevations more than a specified height.

Floor Area of a Building, Gross: The total number of square feet of floor area in a building, excluding cellars, uncovered steps, and uncovered porches; but including the total floor area of accessory buildings on the same lot. All horizontal measurements shall be made between interior faces of walls.

Frontage: The length of the front property line of the lot, lots, or a tract of land abutting a public street, road or highway.

Group Home: A dwelling owned or leased by a governmental or non-profit organization and used to house a group of persons not necessarily related by blood. A staff is employed and used as counselors, house parents, or caregivers. A parent agency or institution has administrative, supervisory and service responsibility for the group home. (Group homes are not regulated under this Ordinance.)

Home Occupation: The non-residential use of a dwelling that is accessory to its principal residential use and is conducted by a resident of that dwelling in conformance with the requirements established in Section 5.11 of this Ordinance.

Home Owners Association: An incorporated, non-profit organization operating under recorded land agreements through which (a) each lot and/or home owner in a planned unit development or other described land area is automatically a member and (b) each lot is automatically subject to a

fee for a proportionate share of the expenses for the organization's activities, such as maintaining a common property, and the fee, if unpaid, becomes a lien against the property.

Hospital: Any institution rendering medical or surgical care on an in- and out-patient basis, including general hospitals and institutions of specialized medicine. The term "hospital" shall also include in-patient treatment facilities for the mentally and physically impaired, including those for treatment of drug and/or alcohol addictions.

Hotel: Any building containing ten (10) or more guest rooms, where, for compensation, lodging and/or meals are provided for ten or more guests, excluding fraternity and sorority houses, school or college dormitories, tourist homes, and motels. Hotels shall not be considered home occupations.

Housing For Older Persons: Housing intended for, and occupied by, older persons in accordance with the provisions of § 3607(b) (2), of the Fair Housing Act.

Industrial Park: A tract of land intended for industrial use, and subdivided and developed for occupancy by a group of industrial businesses.

Junk Yard: Any property used for the abandonment, storage, keeping, collecting, or bailing of paper, rags, scrap metal, other scrap or discarded materials, or for the abandonment, demolition, dismantling, storage or salvaging of automobiles or other vehicles not in running condition, machinery, or parts thereof.

Living Area: The square footage of the interior area of a dwelling that is used as living space. Unfinished basements and cellars, attics, garages, and accessory structures are not considered living area.

Lot: A contiguous area or parcel of land separated from other areas of land by separate description (including a recorded deed, a subdivision plat or record of survey map, or by metes and bounds) for purpose of sale, lease, transfer of ownership or separate use.

Lot Area, Net: The total area of a lot, excluding public rights-of-way.

Lot, Corner: A lot abutting two or more rights-of-way (excluding alleys) at their intersection, whereas the interior angle of the intersection does not exceed one hundred thirty-five (135) degrees.

Lot, Depth of: The average horizontal distance between the front lot line and the rear lot line.

Lot Line, Front: The street line running along the front of the lot separating it from the street. In a through lot, both lines abutting the street shall be deemed to be "front lot lines".

Lot Line, Rear: The lot line or lines generally opposite or parallel to the front lot line, except in a through lot. If the rear lot line is less than ten feet (10') long or the lot comes to a point at the rear, the rear lot line is assumed to be a line not less than ten feet (10') long, lying wholly within the lot, parallel to the front lot line, or in the case of a curved front lot line, parallel to the chord of the arc of the front lot line.

Lot Line, Side: Any lot line other than a front lot line or a rear lot line.

Lot of Record: Any lot legally and officially recorded prior to the adoption of this Ordinance (October 1967), which may or may not conform to the area or width requirements of the zoning district in which it is located, and is subject to modified front, side, and rear yard setback requirements, as stated in Section 21.3.

Lot, Outlot: A parcel of land which is shown on a recorded plat but which is not to be occupied by a building or otherwise considered as a buildable lot within the meaning of this Ordinance. No building permit shall be issued on any land so designated.

Lot Width, Minimum, at Building Restriction Line: The least permissible width of a lot, measured horizontally along the front building restriction line (setback).

Lot, Through: An interior lot, fronting on two parallel or approximately parallel streets.

Master Plan: The policies, statements, goals, and interrelated plans for private and public land use, transportation, and community facilities documented in texts and maps which constitute the guide for the City's future development, as adopted and maintained in accordance with Article 66B of the Annotated Code of Maryland.

Medical or Dental Clinic: Any building or group of buildings occupied by medical practitioners and related services for the purpose of providing health services to people on an out-patient basis. **Mobile Home:** A portable structure having no foundation other than wheels, jacks, or skirting and/or designed or constructed for the purpose of creating a mobile dwelling unit, but not including a camper or other such vehicle. Mobile homes are permitted only in the R2-MH Zoning District.

Motel: Any group of dwelling units, whether contained in one building or as a group of separate lodging facilities, used for the purpose of housing transient guests, each unit of which is provided with its own toilet, washroom and off-street parking space. Motels shall not be considered home occupations.

Non-Conforming Lot: A lot of record which does not conform to the area or width requirements of the zone in which it is located, and is subject to modified front, side and rear yard setback requirements as stated in Section 21.3 of this Ordinance.

Non-Conforming Building/Structure: A building/structure which legally existed at the time this Ordinance or amendments thereto became effective and which does not conform to the setback, area, or height requirements of the zone in which it is located.

Non-Conforming Use: A use of a building/structure or lot legally existing at the time this Ordinance or amendments thereto became effective and which does not conform with the use regulations of the zone in which it is located.

Nursing Home: An agency, institution or establishment, including rest homes, convalescent homes and homes for the aged which are devoted primarily to the maintenance and operation of facilities for the treatment and care of any persons suffering from illnesses, diseases, deformities

or injuries, not requiring extensive and/or intensive care that is normally provided in a general hospital or other specialized hospital, but who do require and receive room and board and 24-hour medical, nursing, convalescent, or chronic care. Scheduled activities are provided for the residents and medical records are kept on site.

Non-Profit Organization: A public or private organization which is not organized or operated for the purpose of conducting business or trade and in which no part of the net earnings benefit any member of the organization or any other individual, and which provides all or any of the following: religious, social, physical, recreational, or benevolent services.

Planning & Zoning Director: The administrative officer in charge of zoning administration (Zoning Administrator) within the city corporate limits.

Planning Commission: The duly appointed City of Brunswick Planning Commission.

Private Club: An incorporated or unincorporated association of civic, social, cultural, religious, literary, political, recreational, or like activities, operated for the benefit of its members and not open to the general public.

Professional Office: Rooms and/or buildings used for office purposes by members of any recognized profession, including doctors, dentists, lawyers, accountants, engineers, veterinarians, etc., but not including medical or dental clinics or veterinary clinics.

Public Utilities: See “Essential Services and Facilities”.

Quasi-Public Use: A use that provides a necessary service to the community, is available to the general public, and is not wholly commercial in nature. For example, recreational and community services, churches, childcare centers, health care facilities, nursing homes, senior citizen centers, funeral homes, and schools.

Recycling Center: Land designated and used for the collection of materials to be recycled and reused, operated by in or conjunction with a governmental body.

Resident Professional Office: The non-residential use of a dwelling that is accessory to its principal residential use and is conducted by a resident of that dwelling who provides a professional service, such as the office of a physician, dentist, architect, engineer, attorney, or similar professional person, in conformance with the requirements established in Section 5.12 of this Ordinance.

Road: A public route designed specifically for motor vehicle travel, including streets, highways, avenues, bridges, and segments thereof.

Roadside Stand: A temporary structure designed, arranged or used for the display or sale of agricultural or other products grown or produced on the property upon which the stand is located.

Rooming House: A dwelling in which, for compensation, lodging is furnished to three (3) or more, but not exceeding nine (9), guests. A rooming house shall not be deemed a home occupation.

Sanitary Land Fill: Property used primarily for the disposal of garbage, trash, or refuse, which is covered each day with a layer of inert material such as soil, and which is operated by or in conjunction with a governmental body.

Satellite Dish Antenna: A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone or horn. Such devices shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include, but not be limited to what are commonly referred to as Satellite Earth Stations, and Satellite Microwave Antennas.

Setback: A required distance between a building/structure (including additions) and the lot lines as determined by the requirements for each zoning district. No principal building/structure or portion thereof shall project into the required setback, with the exception of architectural features as defined in this Article, and as regulated in Section 21.3 D. Accessory structures must conform to the setback requirements of Section 5.8.

Shopping Center/Retail Center: A group of retail stores, service establishments and other similar uses, which are designed as an integrated unit. (Ord. 416)

Sign: Any structure, part thereof, or device attached to or painted or represented on any material or object, illuminated or otherwise, which displays or includes any numeral, letter, word, model, banner, emblem, insignia, device, trademark, or other representation used as, or in the nature of, an announcement, advertisement, direction or designation of any person, firm, group, organization, place, event, commodity, product, service, business, profession, enterprise, or industry which is located upon any land or any building, in or upon a window, or indoors in such a manner as to attract attention from outside the building. Signs must conform to the requirements of Article 22.

Sign, Billboard: See “Billboard”.

Sign, Commercial/Industrial: A sign, which directs attention to a commercial or industrial use of the property on which the sign is located.

Sign, Community/Neighborhood Identification: A sign, which identifies the name of a community or neighborhood, located at the entrance to that community or neighborhood.

Sign, Directional /Informational: A sign that is official in nature and erected for the purpose of directing, informing, or warning the public of traffic, parking or other safety issues or issues of interest to the general public.

Sign, Institutional: A sign designating or directing one to the location of a community facility or institution of a public nature.

Sign, Real Estate: A temporary sign advertising the sale, lease, rental, or development of any particular property or directing attention to the opening and location of a new subdivision, neighborhood, or community.

Solar Array: A ground mounted solar collection system consisting of a linked series of photovoltaic modules.

Solar Collection System: A panel or other solar energy device, the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling or water heating.

Special Exception: A grant of a specific use that would not be appropriate generally or without restriction and shall be based upon a finding that certain conditions governing special exceptions as detailed in the Zoning Ordinance exist, that the use conforms to the Master Plan, and that the use is compatible with the existing neighborhood.

Start of Construction: The date the Frederick County building permit was issued for any development, including new construction and substantial improvements to existing structures, provided that the actual start of construction or improvement was within one hundred eighty (180) days of the permit issuance. The actual start of new construction is the placement of slab or footings, piles, columns, or any work beyond the stage of excavation; or the actual placement of a mobile home on the site. For substantial improvement, the actual start of construction is the first alteration of any structural part of the building. Construction, as used in this definition, does not include land preparation such as clearing, grading, and filling, the installation of streets and/or walkways, excavation for basements, footings, piers, foundations, or erection of temporary forms, or the installation on the property of accessory buildings/structures such as garages or sheds not occupied by dwelling units or not as part of the principal building/structure.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, the space between such floor and the ceiling next above it. A basement shall be counted as a story, if it is used for business or dwelling purposes. A mezzanine floor shall be counted as a story, if it covers more than one-third of the area of the floor next below it or if the vertical distance between the floor next below it and the floor next above it is twenty feet (20') or more.

Street: See "Road".

Structural Alteration: Any change in the structural members of a building, such as walls, columns, beams or girders.

Structure: An assembly of materials forming a construction for occupancy or use including, among other things: buildings, stadiums, tents, stands, platforms, stages, observation towers, communication towers, water tanks and towers, trestles, piers, open sheds, coal bins, shelters, fence, decks, pools, walls, signs, power line towers, pipelines, railroad tracks, and poles.

Subdivision: The division of a lot, tract, or parcel of land into two or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development.

Subdivision Plat: A plat, certified as correct by a land surveyor licensed in the State of Maryland, prepared in accordance with the applicable State of Maryland Minimum Standards of Practice for Professional Land Surveyors and Property Line Surveyors, which depicts the division of a lot or parcel into two or more lots for the purpose of establishing more than one lot to be recorded in the land records of Frederick County, Maryland, and which is submitted to the Planning Commission for review under the Subdivision Regulations.

Swimming Pool, Commercial: A swimming pool and/or wading pool, including buildings necessary or incidental thereto, open to the general public and operated for profit.

Theater, Drive In: An outdoor theater shall include only those areas, buildings or structures designed and used for the commercial outdoor exhibition of motion pictures to passengers in parked motor vehicles.

Theater, Indoor: A building designed and/or used for the commercial exhibition of motion pictures or stage presentations to the general public.

Tourist Home: A dwelling in which, for compensation, lodging only is provided or offered to not more than twelve (12) transient guests. A tourist home shall not be deemed a home occupation.

Townhouse: One (1) of a group of three (3) or more attached dwelling units which are not more than three (3) stories in height, divided from each other by party walls and each having separate front and rear or front and side entrances from the outside.

Truck Terminal: Any property in which truck transported goods are transferred, or stored pending transfer, including truck dispatching, parking, and temporary accommodations for truck drivers.

Use, Principal: The primary purpose for which a lot or the principal building/structure thereon is designed, arranged, or intended and for which it is or may be used, occupied, or maintained.

Use, Accessory: A use of a building, structure, lot (or portion thereof), which is customarily incidental and subordinate to the principal use of the principal building, structure, or lot.

Variance: A modification of the density, bulk, or area requirements of this Ordinance where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property, and not the results of any action taken by the applicant, a literal enforcement of this Ordinance would result in a practical difficulty.

Yard: Open space on the same lot with a building or group of buildings, lying between the building or outer building of a group and the nearest lot or street line, and unoccupied and unobstructed from the ground upward, except as provided for in this Ordinance.

Yard, Front: Open space extending across the full width of a lot between the front lot line or the proposed front street line and the nearest line of the building or any enclosed portion thereof. The depth of such yard shall be the shortest horizontal distance between the front lot line or proposed front street line and the nearest point of the building or any enclosed portion thereof.

Yard, Rear: Open space extending across the full width of a lot between the rear line of the lot and the nearest line of the building, porch or projection thereof. The depth of such yard is the shortest horizontal distance between the rear lot line and the nearest point of the building.

Yard, Side: Open space between the side lot line, the side street line, or the proposed side street line, if such line falls within the lot, and the front yard to the rear yard, or in the absence of either

of such yards, to the front lot line and/or rear lot line. The width of a side yard shall be the shortest distance between the side lot line and the nearest point of the building, porch or projection.

Zone: An area within which certain uses of land and buildings are permitted and certain others are prohibited; yards and other open spaces required; lot areas, building height limits, and other requirements are established; all of the foregoing being identical for the zone in which they apply.

Zoning Administrator: The zoning administrative officer or their authorized representative, including zoning inspector(s).

Zoning Certificate: A written statement issued by the Zoning Administrator or an authorized representative authorizing the construction or alteration of buildings or structures, or a change of use consistent with the terms of this Ordinance and for the purpose of carrying out and enforcing its provisions.

Zoning Map: The Zoning Map of the City of Brunswick together with all amendments thereto subsequently adopted.

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)

ARTICLE 6: ADMINISTRATION AND ENFORCEMENT

6.1 Zoning Administrator:

The office of Zoning Administrator is hereby established. It shall be the duty of the Zoning Administrator to administer and cause the enforcement of the provisions of this Ordinance with the policies and goals of the Master Plan and the intent and provisions of this Ordinance. The municipal planning staff shall be the authorized agent of the Zoning Administrator.

6.2 Zoning Certificates and Building Permits Required:

It shall be unlawful to locate or begin the excavation, erection, construction, reconstruction, extension, conversion, or structural alteration of any building or structure, or establish a new use without first obtaining a zoning certificate from the Zoning Administrator or authorized agent, as well as a Frederick County Building Permit from the Frederick County Office of Permits and Inspections, as required.

6.3 Application for a Zoning Certificate:

Every application for a zoning certificate shall be signed by the Applicant and shall be accompanied by a site sketch or a site plan drawn to a convenient scale showing the actual shape and dimensions of the lot to be built upon or to be changed in its use, in whole or in part, and based on actual survey or deed description. The plan or sketch will also include the exact location, size, height of any building or structure to be located or altered, the existing and intended use of each building or structure or part thereof, the distance of the proposed building/structure from each lot line, and the number of dwelling units the building is designed to accommodate. When no buildings are involved, the location of the present and proposed use of the lot shall be shown, as well as other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Ordinance. The lot and the location of the building or other improvements thereon shall be staked out on the ground before a zoning certificate is issued.

6.4 Expiration of Zoning Certificate:

A zoning certificate shall automatically expire one year after the date of issuance if the construction or use for which the certificate was issued has not started. See Article 4 for the definition of “start of construction”.

6.5 Fees:

To partially defray the expense of administering this Ordinance, a fee shall be paid to the City of Brunswick, Maryland, for zoning and land use related services before any zoning certificate is issued or any site plan, residential site plan or other application is processed. Fees shall be as established by resolution of the Mayor and Council; provided, however, that such fees shall not exceed the cost incurred by the city for providing such services. Services for which fees may be established include, but are not limited to:

Zoning Certificates

- 1) All applications for dwelling units or unit.
- 2) All applications for principal commercial or industrial structures or uses.
- 3) All other permitted uses.
- 4) All accessory structures or uses.
- 5) All additions, conversions, renovations, and demolitions.

Ordinance Amendments

- 6) Map amendments.
- 7) Text amendments.
- 8) Comprehensive rezoning/plan request.

Planned Unit Developments

- 9) Phase 1 PLAN.
- 10) Phase 2 PLAN.
- 11) Phase 3 PLAN.

Board of Appeals

- 12) Administrative Error.
- 13) Variance.
- 14) Special Exception.

Site Plans

- 15) Site Plans.
- 16) Residential Site Plans.
- 17) Site Plan/Residential Site Plan Re-Approval.
- 18) Sketch/Concept Site Plan.

Miscellaneous Requests

- 19) Residential Cluster Plan.
- 20) Zoning/Development Letters/Certifications.

(Amended Ord. 403)

6.6 Revocation:

Notwithstanding any other provision of this Zoning Ordinance, a zoning certificate shall be revocable upon non-compliance with any of the requirements of this Zoning Ordinance or any conditions imposed by the Planning Commission on the final site plan or by the Board of Appeals on any conditionally approved use, special exception, or variance.

(Ord. 449)

6.7 Injunctions, etc., to Prevent Violations:

In the case that any building is or is proposed to be located, erected, constructed, reconstructed, extended, enlarged, converted, structurally altered, or used or proposed to be used in violation of this Ordinance or an amendment or supplement thereto, the Mayor & Council, the City Attorney, the Zoning Administrator (or authorized agent) or any adjacent or neighboring property owner who would be specifically damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or other appropriate action or proceeding to prevent, restrain, correct, or abate such unlawful location, erection, construction, reconstruction, extension, enlargement, conversion, structural alteration of or the unlawful use of a building/structure or property.

6.8 Enforcement Procedures:

- A. Pursuant to Section 3 of Article 23A of the Annotated Code of Maryland, any violation of any of the provisions of this Zoning Ordinance is a civil zoning violation, and shall be referred to as a civil zoning infraction.
- B. In the event that an alleged or possible civil zoning infraction comes to the attention of the City of Brunswick, the Zoning Administrator or authorized agent shall investigate whether an infraction has occurred. If the Zoning Administrator/authorized agent has determined that an infraction has occurred, a written warning or citation shall be issued to the property owner and/or to the person(s) responsible.
 1. A warning may be mailed or hand delivered to the property owner or person(s) responsible and shall include:
 - a. the name and address of the person(s) responsible;
 - b. the nature of the alleged infraction;
 - c. the location and date that the infraction occurred;
 - d. the amount of the infraction fine that could be assessed; and
 - e. the manner, location, and time period in which the infraction shall be abated and/or the Zoning Administrator/authorized agent contacted.
 2. The Zoning Administrator/authorized agent may issue a written citation without the prior issuance of a warning, or if, after the issuance of a warning, the infraction continues unabated.
 3. A citation shall be hand delivered to the property owner or person(s) responsible for the infraction. If such person cannot be located personally, the citation may be posted in a conspicuous place on the property and a copy of the same mailed to the person, and shall include:
 - a. the name and address of the person charged;

- b. the nature of the infraction;
 - c. the location and date the infraction occurred;
 - d. the amount of the infraction fine assessed;
 - e. the manner, location and time for which the fine may be paid;
 - f. the person's right to elect to stand trial for the infraction;
 - g. the consequence of failing to pay the assessed infraction fine or demand a trial within the prescribed time; and
 - h. a certification by the Zoning Administrator/ authorized agent attesting to the truth of the matters set forth.
- C. A fine of one hundred dollars (\$100.00) is hereby imposed upon any person responsible for a civil zoning infraction. Each violation will be considered a separate infraction. Each day that a violation continues to occur will be considered a separate infraction. All fines shall be payable to the City of Brunswick.
- D. A person who receives a citation may elect to stand trial for the offense by filing with the Zoning Administrator/authorized agent a notice of intention to stand trial. The notice shall be given at least five (5) days before the date of payment as set forth in the citation. Upon receipt of the notice of intention to stand trial, the Zoning Administrator/authorized agent shall forward to the District Court for Frederick County, Maryland, a copy of the citation and the notice of intention to stand trial. Upon receipt of the citation and the notice of intention to stand trial, the District Court shall schedule the case for trial and notify the parties of the trial date. All fines, penalties or forfeitures collected by the District Court for civil zoning infractions shall be remitted to the City of Brunswick.
- E. If a person who received a citation for an infraction fails to pay the fine by the date of payment set forth on the citation and fails to file a notice of intention to stand trial, a citation shall be sent to the person's last known address. If the citation is not satisfied within fifteen (15) days from the date of the notice, the person is liable for an additional fine of one hundred dollars (\$100.00) per infraction, or a total fine of two hundred dollars (\$200.00) for each infraction. If, after 35 days, the citation is not satisfied, the Zoning Administrator/authorized agent may request adjudication of the case through the District Court. The District Court shall schedule the case for trial and summon the defendant to appear.
- F. Adjudication of an infraction under this subsection is not a criminal conviction, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction.
- G. In a proceeding before the District Court, the violation shall be prosecuted in the same manner and to the same extent as set forth for municipal infractions in Article 23A, Section

3(b)(8) through (15) of the Annotated Code of Maryland. However, the City Attorney is hereby authorized to prosecute all civil zoning infractions under this section.

- H. If a person is found by the District Court to have committed a civil zoning infraction, he or she shall be liable for the costs of the District Court proceedings.
- I. Depending on the circumstances of each case and after consultation with the City Attorney, the Zoning Administrator/authorized agent has the discretionary authority to reduce or suspend all or a portion of the fine payable through his/her office.
- J. Nothing contained in this section shall prohibit or prevent the Zoning Administrator/authorized agent, or anyone else, from seeking other legal remedies, such as an injunction, criminal prosecution, or damages in a civil action pursuant to Section 7 Article 66B, Annotated Code of Maryland as amended.

6.9 Penalty for Continuing Violations:

Any person who is convicted of failure to comply with this chapter is guilty of a misdemeanor, and shall be fined no more than five hundred dollars (\$500.00) and/or ten (10) days in jail for each offense. Each day of such continuing violation may be found to be a separate misdemeanor.

ARTICLE 7: ZONING DISTRICTS AND MAP

7.1 Zoning Districts:

For the purpose of this Ordinance and in concurrence with the intent of the Master Plan, the incorporated territory of Brunswick is divided into the following zoning districts:

Natural Resource Districts:

- OS Open Space
- AG Agriculture

Residential Districts:

- RS Residential Suburban
- R-1 Low Density Residential
- R-2 Medium Density Residential

Commercial Districts:

- B-1 Neighborhood Business
- B-2 Central Business
- B-3 Business Transitional
- GC General Commercial
- HS Highway Service

Industrial Districts:

- I-1 Light Industrial
- I-2 Heavy Industrial
- OR Office/Research

7.2 Special Zoning Provisions Applicable to Entertainment Activities

- A. Entertainment activities sponsored and sanctioned by the City on City-owned properties shall be permitted in all zoning districts on a temporary basis with the approval of the Mayor and Council.

(Ord. 419)

7.3 Special Zoning Provisions Applicable To PUD Overlay Development Option

- A. RS, R-1 and R-2 Zoning Districts and Quasi-Public Land Use. If the PUD overlay option is approved by the Mayor and Council for use by the developer for land zoned RS, R-1 and/or R-2, and where the Mayor and Council determines that the intent of the PUD overlay option of development set forth in Section 21.5 is satisfied, certain land uses may be allowed (on a limited basis) in the PUD overlay that are not otherwise allowed in the RS, R-1, and R-2 zoning districts under the provisions of this Zoning Ordinance. In the RS, R-1 and R-2 zoning districts (where the PUD overlay option may be available to the developer as determined by the Mayor and Council during Phase I PUD review), land uses permitted under this Zoning Ordinance in the GC, OR, and I-1 zoning districts and Quasi-Public land uses may be permitted on a limited percentage basis as determined by the Mayor and

Council (during Phase I PUD review). If such land uses are permitted and approved by the Mayor and Council during Phase I review, the overall maximum density (or enclosed square footage/floor area ratio) and the acreage of such land uses in relation to the uses permitted by right in the RS, R-1 and R-2 zoning districts and the acreage within the PUD containing such permitted uses shall also be determined by the Mayor and Council as part of the Phase I PUD review. In addition to all other rights of the Mayor and Council during Phase I PUD review, it shall have also have the right to impose conditions on the Phase I approval related to the design, layout, configuration, location, intensity and/or subdivision of such land uses GC, OR, and I-1 zoning district land uses and Quasi-Public land uses.

- B. The design, layout, configuration, location, and/or subdivision of such land uses allowed in the GC, OR, and I-1 zoning districts and Quasi-Public land uses as permitted by the Mayor and Council during Phase I review shall be determined by the Planning Commission during Phase II and Phase III PUD review).
- C. After PUD Phase I (Justification Phase) approval, an Applicant may request a PUD Phase II (Plan Development Phase) plan approval to substitute age-restricted dwelling units (of any dwelling unit type, including, but not limited to, single-family, two-family, duplex, townhouse, and multi-family) for the equivalent continuing care retirement community density approved as part of the PUD Phase I plan approval by the Mayor and Council, so long as there is no increase in use, density or intensity as measured by APFO.

(Ord. 419, 585)

7.4 Special Zoning Provisions Applicable To MXD Overlay Development Option

- A. GC, OR, OS, I-1, Low Density, Medium Density and High Density Residential Zoning Districts and Quasi-Public Land Use. If the MXD overlay option is approved by the Mayor and Council for use by the developer for land zoned GC, OR, OS, I-1, Low, Medium and/or High Density Residential, and where the Mayor and Council determines that the purpose and objectives of the MXD overlay option of development set forth in Section 21.7 is satisfied, certain land uses may be allowed (on a limited basis) in the MXD overlay that are not otherwise allowed in the GC, OR, I-1, Low, Medium and/or High Density Residential zoning districts under the provisions of this Zoning Ordinance. Only when the MXD overlay option is approved by the Mayor and Council for use by the developer for land zoned GC, OR, OS, I-1, Low, Medium or High Density Residential certain or all land uses allowed in the Low, Medium and/or High Density Residential zoning districts (including townhouses, multiplexes, condominiums, apartments and elderly housing), and certain land uses permitted in the GC zoning district (except as prohibited in Section 21.7 D.2), ORI zoning district and I-1 zoning district and Quasi-Public land uses may be permitted only where the Mayor and Council determines that the purpose and objectives of the MXD overlay option of development set forth in Section 21.7 are satisfied. These certain land uses (including Quasi-Public land uses) may be allowed (on a limited basis) in the MXD overlay that may or are not otherwise allowed in the GC, OR, OS, I-1, Low, Medium, and/or High Density Residential zoning districts under the provisions of this Zoning Ordinance.

- B. In the GC, OR, OS, I-1, and Low, Medium and High Density Residential zoning districts (where the MXD overlay option may be available to the developer as determined by the Mayor and Council during Phase I MXD review), land uses permitted under this Zoning Ordinance in the GC, OR, OS, I-1, Low, Medium and/or High Density Residential zoning districts and Quasi-Public land uses may be permitted on a limited percentage basis as determined by the Mayor and Council (during Phase I MXD review). If such land uses are permitted and approved by the Mayor and Council during Phase I MXD review, the overall maximum density (or enclosed square footage/floor area ratio) and the acreage of such land uses in relation to the uses permitted by right in the GC, OR, OS, I-1, Low, Medium and High Density Residential zoning districts and the acreage within the MXD containing such permitted uses shall also be determined by the Mayor and Council as part of the Phase I MXD review. In addition to all other rights of the Mayor and Council during Phase I MXD review, it shall have also have the right to impose conditions on the Phase I approval related to the design, layout, configuration, location, intensity and/or subdivision of such GC, OR, OS, I-1 Low, Medium and High Density Residential zoning district land uses and Quasi-Public land uses.

The design, layout, configuration, location and/or subdivision of such land uses allowed in the GC, OR, and I-1 zoning districts and Quasi-Public land uses as permitted by the Mayor and Council during Phase I review shall be determined by the Planning Commission during Phase II MXD review) may be permitted on a limited basis as determined by the Mayor and Council and the Planning Commission only when the MXD overlay option is used by the developer and only where the purpose and intent of the MXD overlay option of development is fulfilled by allowing such uses not otherwise allowed in the RS, R-1 and R-2 zoning districts under this Zoning Ordinance.

(Ord. 419)

7.5 Special Zoning Provisions Applicable to TOD Overlay Option Development

- A. B-1 Neighborhood Business, B-2 Central Business, B-3 Business Transitional, and GC General Commercial Zoning Districts and Quasi-Public Land Use. Where the TOD overlay option is approved by the Mayor and Council for land zoned B-1, B-2, B-3, or GC, upon its determination that the purpose and objectives of the TOD overlay option set forth in Section 21.11 are satisfied, certain land uses may be allowed (on a limited basis) in the TOD overlay option that are not otherwise allowed in the B-1, B-2, B-3, or GC zoning districts under the provisions of this Zoning Ordinance. Additionally, when the TOD overlay option is approved by the Mayor and Council for land zoned B-1, B-2, B-3, or GC, certain or all land uses allowed in the low, medium, and/or high density residential zoning districts (including townhouses, multiplexes, condominiums, apartments, and elderly housing), certain land uses permitted in the B-1, B-2, B-3 and GC zoning districts (except as prohibited in Section 21.11.D.2), and quasi-public land uses may be permitted only where the Mayor and Council determines that the purpose and objectives of the TOD overlay option set forth in Section 21.11 are satisfied. These certain land uses (including quasi-public land uses) may be allowed (on a limited basis) in the TOD overlay that may or are not otherwise allowed in the B-1, B-2, B-3, and GC zoning districts under the provisions of this Zoning Ordinance.

B. In the B-1, B-2, B-3, and GC zoning districts (where the TOD overlay option may be available to the developer as determined by the Mayor and Council during Phase I TOD review), land uses permitted under this Zoning Ordinance in the B-1, B-2, B-3, and GC zoning districts and quasi-public land uses may be permitted on a limited percentage basis as determined by the Mayor and Council (during Phase I TOD review). If such land uses are permitted and approved by the Mayor and Council during Phase I TOD review, the overall maximum density (or enclosed square footage/floor area ratio) and the acreage of such land uses in relation to the uses permitted by right in the B-1, B-2, B-3, and GC zoning districts and the acreage within the TOD containing such permitted uses shall also be determined by the Mayor and Council as part of the Phase I TOD review. In addition to all other rights of the Mayor and Council during Phase I TOD review, it shall have also have the right to impose conditions on the Phase I approval related to the design, layout, configuration, location, intensity, phasing, and/or subdivision of such B-1, B-2, B-3, or GC zoning district land uses and quasi-public land uses.

The design, layout, configuration, location and/or subdivision of such land uses allowed in the B-1, B-2, B-3, and GC zoning districts and quasi-public land uses as permitted by the Mayor and Council during Phase I review shall be determined by the Planning Commission during Phase II TOD review, and may be permitted on a limited basis as determined by the Mayor and Council and the Planning Commission only when the TOD overlay option is used by the developer, and only where the purpose and intent of the TOD overlay option of development is fulfilled by allowing such uses not otherwise allowed in the B-1, B-2, B-3, or GC zoning district land uses and quasi-public land uses under this Zoning Ordinance.

(Ord. 456)

7.6 Zoning Map:



Also available in PDF format at <http://www.brunswickmd.gov/files/Planning/P&ZLegalDocuments.htm> (Ord. 419, 450, 456)

ARTICLE 8: OS OPEN SPACE DISTRICT

8.1 Intent:

The OS District is intended to preserve natural resources, prevent erosion, pollution, and siltation, and to safeguard the health, safety, and welfare of persons and property by limiting development on excessive slopes, flood plains, poorly drained lands, or in other areas where protection against natural dangers to life and property or the lack of such protection would prove costly to members of the community. It is also intended to provide permanent open space for its natural beauty and recreational value. It is not intended to allow public access to private property.

8.2 Principal Permitted Buildings/Structures and Uses:

The following buildings/structures and uses are permitted in the OS District:

- A. Outdoor recreational areas, which make extensive use of the natural environment, such as parks, playgrounds, playing fields, and hiking trails, but do not include permanent and enclosed buildings.
- B. Tree farms, botanical nurseries, and greenhouses, except that no new land shall be cleared for cultivation.
- C. Public/governmental buildings and properties which are cultural, recreational, administrative or public service in nature, including storage yards, warehouses, and garages.
- D. Single family dwellings, provided that:
 - 1. they are constructed on lots of record, as defined in Article 4;
 - 2. the lot meets the road frontage requirements of Section 5.7 of this Ordinance;
 - 3. there is no development of or disturbance to floodplain or wetland areas on the lot without a waiver or permit from regulating agencies;
 - 4. no more than thirty percent (30%) of the lot is disturbed;
 - 5. no areas containing slopes of thirty-five percent (35%) or greater are disturbed;
 - 6. a grading plan is reviewed and approved by the City engineer or other designated agencies for compliance with standards for storm water management and soil erosion and sediment control;
 - 7. public water and sewer service is provided to serve the lot at the expense of the property owner or as otherwise determined by the City of Brunswick.

8.3 Accessory Permitted Buildings/Structures and Uses:

The following accessory buildings/structures and uses are permitted in the OS District:

- A. Those accessory buildings/structures and uses customarily accessory and incidental to the principal permitted uses and authorized special exceptions of the OS District, provided that they meet the requirements of Sections 8.2(D)3 and 8.2(D)4.
- B. Parking, in accordance with Article 23.
- C. Fences, in accordance with Section 5.10.
- D. Signs, in accordance with Article 22.
- E. Home Occupations and resident professional offices, in accordance with Section 5.11.
- F. Solar Collection Systems, in accordance with Section 21.12.
- G. Solar arrays, in accordance with Section 21.13.

(Ord. 487)

8.4 Special Exceptions:

The following buildings, structures and uses are permitted in the OS District with Board of Appeals approval only. Conditions of approval may be imposed by the Board of Appeals.

- A. Recreational areas which make extensive use of the natural environment and have permanent and enclosed recreational structures, but not those for the purpose of allowing temporary or permanent dwellings, such as cabins or cottages, provided that such uses are set back at least two hundred feet (200') from any Residential District.
- B. Tent and trailer grounds for transient campers, provided that sanitary water and sewer facilities meet the approval of the State Health Department and that such uses are set back at least three hundred feet (300') from any Residential District.
- C. Fishing and hunting preserves and hatcheries, provided that such uses are set back at least one thousand feet (1000') from any Residential District.
- D. Public utilities, provided that tree cutting is held to an absolute minimum, that adequate screening techniques are utilized, that efforts are made to maintain harmony with the surrounding area, and that such uses are set back at least two hundred feet (200') from any Residential District.
- E. Principal permitted uses of the GC District, provided that:
 - 1. they are established on lots of record;

2. the use is determined to be compatible with the existing uses in the neighborhood and with the Master Plan;
 3. there is no development of or disturbance to floodplain or wetland areas on the lot without a waiver or permit from regulating agencies;
 4. no more than thirty percent (30%) of the lot is disturbed;
 5. a grading plan is reviewed and approved by the City Engineer or other designated agencies for compliance with standards for storm water management and soil erosion and sediment control;
 6. no areas containing slopes of thirty-five percent (35%) or greater are disturbed;
 7. public water and sewer service are provided to serve the lot at the expense of the property owner or as otherwise determined by the City of Brunswick;
 8. the property is located adjacent to an existing or planned arterial road that is or will be adequate to serve the proposed use; and
 9. the use is set back at least forty feet (40') from any residential use.
- F. Single-family dwellings (on lots created after the adoption of the Zoning Ordinance in October 1967), provided that:
1. the lot meets the road frontage requirements of Section 5.7 of this Ordinance;
 2. there is no development of or disturbance to floodplain or wetland areas on the lot without a waiver or permit from regulating agencies;
 3. no more than thirty percent (30%) of the lot is disturbed;
 4. no areas containing slopes of thirty-five percent (35%) or greater are disturbed;
 5. a grading plan is reviewed and approved by the City Engineer or other designated agencies for compliance with standards for storm water management and soil erosion and sediment control; and
 6. public water and sewer service is provided to serve the lot at the expense of the property owner or as otherwise determined by the City of Brunswick.

All Special Exceptions in the OS District must conform with the following conditions:

- A. Uses shall be permitted by the Board of Appeals only if care is taken in the conservation of the quality and quantity of trees, soils, water and other natural resources on the property and in the immediate vicinity; and
- B. Sufficient measures are taken to protect life and property.

8.5 Height Restrictions:

No building/structure in the OS District shall exceed forty feet (40') in height, except as provided in Section 21.3 C.

8.6 Lot Area, Width, and Setback Requirements for the OS District

PRINCIPAL PERMITTED AND SPECIAL EXCEPTION USES	MINIMUM LOT AREA (SQ. FT.)	MINIMUM LOT AREA PER DWELLING UNIT OR USE	MINIMUM LOT WIDTH (FT.)	FRONT YARD* SETBACK (FT.)	REAR YARD SETBACK (FT.)	SIDE YARD** SETBACK (FT.)	OTHER SETBACK REQUIREMENTS
Single-family dwellings (on lots of record only)	6,000			25	30	5	
Single-family dwellings (on new lots only)	15,000			25	30	10	
Outdoor recreational areas							200' from any Residential District
Tent/trailer grounds							300' from any Residential District
Fishing/hunting preserves and hatcheries							1000' from any Residential District
Public utilities							200' from any Residential District
General Commercial uses (lots of record only)							40' from any Residential District
All others				40	100	100	

*As measured from the lot line (does not include a portion of the right-of-way).

**Corner lots shall provide two front yards and one side yard.

ARTICLE 9: AG AGRICULTURE DISTRICT

9.1 Intent:

Although the AG District anticipates possible development in the future, in the meantime it is intended to encourage the continued use of agricultural areas by discouraging the intrusion of scattered, sporadic, and wasteful development until such time as extensive development, at urban densities with the full range of public facilities, is possible.

9.2 Principal Permitted Buildings/Structures and Uses:

The following buildings/ structures and uses are permitted in the AG District:

- A. Agricultural uses as defined in Article 4, provided that pens or structures for keeping or feeding farm animals are set back at least three hundred feet (300') from any other district or use, with the exception of the Open Space District.
- B. Single-family and two-family dwellings, provided that the dwelling unit existed at the time of annexation of the property or the enactment of this Ordinance (October 1967).
- C. Houses of worship.
- D. Public schools and private educational institutions.
- E. Public/governmental buildings and properties which are cultural, recreational, administrative, or public service in nature, including storage yards, warehouses and garages.
- F. Outdoor recreational areas, which make extensive use of the natural environment, such as parks, playgrounds, playing fields, and hiking trails, but do not include permanent and enclosed buildings.
- G. Recreation areas and centers including country clubs, golf courses and swimming pools.
- H. Fire and rescue services.
- I. Tree farms, botanical nurseries, and greenhouses.
- J. Child care centers, provided they meet the Child Care Administrations' Licensing requirements for commercial child care facilities.
- K. Hospitals and medical and dental clinics.
- L. Nursing homes and domiciliary care/assisted living facilities provided that one (1) off-street parking space is provided for each employee and for each three (3) patients to be cared for therein.

M. Cemeteries.

9.3 Accessory Permitted Buildings/Structures and Uses:

The following accessory permitted buildings/structures and uses are permitted in the AG District:

- A. Those buildings and structures customarily accessory and incidental to the principal permitted uses or authorized special exceptions of the AG District.
- B. Parking, in accordance with Article 23, except where otherwise expressly stated in this Article.
- C. Fences, in accordance with Section 5.10.
- D. Private swimming pools, provided that an enclosure/barrier is installed as required by the Frederick County Building Code, and maintained to that level.
- E. Home occupations and resident professional offices, in accordance with Section 5.11.
- F. Signs, in accordance with Article 22.
- G. Roadside stands, in accordance with Section 21.2.
- H. Solar Collection Systems, in accordance with Section 21.12.
- I. Solar arrays, in accordance with Section 21.13.

(Ord. 487)

9.4 Special Exceptions:

The following buildings/structures and uses are permitted in the AG District with Board of Appeals approval only. Conditions of approval may be imposed by the Board of Appeals.

- A. Veterinary clinics and animal boarding places for the raising, breeding and boarding of dogs and other animals, provided that all buildings, including runways, shall be located four hundred feet (400') from a residential district or use.
- B. Broadcast studios and commercial communication towers, provided that towers are set back a distance equal to its height from all lot lines.
- C. Any other use as determined by the Board of Appeals to be of the same general character as the principal permitted uses or authorized special exceptions of the AG District.

9.5 Height Restrictions:

No building/structure in the AG District shall exceed forty feet (40') in height, except as provided by Section 21.3(C).

9.6 Lot Area, Width, and Setback Requirements of the AG District

PRINCIPAL PERMITTED AND SPECIAL EXCEPTION USES	MINIMUM LOT AREA (SQ. FT.)	MINIMUM LOT AREA PER DWELLING UNIT OR USE (SQ. FT.)	MINIMUM LOT WIDTH (FT.)	FRONT YARD* SETBACK (FT.)	REAR YARD SETBACK (FT.)	SIDE YARD** SETBACK (FT.)	OTHER SETBACK REQUIREMENTS
Public utilities				50	50	50	
Veterinary clinics and animal boarding places	1 Acre		100	30	50	15	
Agricultural uses							300' from all uses and districts except OS
Communication towers							All setbacks must be equal to or greater than the height of the structure
All others				40	100	100	

*As measured from the lot line (does not include a portion of the right-of-way).

**Corner lots shall provide two front yards and one side yard.

ARTICLE 10: RS RESIDENTIAL SUBURBAN LOW DENSITY RESIDENTIAL DISTRICT

10.1 Intent:

The RS District is intended to provide for decreasing densities of development in the outlying areas away from the Central Business District. The RS District is intended to provide larger lot sizes in which the green space desired is entirely within the lot. The District also encourages the formation of cluster-type developments and planned unit developments (PUDs), which leave unbuildable areas open for common use.

10.2 Principal Permitted Buildings/Structures and Uses:

The following buildings/structures and uses are permitted in the RS District:

- A. Single-family dwellings.
- B. Planned Unit Developments containing any combination of single-family, duplex, townhouse and multi-family dwelling units, subject to the provisions of Section 21.5 19.4.
- C. Houses of worship.
- D. Public schools and private educational institutions.
- E. Public/governmental buildings and properties which are cultural, recreational, administrative or public service in nature, but not including storage yards, warehouses or garages.
- F. Parks, playgrounds and community centers.
- G. Fire and rescue services, provided that the property to be utilized is located adjacent to an existing or planned arterial road.
- H. Cemeteries.

10.3 Accessory Permitted Buildings/Structures and Uses:

The following accessory buildings/structures and uses are permitted in the RS District:

- A. Those buildings, structures and uses customarily accessory and incidental to the principal permitted uses and authorized special exceptions of the RS District.
- B. Parking, in accordance with Article 23.
- C. Fences, in accordance with Section 5.10.
- D. Private swimming pools, provided that an enclosure/barrier is installed as required by the Frederick County Building Code, and maintained to that level.

- E. Home occupations and resident professional offices, in accordance with Section 5.11.
- F. Signs, in accordance with Article 22.
- G. Solar Collection Systems, in accordance with Section 21.12.
- H. Solar arrays, in accordance with Section 21.13.

(Ord. 487)

10.4 Special Exceptions:

The following buildings/structures and uses are permitted in the RS District with Board of Appeals approval only. Conditions of approval may be imposed by the Board of Appeals.

- A. Child care centers, provided they meet the Child Care Administration's Licensing requirements for commercial child care facilities.

10.5 Height Restrictions:

No building/structure in the RS District may exceed forty feet (40') in height, except as provided by Section 21.3(C).

10.6 Lot Area, Width, and Setback Requirements of the RS District

PRINCIPAL PERMITTED AND SPECIAL EXCEPTION USES	MINIMUM LOT AREA (SQ. FT.)	MINIMUM LOT AREA PER DWELLING UNIT OR USE (SQ. FT.)	MINIMUM LOT WIDTH (FT.)	FRONT YARD* SETBACK (FT.)	REAR YARD SETBACK (FT.)	SIDE YARD** SETBACK (FT.)	OTHER SETBACK REQUIREMENTS
Public utilities				30	50	30	
Single-family dwelling units	10,000		80	25	30	10	
Houses of worship				40	100	100	
Schools				40	100	100	
All others				30	50	30	

*As measured from the lot line (does not include a portion of the right-of-way).

**Corner lots shall provide two front yards and one side yard.

ARTICLE 11: R-1 LOW DENSITY RESIDENTIAL DISTRICT

11.1 Intent:

The R-1 District is intended to provide an attractive, pleasant living environment at a sufficient enough density to maintain an adequate standard of physical maintenance and community service. The R-1 District encourages the compact development and the optimum utilization of land appropriate for residential use by encouraging higher density cluster and planned unit developments while simultaneously leaving sloping areas, floodplains and other unbuildable areas open and available for recreational and athletic purposes. The R-1 District discourages the intrusion of the commercial and industrial uses that so often have an annoying and deteriorating effect upon residential development.

11.2 Principal Permitted Buildings/Structures and Uses:

The following buildings/structures and uses are permitted in the R-1 District:

- A. Single- and two-family dwellings.
- B. Duplexes.
- C. Planned Unit Developments containing any combination of single-family, two-family, duplex, townhouse and multi-family dwelling units, subject to provisions of Section 21.5.
- D. Houses of worship.
- E. Public schools and private educational institutions.
- F. Public/governmental buildings and properties which are cultural, recreational, administrative or public service in nature, but not including storage yards, warehouses or garages.
- G. Parks, playgrounds and community centers.
- H. Fire and rescue services, provided that the property to be utilized is located adjacent to an existing or planned arterial road.
- I. Cemeteries.

11.3 Accessory Permitted Buildings/Structures and Uses:

The following accessory buildings/structures and uses are permitted in the R-1 District:

- A. Those buildings/structures and uses customarily accessory and incidental to the principal permitted uses and authorized special exceptions of the R-1 District.
- B. Parking, in accordance with Article 23.
- C. Fences, in accordance with Section 5.10.

- D. Private swimming pools, provided that an enclosure/barrier is installed as required by the Frederick County Building Code, and maintained to that level.
- E. Home occupations and resident professional offices in accordance with Section 5.11.
- F. Signs, in accordance with Article 22.
- G. Solar Collection Systems, in accordance with Section 21.12.
- H. Solar arrays, in accordance with Section 21.13.

(Ord. 487)

11.4 Special Exceptions:

The following buildings/structures and uses are permitted in the R-1 District with Board of Appeals approval only. Conditions of approval may be imposed by the Board of Appeals.

- A. Child care centers, provided they meet the Child Care Administration's Licensing requirements for commercial child care facilities.
- B. Non-residential structures, provided that the adaptive reuse or mix of uses is similar to that of the previous use occupied in the existing non-residential structure, or principal permitted building/structures and uses allowed by right in the R-1 low density residential or R-2 medium density residential districts specifically listed below.
 - a. R-1 Low density residential principal permitted uses
 - i. Single and two family dwellings
 - ii. Duplexes
 - iii. Houses of Worship
 - iv. Schools and private educational institutions
 - v. Public/government buildings and properties which are cultural, recreational, administrative, or public service in nature, but not including storage yards, warehouses, or garages
 - vi. Parks, playgrounds, and community centers
 - b. R-2 Medium density residential principal permitted uses
 - i. Those principal permitted buildings/structures and uses in the R-1 low density residential uses in 1 above
 - ii. Multifamily
 - iii. Townhouses
 - c. The existing non-conforming building/structure footprint may not be expanded unless a variance is granted by the Board of Appeals to bring a building into code compliance for health, welfare, and safety or to preserve integrity or historic character, but not simply for financial gain.
 - d. Building height shall be limited to the height restrictions of 11.5 of this Ordinance.
 - e. Multifamily apartments or condos must comply with all current Frederick County Codes including building (International Residential Code (IRC) and International Building Code (IBC), Life Safety, and minimum livability requirements, and maintain an average of all units not less than 500 square feet.

- C. Artisan manufacturing – production of commercial goods by a manual worker or craftsperson, such as jewelry, metalwork, cabinetry, stained glass, textiles, ceramics or handmade food or drink products. Retail display and sales of goods produced on site, materials used in production, products similar to produced goods, and products accessory to craft production are permitted as long as display and sales are ancillary to the primary use. Artisan manufacturing and production does not include any activity that causes noise, odor, smoke, dust or vibration to be detectable on a neighboring property.

(Ord. 603, 5/14/24)

11.5 Height Restrictions:

No building/structure in the R-1 District may exceed forty feet (40') in height, except as provided by Section 21.3(C).

11.6 Lot Area, Width, and Setback Requirements of the R-1 District

PRINCIPAL PERMITTED AND SPECIAL EXCEPTION USES	MINIMUM LOT AREA (SQ. FT.)	MINIMUM LOT AREA PER DWELLING UNIT OR USE (SQ. FT.)	MINIMUM LOT WIDTH (FT.)	FRONT YARD* SETBACK (FT.)	REAR YARD SETBACK (FT.)	SIDE YARD* SETBACK (FT.)	OTHER SETBACK REQUIREMENTS
Public utilities				30	50	30	
Single-family dwelling units	6,000	6,000	60	25	30	10	
Two-family*** dwelling units	6,000	3,000	60	25	30	12	
Duplex units	2,750	2,750		25	30	6	
Houses of worship				40	100	100	
Schools				40	100	100	
All others				30	50	30	

*As measured from the lot line (does not include a portion of the right-of-way).

**Corner lots shall provide two front yards and one side yard.

***The conversion of existing single-family dwellings to two-family dwellings shall be permitted only when there is full compliance with lot size and setback requirements for two-family dwelling new construction or allowed by Article 21.3 Modifications.

(Ord. 501)

ARTICLE 12: R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT & R-2MH MEDIUM DENSITY RESIDENTIAL - MOBILE HOME DISTRICT

12.1 Intent:

The R-2 District is intended to make the development of land with natural and locational advantages economically feasible by providing for higher densities of residential use. It is intended to increase the variety of housing types, while continuing to encourage the provision of the basic amenities of an attractive and safe residential environment. The R-2 District also recognizes historic areas of mobile home development and allows these dwelling types in areas designated R-2MH. The R-2 District encourages cluster and planned unit development and the increased density of all such developments, and recommends their location on relatively level land, at the edge of residential neighborhoods, and with good access to major highways, central shopping areas, schools and other public facilities which are most essential.

12.2 Principal Permitted Buildings/Structures and Uses:

The following buildings/structures and uses are permitted in the R-2 District:

- A. Those principal permitted buildings/structures and uses of the R-1 District.
- B. Multiple-family dwellings.
- C. Townhouses.
- D. Mobile homes, as defined in Article 4, in the R-2MH District only, provided that they meet the lot area, width and setback requirements for single-family dwellings in the R-2 District.
- E. Fire and rescue services, provided that the property to be utilized is located adjacent to an existing or planned arterial road.

12.3 Accessory Permitted Buildings/Structures and Uses:

The following accessory buildings/structures and uses are permitted in the R-2 District:

- A. Those uses customarily accessory and incidental to the principal permitted uses and authorized special exceptions of the R-2 District.
- B. Parking, in accordance with Article 23, except where otherwise expressly stated in this Article.
- C. Fences, in accordance with Section 5.10.
- D. Private swimming pools, provided that an enclosure/barrier is installed as required by the Frederick County Building Code, and maintained to that level.
- E. Home occupations and resident professional offices, in accordance with Section 5.11.

- F. Signs, in accordance with Article 22.
- G. Solar Collection Systems, in accordance with Section 21.12.
- H. Solar arrays, in accordance with Section 21.13.

(Ord. 487)

12.4 Special Exceptions:

The following buildings/structures and uses are permitted in the R-2 District with Board of Appeals approval only. Conditions of approval may be imposed by the Board of Appeals.

- A. Child care centers, provided they meet the Child Care Administration's Licensing requirements for commercial child care facilities.
- B. Boardinghouses, rooming houses and bed and breakfast establishments primarily for transients, provided that one (1) off-street parking space per unit is available. Lot areas, widths and setbacks must conform to those required for a multi-family dwelling unit.
- C. Nursing homes and domiciliary care/assisted living facilities, provided that one (1) off-street parking space is provided for each employee and for each three (3) patients to be cared for therein. Lot areas, widths and setbacks must conform to those required for a multi-family dwelling unit.
- D. Funeral homes, provided that ten (10) off-street parking spaces are provided in addition to those spaces needed for employees and for service vehicles used in the operation of the business.

12.5 Height Restrictions:

No structure in the R-2 or R-2MH District may exceed forty feet (40') in height, except as provided by Section 21.3(C).

12.6 Lot Area, Width, and Setback Requirements of the R-2 District

PRINCIPAL PERMITTED AND SPECIAL EXCEPTION USES	MINIMUM LOT AREA (SQ. FT.)	MINIMUM LOT AREA PER DWELLING UNIT OR USE (SQ. FT.)	MINIMUM LOT WIDTH (FT.)	FRONT YARD* SETBACK (FT.)	REAR YARD SETBACK (FT.)	SIDE YARD** SETBACK (FT.)	OTHER SETBACK REQUIREMENTS
Single-family dwelling units	5,000	5,000	50	25	30	6	
Two-family dwelling units	5,550	2,750	50	25	25	6	
Duplex units	2,750		27	25	30	6	
Townhouses	1,800	3,500***	18	25	30	10****	
Multi-family dwelling units	12,000	4,000*****	50	25	25	10	
All others				40	50	20	

*As measured from the lot line (does not include a portion of the right-of-way).

**Corner lots shall provide two front yards and one side yard.

***The difference between minimum lot area and minimum lot area per dwelling unit square footage may be devoted to open spaces.

****Side yard setbacks pertain to end units only. When clustering a group of townhouses, one end unit shall be no closer than twenty feet (20') to the next group.

*****Does not include street right-of-way or parking areas.

ARTICLE 13: B-1 NEIGHBORHOOD BUSINESS DISTRICT

13.1 Intent:

The B-1 District is intended to allow residential areas the convenience of having a limited number of frequently used retail and service establishments in close proximity. Trips to satisfy such needs are made principally on foot and therefore this District is intended to encourage the provision of small, safe, attractive and well located shopping areas for primarily pedestrian use in a manner that will make them totally compatible assets to the residential environment.

13.2 Principal Permitted Buildings/Structures and Uses:

The following buildings/structures, and uses are permitted in the B-1 District.

- A. Dwellings, provided that they are above a commercial use that is located at street level.
- B. Local retail business or service establishments, such as a grocery store, drugstore, small appliance or shoe repair shop, hardware store, barber/beauty shop, laundry and dry cleaning services, sewing and tailoring services, pet stores, video rental shops, business or professional offices and others which supply commodities or perform services primarily for residents of the community, but not including automobile service stations and only under the following conditions:
 - 1. Commercial uses shall be conducted within a completely enclosed building. Such uses shall be restricted to units with gross floor areas of less than thirty-five hundred (3,500) square feet. No single building shall contain more than four (4) commercial uses.
 - 2. Goods shall consist primarily of new merchandise.
 - 3. Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of hazard, odor, dust, smoke, cinders, gas, fumes, noise, vibration, radiation, refuse matter, or water-carried waste and uses shall comply with the Performance Standards established in Section 18.6.
- C. Public/governmental buildings or properties which are cultural, recreational, administrative, or public service in nature, but not including storage yards, warehouses or garages.
- D. Fire and rescue services.

13.3 Accessory Permitted Buildings/Structures and Uses:

The following accessory buildings, structures or uses are permitted in the B-1 District.

- A. Those buildings, structures and uses customarily accessory and incidental to the principal permitted uses and authorized special exceptions of the B-1 District.

- B. Parking, in accordance Article 23.
- C. Fences, in accordance with Section 5.10.
- D. Home occupations and resident professional offices, in accordance with Section 5.11.
- E. Signs, in accordance with Article 22.
- F. Solar Collection Systems, in accordance with Section 21.12.
- G. Solar arrays, in accordance with Section 21.13.

(Ord. 487)

13.4 Special Exceptions:

The following uses are permitted in the B-1 District with Board of Appeals approval only. Conditions of approval may be imposed by the Board of Appeals.

- A. Any use, as determined by the Board of Appeals, to be of the same general character as the principal permitted uses of the B-1 District.

13.5 Height Restrictions:

No building or structure in the B-1 District shall exceed forty feet (40') in height, except as provided in Section 21.3 C 18.5B.

13.6 Lot Area, Width, and Setback Requirements of the B-1 District

PRINCIPAL PERMITTED AND SPECIAL EXCEPTION USES	MINIMUM LOT AREA (SQ. FT.)	MINIMUM LOT AREA PER DWELLING UNIT OR USE (SQ. FT.)	MINIMUM LOT WIDTH (FT.)	FRONT YARD SETBACK (FT.)	REAR YARD SETBACK (FT.)	SIDE YARD SETBACK (FT.)	OTHER SETBACK REQUIREMENTS
All uses					20	15	

ARTICLE 14: B-2 CENTRAL BUSINESS DISTRICT

14.1 Intent:

The B-2 District is intended to maintain the unique character and pedestrian scale of the downtown area, and to be the central shopping, service, office and entertainment center for the community and the surrounding region. Stores and other facilities should be grouped together in an attractive and convenient manner with particular attention being paid to the safety of pedestrian travel and the protection of adjoining residential areas. It is essential that this District have excellent vehicular accessibility from both the central community and the region and that safe and adequate off-street parking and loading areas are provided.

14.2 Principal Permitted Buildings/Structures and Uses:

The following buildings/structures, and uses are permitted in the B-2 District.

- A. Single-family, two-family, duplex, and multi-family dwellings are permitted except as follows:
 - 1. Any building or lot of record identified as being used for commercial, office or other business use will not be permitted to convert the first floor (street level) to residences unless the gross square footage of the first floor exceeds twelve hundred (1200) square feet, in which case fifty percent (50%) of the first floor may be converted to residential use, however, this shall not include the "store front" area visible to pedestrian or vehicular traffic.
- B. Department and clothing stores.
- C. Furniture and appliance stores.
- D. Paint and hardware stores.
- E. Banks and savings and loan institutions.
- F. Specialty shops, including jewelry, stationery, florist, pet shops, and video rental shops.
- G. Business and professional offices.
- H. Small appliance and shoe repair shops.
- I. Indoor recreational establishments, including theaters, bowling alleys, and health clubs.
- J. Automobile service stations and minor repair shops.
- K. Restaurants, including entertainment activities, excluding drive-through eating establishments.
- L. Funeral homes and mortuaries.

- M. Grocery, liquor and convenience stores.
- N. Building tradesman office, workshop, and indoor storage.
- O. Personal services, including laundry/dry cleaning, sewing/tailoring and beauty/barber shops, and pet services with no outdoor kennels.
- P. Laundromats.
- Q. Printing & publishing establishments.
- R. Antique shops.
- S. Broadcast studios.
- T. Public/governmental buildings and properties which are cultural, recreational, administrative, or public service in nature, but not including storage yards, warehouses, or garages.
- U. Fire and rescue services.
- V. Commercial automobile parking lots.

14.3 Accessory Permitted Buildings/Structures and Uses:

The following accessory buildings/structures and uses are permitted in the B-2 District.

- A. Those buildings/structures and uses customarily accessory and incidental to the permitted principal uses or authorized special exceptions of the B-2 District.
- B. Parking, in accordance with Article 23.
- C. Fences, in accordance with Section 5.10.
- D. Signs, in accordance with Article 22.
- E. Solar Collection Systems, in accordance with Section 21.12.
- F. Solar arrays, in accordance with Section 21.13.

(Ord. 487)

14.4 Special Exceptions:

The following buildings/structures and uses are permitted with Board of Appeals approval only. Conditions of approval may be imposed by the Board of Appeals.

- A. Nursing homes, and domiciliary care/assisted living facilities.

- B. Boardinghouses, rooming houses, bed and breakfast establishment, tourist homes, and hostels provided that one (1) parking space per every two (2) guest rooms is available and off-street parking is provided.

(Ord. 502)

- C. Technical schools.

- D. Any other use as determined by the Board of Appeals to be of the same general character as the principal permitted uses and authorized special exceptions of the B-2 District.

14.5 Height Restrictions:

No building or structure in the B-2 District shall exceed fifty feet (50') in height, except as provided by Section 21.3(C).

14.6 Lot Area, Width, and Setback Requirements of the B-2 District

PRINCIPAL PERMITTED AND SPECIAL EXCEPTION USES	MINIMUM LOT AREA (SQ. FT.)	MINIMUM LOT AREA PER DWELLING UNIT OR USE (SQ. FT.)	MINIMUM LOT WIDTH (FT.)	FRONT YARD SETBACK (FT.)	REAR YARD SETBACK (FT.)	SIDE YARD SETBACK (FT.)	OTHER SETBACK REQUIREMENTS
All uses		*			20		20' side yard setback from any adjacent residential use

*Residential dwellings and/or commercial uses shall be limited to one (1) per one thousand (1000) sq. ft. of lot area or one (1) per one thousand (1000) sq. ft. of net floor area of the building, whichever is greater.

ARTICLE 15: B-3 BUSINESS TRANSITIONAL DISTRICT

15.1 Intent:

The intent of the B-3 District is to provide sites for low intensity commercial and employment uses which would be compatible with residential development. Uses which generate high levels of traffic are not appropriate. This district should be located outside the B-2 Central Business District on properties, which have historically been used for business purposes, but, due to growth within the City, have become part of a larger residential neighborhood.

15.2 Principal Permitted Buildings/Structures and Uses:

The following buildings/structures and uses are permitted in the B-3 District.

- A. Single- and two-family dwellings.
- B. Duplexes.
- C. Townhouses.
- D. Multiple-family dwellings.
- E. Houses of worship.
- F. Public schools and educational institutions.
- G. Public/governmental buildings and properties which are cultural, recreational, administrative or public service in nature, but not including storage yards, warehouses or garages.
- H. Recycling centers.
- I. Fire and rescue services.
- J. Parks, playgrounds and community centers.
- K. Business and professional offices.
- L. Child care centers, provided they meet the Child Care Administration's Licensing requirements for commercial child care facilities.
- M. Indoor storage and warehouse buildings for the purpose of indoor storage of goods and/or material which will be retailed, processed, or disposed of off premises, but not including auto wrecking, junk or other salvage storage yards or truck terminals.
- N. Commercial automobile parking lots.

- O. Nursing homes and domiciliary care/assisted living facilities, provided that one (1) off-street parking space is provided for each employee and for each three (3) patients to be cared for therein.
- P. Medical and dental clinics.
- Q. Boardinghouses, rooming houses, bed and breakfast establishments, tourist homes and hostels provided that off-street bicycle parking is provided.

(Ord. 503)

15.3 Accessory Permitted Buildings/Structures and Uses:

The following accessory buildings/structures and uses are permitted in the B-3 District.

- A. Those buildings, structures and uses customarily accessory and incidental to any principal permitted use or authorized special exception of the B-3 District.
- B. Parking, in accordance with Article 23, except where otherwise expressly stated in this Article.
- C. Fences, in accordance with Section 5.10.
- D. Home occupations and resident professional offices, in accordance with Section 5.11.
- E. Signs, in accordance with Article 22.
- F. Solar Collection Systems, in accordance with Section 21.12.
- G. Solar arrays, in accordance with Section 21.13.

(Ord. 487)

15.4 Special Exceptions:

The following buildings/structures and uses are permitted in the B-3 District with Board of Appeals approval only, and are subject to conditions of approval as listed below. Other conditions of approval may be imposed by the Board of Appeals.

- A. Those retail businesses permitted in the B-1 Neighborhood Business District and the B-2 Central Business District.
- B. Limited manufacturing and assembly uses.
- C. Any other use determined by the Board of Appeals to be of the same general character as the principal permitted use or authorized special exceptions of the B-3 District.

All Special Exceptions must conform to the following conditions:

1. All businesses, services or processing shall be conducted wholly within a completely enclosed building.
2. Processes and equipment employed and goods processed shall be limited to those which are not objectionable by reason of hazard, odor, dust, smoke, cinders, gas, fumes, noise, vibration, radiation, refuse matter or water-carried waste, and must comply with the Performance Standards in Section 18.6.
3. The proposed use, including its nature, intensity and location must be in harmony with the intent of the B-3 District.
4. The proposed use must have access to existing or future streets adequate to carry the increased traffic attributable to the use.

15.5 Height Restrictions:

No building/structure in the B-3 District shall exceed forty feet (40') in height, except as provided in Section 21.3(C).

15.6 Lot Area, Width, and Setback Requirements of the B-3 District

PRINCIPAL PERMITTED AND SPECIAL EXCEPTION USES	MINIMUM LOT AREA (SQ. FT.)	MINIMUM LOT AREA PER DWELLING UNIT OF USE* (SQ. FT.)	MINIMUM LOT WIDTH (FT.)	FRONT YARD** SETBACK (FT.)	REAR YARD SETBACK (FT.)	SIDE YARD*** SETBACK (FT.)	OTHER SETBACK REQUIREMENTS
Single-family dwelling units	5,000	5,000	50	25	30	6	
Two-family dwelling units	5,550	2,750	50	25	25	6	
Duplex units	2,750		27	25	30	6	
Townhouses	1,800	3,500****	18	25	30	10*****	
Multi-family dwelling units	12,000	4,000*****	50	25	25	10	
All others				40	50	20	

*Residential dwellings and/or commercial uses shall be limited to one (1) per two-thousand (2,000) sq. ft. of lot area or one (1) per two-thousand (2,000) sq. ft. of the net floor area of the building, whichever is greater.

**As measured from the lot line (does not include a portion of the right-of-way).

***Corner lots shall provide two front yards and one side yard.

****The difference between minimum lot area and minimum lot area per dwelling unit square footage may be devoted to open spaces.

*****Side yard setbacks pertain to end units only. When clustering a group of townhouses, one end unit shall be no closer than twenty feet (20') to the next group.

*****Does not include rights-of-way or parking areas.

ARTICLE 16: GC GENERAL COMMERCIAL DISTRICT

16.1 Intent:

The GC District is intended to provide areas for major retail, service and other business activities that will serve the general commercial needs of the community at large. Special care must be taken in development review to minimize the impacts of the high-traffic and other potentially disruptive activities, and to ensure that new commercial development will not be located in areas with slopes of more than twenty percent (20%).

16.2 Principal Permitted Buildings/Structures, and Uses:

The following buildings/structures and uses are permitted in the GC District.

- A. Grocery, liquor, convenience, and drug stores.
- B. Clothing, dry goods, shoe and variety stores.
- C. Furniture, appliance, paint and hardware stores.
- D. Banks and savings and loan institutions.
- E. Specialty shops, including gift, stationery, jewelry, florist and video rental shops.
- F. Business and professional offices.
- G. Personal services, including laundry/dry cleaning, laundromats, barber/beauty shops, sewing/tailoring, and pet services with no outdoor kennels.
- H. Small appliance and shoe repair shops.
- I. Indoor recreational activities, including theaters, bowling alleys, and health clubs.
- J. Automobile filling and service stations, car washes, and repair or service shops.
- K. Greenhouses and garden supply stores.
- L. Funeral homes and mortuaries.
- M. Commercial automobile parking lots.
- N. Restaurants, excluding entertainment activities.
- O. Medical and dental clinics.
- P. Child care centers, provided they meet the Child Care Administration's Licensing requirements for commercial child care facilities.

- Q. Public/governmental buildings and properties which are cultural, recreational, administrative or public service in nature, but not including storage yards, warehouses, or garages.
- R. Houses of worship.
- S. Recycling centers.
- T. Fire and rescue services.
- U. Motels and hotels, provided that one (1) off-street parking space is provided for each guest room.

(Ord. 504)

16.3 Accessory Permitted Buildings/Structures and Uses:

The following accessory buildings/structures and uses are permitted in the GC District.

- A. Those buildings/structures and uses customarily accessory and incidental to the principal permitted uses or authorized special exceptions of the GC District.
- B. Parking, in accordance with Article 23, except where expressly stated otherwise in this Article.
- C. Fences, in accordance with Section 5.10.
- D. Signs, in accordance with Article 22.
- E. Solar Collection Systems, in accordance with Section 21.12.
- F. Solar arrays, in accordance with Section 21.13.

(Ord. 487)

16.4 Special Exceptions:

The following buildings/structures and uses are permitted by Board of Appeals approval only. Conditions of approval may be imposed by the Board of Appeals.

- A. Nursing homes and domiciliary care/assisted living facilities, provided that one (1) off-street parking space is provided for each employee and for each three (3) patients to be cared for therein.
- B. Automobile sales lots and sales and service centers, provided that outdoor vehicle displays are organized into neat rows.

- C. Any other use determined by the Board of Appeals to be of the same general character as the principal permitted uses or authorized special exceptions of the GC District.

16.5 Height Restrictions:

No building/structure in the GC District shall exceed forty feet (40') in height, except as provided in Section 21.3(C).

16.6 Lot Area, Width, and Setback Requirements for the GC District

PRINCIPAL PERMITTED AN SPECIAL EXCEPTION USES	MINIMUM LOT AREA (SQ. FT.)	MINIMUM LOT AREA PER DWELLING UNIT OR USE (SQ. FT.)	MINIMUM LOT WIDTH (FT.)	FRONT YARD* SETBACK (FT.)	REAR YARD SETBACK (FT.)	SIDE YARD** SETBACK (FT.)	OTHER SETBACK REQUIREMENTS
All uses			50	20	6	6	40' side or rear yard setback from any adjacent Residential District

*As measured from the lot line (does not include a portion of the right-of-way).

**Corner lots shall provide two front yards and one side yard.

ARTICLE 17: HS HIGHWAY SERVICE DISTRICT

17.1 Intent:

The HS District is intended to provide for the automobile service and drive-in needs of local and interstate traffic. It is intended that service stations, motels, restaurants, and other associated uses will be situated in compact, attractive, and well-designed areas strategically located on primary highways, with ample provision for off-street parking and safe access to and from adjacent thoroughfares. Furthermore, it is intended that commercial businesses sell primarily new merchandise or bona fide antiques, with the exception of used auto sales lots.

17.2 Principal Permitted Buildings/Structures and Uses:

The following buildings/structures and uses are permitted in the HS District.

- A. Motels and hotels, provided that one (1) off-street parking space is provided for each unit.
- B. Automobile filling and service stations and repair or service shops.
- C. Restaurants, including drive-through eating establishments, but excluding entertainment activities.
- D. Gift shops.
- E. Automobile sales lots and sales and service centers.
- F. Fire and rescue services.

17.3 Accessory Permitted Buildings/Structures and Uses:

The following accessory buildings/structures and uses are permitted in the HS District.

- A. Those buildings/structures and uses customarily accessory and incidental to any principal use of the HS District.
- B. Parking, in accordance with Article 23, except where otherwise expressly stated in this Article.
- C. Fences, in accordance with Section 5.10.
- D. Signs, in accordance with Article 22.
- E. A. Solar Collection Systems, in accordance with Section 21.12.
- F. B. Solar arrays, in accordance with Section 21.13.

(Ord. 487)

17.4 Special Exceptions:

The following buildings, structures or uses are permitted in the HS District with Board of Appeals approval only. Conditions of approval may be imposed by the Board of Appeals.

- A. Any use as determined by the Board of Appeals to be of the same general character as the principal permitted uses of the HS District.

17.5 Height Restrictions:

No building or structure in the HS District shall exceed forty feet (40') in height, except as provided by Section 21.3(C).

17.6 Lot Area, Width, and Setback Requirements of the HS District

PRINCIPAL PERMITTED AND SPECIAL EXCEPTION USES	MINIMUM LOT AREA	MINIMUM LOT AREA PER DWELLING UNIT OR USE (SQ. FT.)	MINIMUM LOT WIDTH (FT.)	FRONT YARD* SETBACK (FT.)	REAR YARD SETBACK (FT.)	SIDE YARD** SETBACK (FT.)	OTHER SETBACK REQUIREMENTS
Motels and hotels	2 acres	1,200	300	25	40	20	
All others				25	40	20	

*As measured from the lot line (does not include a portion of the R.O.W.).

**Corner lots shall provide two front yards and one side yard.

ARTICLE 18: I-1 LIGHT INDUSTRIAL DISTRICT

18.1 Intent:

The I-1 District is intended for the location of both heavy commercial and light industrial uses which are basically similar in nature and too few in number to warrant separate districts. These uses are of such size and character as to deem them inappropriate for other commercial and industrial districts. Heavy commercial and light industrial development in the I-1 District must be located in areas with slopes of not more than fifteen percent (15%), and must have sufficient, direct, and safe access for trucks from interstates and major highways without traveling through residential and commercial areas. Furthermore, it is recommended that these uses are situated in such a manner that would make them least offensive to one another and to adjacent land uses. This District encourages the use of industrial park development, which treats a large expanse of land as an industrial subdivision by planning, constructing, servicing, and maintaining it in a manner that will make resourceful use of the land, increase the compatibility and attractiveness of these uses to one another, and protect the community's advantage in attracting commerce and industry.

18.2 Principal Permitted Buildings/Structures and Uses:

The following buildings/structures and uses are permitted in the I-1 District.

- A. Limited manufacturing and assembly, including research and development scientific or technological in nature.
- B. Indoor warehousing and storage, not including truck terminals.
- C. Printing and publishing.
- D. Business and professional offices.
- E. Medical and dental clinics.
- F. Technical and vocational schools.
- G. Automobile sales lots and sales and service centers.
- H. Automobile filling and service stations and repair or service shops.
- I. Restaurants, excluding entertainment activities.
- J. Banks and savings and loan institutions.
- K. Hotels and motels, provided that one (1) off-street parking space is available per unit.
- L. Bus terminals.
- M. Commercial communication towers.

- N. Public/governmental buildings or properties which are cultural, recreational, administrative or public service in nature, including storage yards, warehouses and garages.
- O. Fire and rescue services.
- P. Recycling centers.

18.3 Accessory Permitted Buildings/Structures and Uses:

The following accessory buildings/structures and uses are permitted in the I-1 District.

- A. Buildings, structures and uses customarily accessory and incidental to the principal permitted uses or authorized special exceptions of the I-1 District.
- B. Parking, in accordance with Article 23, except as otherwise expressly stated in this Article.
- C. Fences, in accordance with Section 5.10.
- D. Signs, in accordance with Article 22.
- E. A. Solar Collection Systems, in accordance with Section 21.12.
- F. B. Solar arrays, in accordance with Section 21.13.

(Ord. 487)

18.4 Special Exceptions:

The following buildings/structures and uses are permitted in the I-1 District by Board of Appeals approval only. Conditions of approval may be imposed by the Board of Appeals.

- A. Any use that is determined by the Board of Appeals to be of the same general character as the principal permitted uses or authorized special exceptions of the I-1 District.

18.5 Height Restrictions:

No height restrictions.

18.6 Performance Standards:

The following performance standards for the I-1 District are designed to reduce the impact of industrial uses on surrounding districts by lessening traffic congestion, protecting the health and safety of workers and nearby residents, and by preventing detrimental effects on properties adjoining or in the neighborhood. At the discretion of the Planning Commission, any site plan for an industrial use may be required to be accompanied by a registered engineer's certification that the use complies with all applicable performance standards. After occupancy, if frequent or

continuous (including intermittent) violations of the performance standards and provisions of this Ordinance occur without bona fide and immediate corrective action, the Zoning Administrator or authorized agent may suspend or revoke the Zoning Certificate issued for the use, and the use shall immediately cease until it is able to operate in accordance with the performance standards and provisions of this Ordinance, at which time the Zoning Certificate shall be reinstated.

A. Storage and operations.

1. All operations and the storage of equipment, materials or products will be conducted within completely enclosed buildings or storage may be permitted outdoors only when completely screened by a wall, opaque fence, or planting so that such materials will not be visible from a public way or adjoining property. The Planning Commission shall determine the most appropriate screening for the use.

B. Noise.

1. Noise level compliance will be measured with a sound level meter. Impact noise will be measured using the fast response of the sound level meter. Impact noises are intermittent sounds such as from a punch press or drop force hammer.
2. The following table describes the maximum sound pressure level from any industrial source and measured in any adjacent Residential District or Commercial District.

Maximum permitted sound levels, dB(A)				
Sound Measured to:	Decibels Continuous Slow Meter Responses		Impact Faster Meter Response	
	I-1	I-2	I-1	I-2
Residential District	55	55	60	60
Commercial District	64	64	70	75
I-1 District Lot, adjacent to noise source	70	75	80	---

3. The following sources of noise are exempt from these performance standards.
 - a. Transportation vehicles not under the ownership, management or control of the industrial use owner/operator.
 - b. Occasionally used safety signals, warning devices, and emergency pressure relief valves, as required by Federal and State law.
 - c. Temporary construction activity between 7:00 a.m. and 7:00 p.m.

C. Vibration. No vibration will be produced which is transmitted through the ground and is discernible without the aid of instruments at or at any point beyond the lot line; nor will any vibration produce a particle velocity of 2 inches per second measured at or beyond the lot line.

D. Dust and particulates.

1. The total emission rate of dust and particulate matter from all vents, stacks, chimneys, flues or other opening or any process, operation, or activity within the boundaries of any lot, will not exceed the levels set forth below. Emissions of dust and particulates shall be in accordance with the State of Maryland rules and regulations governing air contamination and air pollution, and in case of conflict, the most restrictive will apply.
2. Particulate matter emission from materials or products subject to becoming windborne will be kept to a minimum by paving, sodding, oiling, wetting, covering or other means, such as to render the surface wind resistant. Such sources include vacant lots, unpaved roads, yards and storage piles or bulk material such as coal, sand, cinders, slag, sulfur, and the like.

Ambient Air Quality Standard
(I-1 District)
Particulate Matter

Suspended

Annual arithmetic mean, ug/m ³	65
24-hour maximum ^b , ug/m ³	140

Ambient Air Quality Standard
(I-1 District)

Settleable

Annual arithmetic average, mg/cm ² /month	0.35
Monthly maximum	0.7

E. Sulfur oxides. Emission of oxides of sulfur (as sulfur dioxide) from combustion and other processes will be limited in accordance with ambient air quality standards of the State or those of the County, whichever are the more restrictive.

Ambient Air Quality Standard
(I-1 District)

Sulfur Oxides

Annual arithmetic mean, ug/m ³	60
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- F. Smoke. For the purpose of grading the density or equivalent capacity of smoke, the Ringelmann Chart as most recently published by the United States Bureau of Mines shall be used.
1. The emission of smoke darker than Ringelmann No. 1 from any chimney, stack, vent, opening, or combustion process is prohibited.
- G. Odor. Odor thresholds shall be measured in accordance with ASTM d1391-57 "Standard Method for Measurement of Odor in Atmospheres (Dilution Method)" or its equivalent.
1. Odorous material released from any operation or activity shall not exceed the odor threshold concentration beyond the lot line, measured either at ground level or habitable elevation.
- H. Toxic matter. The ambient air quality standards for the State of Maryland shall be the standard for the release of airborne toxic materials across lot lines. Where toxic materials are not listed in the ambient air quality standards of the State, the release of such materials shall be in accordance with the fractional quantities permitted below, of those toxic materials currently listed in the threshold limit values adopted by the American Conference of Governmental Industrial Hygienists. Unless otherwise stated, the measurement of toxic matter shall be at ground level or habitable elevation, and shall be the average of any 24-hour sampling period.
1. The release of airborne toxic matter will not exceed one-thirtieth of the threshold limit value across lot lines.
- I. Detonable materials.
1. Activities involving the storage, utilization or manufacture of products which decompose by detonation shall be prohibited.
 2. Such materials shall include but are not limited to: all primary explosives such as lead azide, lead styphnate, fulminates and tetracene; all high explosives such as TNT, RDX, HMX, PETN, and picric acid; propellants and components thereof, such as dry nitrocellulose, black powder, boron hydrides, hydrazine and its derivatives; pyrotechnics and fireworks such as magnesium powder, potassium chlorate and potassium nitrate; blasting explosives such as dynamite and nitroglycerine; unstable organic compounds such as acetylides, tetrazoles and ozonides; unstable oxidizing agents such as perchloric acid, perchlorates, and hydrogen peroxide in concentration greater than 35%; and nuclear fuels, fissionable materials and products, and reactor elements such as Uranium 235 and Plutonium 239.
- J. Fire hazards. Solid materials susceptible to fire hazards shall be subject to the following:

1. The storage, utilization, or manufacture of solid materials which are active to intense burning shall be conducted within spaces having fire resistive construction of no less than 2 hours and protected with an automatic fire extinguishing system.
2. The storage, utilization, or manufacture of flammable liquids or gases which produce flammable or explosive vapors shall be permitted only in accordance with this section, exclusive of the storage of finished products in original sealed containers (60 gallons or less), which shall be unrestricted.
3.
 - a. The total storage capacity of flammable liquids and gases shall not exceed those quantities permitted in the following table for each of the Industrial Districts.

Liquids—Storage Capacity

I-1 District 60,000 gal.

Gases

	Above Ground	Below Ground
I-1 District	150,000 SCF*	300,000 SCF

*SCF—Standard cubic feet at 60°F and 29.92 inches Mercury.

- b. The following setback requirements will apply to the location of any container which holds flammable liquids or gases.

Containers Setback From Lot Lines

Water Capacity Per Container (gallons)	Containers		Between Above Ground Containers (Feet)
	Under Ground (Feet)	Above Ground (Feet)	
0 to 2,000	25	25	3
2,001 to 30,000	50	50	5
30,001 to 60,000	50	75	
In excess of 60,000	75	100	¼ the sum of diameters of adjacent containers

Notwithstanding the above-listed capacities for flammable liquids and gases, an owner or operator shall be permitted to exceed such capacities provided that the Zoning Administrator determines that the excess storage capacity is for an emergency fuel supply only. For

purposes of this section, the term EMERGENCY FUEL SUPPLY means any fuel that is stored on site for use solely in the event of a disruption in the normal fuel supply. In no event shall the total storage capacity for an emergency fuel supply approved pursuant to this subsection exceed that amount of fuel required to operate the subject facility for a maximum of 5 consecutive 24 hour periods. The facilities to hold an emergency fuel supply shall be designed, constructed, and operated in compliance with the Frederick County Fire Prevention Code, § 1-2-64 of the Frederick County Code and the National Safety Codes and standards applicable to the specific emergency fuel.

- K. Glare. Any operation or activity producing glare shall be conducted so that direct or indirect light from the source shall not cause illumination in excess of 0.5 footcandle when measured in an adjoining Residential District.

(Ord. 420)

18.7 Lot Area, Width, and Setback Requirements of the I-1 District

PRINCIPAL PERMITTED AND SPECIAL EXCEPTION USES	MINIMUM LOT AREA (SQ. FT.)	MINIMUM LOT AREA PER DWELLING UNIT OR USE (SQ. FT.)	MINIMUM LOT WIDTH (FT.)	FRONT YARD* SETBACK (FT.)	REAR YARD SETBACK (FT.)	SIDE YARD** SETBACK (FT.)	OTHER SETBACK REQUIREMENTS
Communication Towers							All setbacks must be equal to or greater than the height of the structure.
All other uses	10,000		75	25	50	15***	25' side or rear yard setback from any adjacent Residential District

*As measured from the lot line (does not include a portion of the right-of-way).

**Corner lots shall provide two front yards and one side yard.

***Side yard setbacks shall be as shown or equal to the height of the building/structure, whichever is greater, with a minimum side yard setback of twenty-five feet (25') from any adjacent Residential District.

ARTICLE 19: I-2 HEAVY INDUSTRIAL DISTRICT

19.1 Intent:

The I-2 District is intended to provide areas for high intensity uses that may be objectionable as a consequence of having a high nuisance factor. These uses are likely to have a high degree of noise, dirt, smoke, odor, vibration, visual annoyance, traffic or some other single or combination of dangerous or obnoxious factors. Although the I-2 District recognizes the necessity for accommodating such uses, it is mindful of the need to minimize the effects of such objectionable factors on adjacent areas. Therefore, it is specifically recommended that corrective measures be taken to protect the health and property of adjacent owners.

The foregoing statements should not be construed as being obstructions to heavy industrial development, but rather as attempts to make such development a compatible asset to the remainder of the community.

19.2 Principal Permitted Buildings/Structures and Uses:

The following buildings/structures and uses are permitted in the I-2 District.

- A. Railroad yards, and their associated storage areas and repair shops.
- B. Stations, terminals, and other public buildings related to transportation and the parking facilities associated with them.
- C. Commercial communication towers.
- D. Public/government buildings or properties, which are administrative, cultural, recreational, or public-service in nature, including storage yards, warehouses and garages.
- E. Fire and rescue services.

19.3 Accessory Permitted Buildings/Structures and Uses:

The following accessory buildings/structures, and uses permitted in the I-2 District.

- A. Those buildings, structures, and uses customarily accessory and incidental to the principal permitted uses or authorized special exceptions of the I-2 District.
- B. Parking, in accordance with Article 23.
- C. Fences, in accordance with Section 5.10.
- D. Signs, in accordance with Article 22.
- E. Solar Collection Systems, in accordance with Section 21.12.

F. Solar arrays, in accordance with Section 21.13.

(Ord. 487)

19.4 Special Exceptions:

The following buildings/structures and uses are permitted with Board of Appeals approval only. Conditions of approval may be imposed by the Board of Appeals.

- A. Any use that is determined by the Board of Appeals to be of the same general character as the principal permitted uses of the I-2 District.

19.5 Height Restrictions:

No height restrictions.

19.6 Performance Standards:

The following performance standards for the I-2 District are designed to reduce the impact of industrial uses on surrounding districts by lessening traffic congestion, protecting the health and safety of workers and nearby residents, and by preventing detrimental effects on properties adjoining or in the neighborhood. At the discretion of the Planning Commission, any site plan of an industrial use may be required to be accompanied by a registered engineer's certification that the use complies with all applicable performance standards. After occupancy, if frequent or continuous (including intermittent) violations of the performance standards and provisions of this Ordinance occur without bona fide and immediate corrective action, the Zoning Administrator or authorized agent may suspend or revoke the zoning certificate issued for the use, and the use shall immediately cease until it is able to operate in accordance with the performance standards and provisions of this Ordinance, at which time the zoning certificate shall be reinstated.

A. Storage and operations.

- 1. A use is permitted either indoors or outdoors but in conformance with the following.
 - a. Storage. Storage in an I-2 District within 500 feet of a residential district boundary may be outdoors but will be effectively screened by a solid wall, fence, or plantings so that the materials will not be visible from the Residential District.

B. Noise.

- 1. Noise level compliance will be measured with a sound level meter. Impact noise will be measured using the fast response of the sound level meter. Impact noises are intermitted sounds such as from a punch press or drop force hammer.

2. The following table describes the maximum sound pressure level from any industrial source and measured in any adjacent Residential District, Commercial District, or I-1 Lot.

Maximum permitted sound levels, dB(A)				
Sound Measured to:	Decibels Continuous Slow Meter Responses		Impact Fast Meter Response	
	I-1	I-2	I-1	I-2
Residential District	55	55	60	60
Commercial District	64	64	70	75
I-1 District Lot, adjacent to noise source	70	75	80	---

3. The following sources of noise are exempt.
 - a. Transportation vehicles not under control of the industrial use.
 - b. Occasionally used safety signals, warning devices, and emergency pressure relief valves required by State and Federal law.
 - c. Temporary construction activity between 7:00 A.M. and 7:00 P.M.

C. Vibrations. No vibration will be produced which is transmitted through the ground and is discernible without the aid of instruments at or any point beyond the lot line; nor will any vibration produce a particle velocity of 2 inches per second measured at or beyond the lot line.

D. Dust and particulates.

1. The total emission rate of dust and particulate matter from all vents, stacks, chimneys, flues, or other opening or any process, operation, or activity within the boundaries of any lot, will not exceed the levels set forth below. Emissions of dust and particulates shall be in accordance with the State of Maryland rules and regulations governing air contamination and air pollution, and in case of conflict, the most restrictive will apply.
2. Particulate matter emission from materials or products subject to becoming windborne will be kept to a minimum by paving, sodding, oiling, wetting, covering, or other means, such as to render the surface wind resistant. Such sources include vacant lots, unpaved roads, yards and storage piles or bulk material such as coal, sand, cinders, slag, sulfur, and the like.

Ambient Air Quality Standard
(I-2 District)
Particulate Matter

Suspended

Annual arithmetic mean ug/m ³	65
24-hour maximum ^b , ug/m ³	140

Ambient Air Quality Standard
(I-2 District)

Settleable

Annual arithmetic average, mg/cm ² /month	0.35
Monthly maximum	0.7

- E. Sulfur oxides. Emission of oxides of sulfur (as sulfur dioxide) from combustion and other processes will be limited in accordance with ambient air quality standards of the State or those of the County, whichever are the more restrictive.

Ambient Air Quality Standard
(I-2 District)

Sulfur Oxides

Annual arithmetic mean, ug/m ³	60
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- F. Smoke. For the purpose of grading the density or equivalent capacity of smoke, the Ringelmann Chart as most recently published by the United States Bureau of Mines shall be used.

1. The emission of smoke darker than Ringelmann No. 1 from any chimney, stack, vent, opening, or combustion process is prohibited; however, smoke of a shade not to exceed Ringelmann No. 2 is permitted for up to four (4) minutes total in any one (1) hour period.

- G. Odor. Odor thresholds shall be measured in accordance with ASTM d1391-57 "Standard Method for Measurement of Odor in Atmospheres (Dilution Method)" or its equivalent.

1. Odorous materials released from any operation or activity shall not exceed the odor threshold concentration at or beyond the district boundary line measured either at ground level or habitable elevation.

- H. Toxic matter. The ambient air quality standards for the State of Maryland shall be the standard for the release of airborne toxic materials across lot lines. Where toxic

materials are not listed in the ambient air quality standards of the State, the release of such materials shall be in accordance with the fractional quantities permitted below, of those toxic materials currently listed in the threshold limit values adopted by the American Conference of Governmental Industrial Hygienists. Unless otherwise stated, the measurement of toxic matter shall be at ground level or habitable elevation, and shall be the average of any 24-hour sampling period.

1. The release of airborne toxic matter shall not exceed one-thirtieth of the threshold limit value beyond the district boundary line.

I. Detonable materials.

1. Activities involving the storage, utilization or manufacture of products which decompose by detonation shall be in accordance with these new regulations.
2. Such materials shall include but are not limited to: all primary explosives such as lead azide, lead styphnate, fulminates, and tetracene; all high explosives such as TNT, RDX, HMX, PETN, and picric acid; propellants and components thereof, such as dry nitrocellulose, black powder, boron hydrides, hydrazine and its derivatives; pyrotechnics and fireworks such as magnesium powder, potassium chlorate and potassium nitrate; blasting explosives such as dynamite and nitroglycerine; unstable organic compounds such as acetylides, tetrazoles and ozonides; unstable oxidizing agents such as perchloric acid, perchlorates, and hydrogen peroxide in concentration greater than 35%; and nuclear fuels, fissionable materials and products, and reactor elements such as Uranium 235 and Plutonium 239.
 - a. The manufacture of materials or products which decompose by detonation is limited to five (5) pounds; however, such materials may be stored or utilized in any quantity.

J. Fire hazards. Solid materials susceptible to fire hazards shall be subject to the following:

1. The storage, utilization, or manufacture of solid materials which are active to intense burning shall be conducted within walls having a fire resistance no less than two (2) hours or protected by an automatic fire extinguishing system or the building shall be no less than 40 feet from all lot lines. The outdoor storage of such materials shall be permitted no closer than 50 feet from all lot lines.
2. The storage, utilization, or manufacture of flammable liquid or gases which produce flammable or explosive vapors shall be permitted only in accordance with this Section, exclusive of the storage of finished products in original sealed containers (60 gallons or less), which shall be unrestricted.
3.
 - a. The total storage capacity of flammable liquids and gases shall not exceed those quantities permitted in the following table for each of the Industrial Districts.

Liquid – Storage Capacity

I-2 District		120,000 gal.
	Gases	
	Above Ground	Below Ground
I-2 District	300,000SCF*	600,000SCF

*SCF – Standard Cubic Feet at 60°F and 29.92 inches Mercury.

- b. The following setback requirements will apply to the location of any container which holds flammable liquids or gases.

Container Setback From Lot Lines

Water Capacity Per Container (gallons)	Containers		Between Above Ground Containers (Feet)
	Under Ground (Feet)	Above Ground (Feet)	
0 to 2,000	25	25	3
2,001 to 30,000	50	50	5
30,001 to 60,000	50	75	
In excess of 60,000	75	100	¼ the sum of diameters of adjacent containers

4. Notwithstanding the above-listed capacities for flammable liquids and gases, an owner or operator shall be permitted to exceed such capacities provided that the Zoning Administrator determines that the excess storage capacity is for an emergency fuel supply only. For purposes of this section, the term EMERGENCY FUEL SUPPLY means any fuel that is stored on site for use solely in the event of a disruption in the normal fuel supply. In no event shall the total storage capacity for an emergency fuel supply approved pursuant to this subsection exceed that amount of fuel required to operate the subject facility for a maximum of five (5) consecutive 24-hour periods. The facilities to hold an emergency fuel supply shall be designed, constructed, and operated in compliance with the Frederick County Fire Prevention Code, § 1-2-64 of the Frederick County Code and the National Safety Codes and standards applicable to the specific emergency fuel.

- K. Glare. Any operation or activity producing glare shall be conducted so that direct or indirect light from the source shall not cause illumination in excess of 0.5 footcandle when measured in an adjoining Residential District.

(Ord. 421)

19.7 Lot Area, Width, and Setback Requirements of the I-2 District

PRINCIPAL PERMITTED AND SPECIAL EXCEPTION USES	MINIMUM LOT AREA (SQ. FT.)	MINIMUM LOT AREA PER DWELLING UNIT OR USE (SQ. FT.)	MINIMUM LOT WIDTH (FT.)	FRONT YARD* SETBACK (FT.)	REAR YARD SETBACK (FT.)	SIDE YARD** SETBACK (FT.)	OTHER SETBACK REQUIREMENTS
Communication Towers							All setbacks must be equal to or greater than the height of the structure.
All other uses	10,000			25	50	15***	25' side yard setback from any adjacent Residential District

*As measured from the lot line (does not include a portion of the right-of-way).

**Corner lots shall provide two front yards and one side yard.

***Side yard setbacks shall be as shown or equal to the height of the building/structure, whichever is greater, with a minimum side yard setback of twenty-five feet (25') from any adjacent Residential District.

(Ord. 421)

ARTICLE 20: OR OFFICE/RESEARCH

20.1 Intent:

The OR District is intended to provide for the development of office, research and limited manufacturing uses in high visibility locations along highways. Development in this district shall be characterized by an absence of nuisances in a clean and aesthetically attractive setting. The OR District shall permit limited manufacturing, fabrication or assembly operations which would, by nature of the product or magnitude of production, be compatible with research, professional or business offices. Commercial uses shall be limited to those, which are primarily oriented towards servicing those industries and businesses located within the OR District.

20.2 Principal Permitted Buildings/Structures and Uses:

The following buildings/structures and uses are permitted in the OR District.

- A. Business and professional offices.
- B. Research and development, including laboratories for experiments and testing.
- C. Limited manufacturing and assembly uses.
- D. Public/governmental buildings or properties which are administrative, cultural, recreational or public service in nature, but not including storage yards, warehouses and garages.
- E. Parks, playgrounds and community centers.
- F. Fire and rescue services.
- G. Restaurants, excluding entertainment activities.
- H. Motels and hotels, provided that one (1) off-street parking space is available for each unit.
- I. Broadcast studios.
- J. Commercial communication towers.
- K. Agricultural activities.

20.3 Accessory Permitted Buildings/Structures and Uses:

The following accessory buildings, structures or uses are permitted in the OR District.

- A. Those buildings, structures and uses customarily accessory and incidental to the principal permitted uses or authorized special exceptions of the OR District.

- B. Parking, in accordance with Article 23, except where otherwise expressly stated in this Article.
- C. Fences, in accordance with Section 5.10.
- D. Signs, in accordance with Article 22.
- E. Solar Collection Systems, in accordance with Section 21.12.
- F. Solar arrays, in accordance with Section 21.13.

(Ord. 487)

20.4 Special Exceptions:

The following buildings, structures and uses are permitted with Board of Appeals approval only. Conditions of approval may be imposed by the Board of Appeals.

- A. Any use that is determined by the Board of Appeals to be of the same general character as the principal permitted uses of the OR District.

20.5 Height Restrictions:

No building or structure in the OR District shall exceed sixty feet (60') in height, except as provided by Section 21.3(C).

20.6 Performance Standards:

The following standards shall be met.

- A. The Performance Standards of the I-1 Light Industrial District shall be met, as stated in Section 18.6.
- B. No outdoor storage of equipment, material or products will be permitted.
- C. Twenty percent (20%) of the land area of the lot shall be set aside for landscaped green space. The area shall not be paved or open for vehicular use and the landscaping shall be maintained in a reasonable manner.

The Planning Commission may require that architectural renderings of the proposed building be presented in addition to the site plan to assure that the appearance, size, or type of building material or other aspects of the building conform with the purpose and intent of the OR District.

20.7 Lot Area, Width, and Setback Requirements for the OR District*

PRINCIPAL PERMITTED AND SPECIAL EXCEPTION USES	MINIMUM LOT AREA (SQ. FT.)	MINIMUM LOT AREA PER DWELLING UNIT OR USE (SQ. FT.)	MINIMUM LOT WIDTH (FT.)	FRONT YARD** SETBACK (FT.)	REAR YARD SETBACK (FT.)	SIDE YARD*** SETBACK (FT.)	OTHER SETBACK REQUIREMENTS
Motel or hotel	40,000	500	100	50	40	25	
Other commercial uses	40,000		100	50	40	25	
Industrial and office uses	80,000		200	50	40	25	
Public/government uses	40,000		200	50	40	25	
All other uses	10,000			25	50	15	25' minimum setback from any adjacent Residential District

*All setbacks shall be as shown or equal to the height of the structure, whichever is greater, with a twenty-five foot (25') minimum side yard setback from any adjacent Residential District for "other" uses.

**As measured from the lot line (does not include a portion of the right-of-way.)

***Corner lots shall provide two front yards and one side yard.

ARTICLE 21: SPECIAL PROVISIONS

21.1 Essential Services and Facilities:

Essential services and the associated facilities necessary for the provision of those services by public utility companies, state and local governments, or other parties, are permitted in any zoning district. However, new service extensions or additions and enlargements may be subject to site plan review by the Planning Commission, to ensure that proposed services are in accordance with the Master Plan, do not unnecessarily create an obstruction to movement and community growth, and do not prove themselves objectionable by reason of hazard, unsightliness, odor, smoke, gas, fumes, noise, vibration, radiation, refuse matter, or water-carried waste. Site plans shall conform to the requirements of Section 5.12 of this Ordinance.

Buildings and structures associated with essential services must comply with the setbacks established for each zoning district.

21.2 Temporary Buildings/Structures, and Uses:

- A. Temporary buildings or structures incidental to construction work, including mobile homes used for residential purposes, will be permitted in any zoning district until the completion or abandonment of such construction work, or within the period stated in Section 6.4. Such temporary building or structures must comply with the requirements of the Frederick County Health Department.
- B. Circuses, carnivals, special events, roadside stands, and temporary seasonal activities may be permitted in any commercial or industrial zoning district. Roadside stands are permitted in the AG District. Some temporary uses may require site plan review by the Planning Commission, as described in Section 5.12 of this Ordinance.
 - 1. Temporary uses and associated structures will be allowed to remain for no longer than sixty (60) days, at which time the zoning certificate will expire and structures must be removed from the property.
 - 2. If the use is to remain in the same location for more than sixty (60) days, the following additional requirements must be met:
 - a. the applicant must notify the Zoning Administrator or authorized agent of the intent to continue the use prior to the expiration of the zoning certificate, and
 - b. the applicant must prepare a site plan for review by the Planning Commission, as described in Section 5.12. Planning Commission approval of the site plan will include a stated period of time for which the temporary use will be permitted to remain. A zoning certificate will be issued upon site plan approval.

21.3 Modifications:

In the following cases, requirements of this Ordinance have been modified:

- A. Modifications for the Development of Lots of Record: In any district where dwellings are permitted, a single-family dwelling may be located on any lot of record irrespective of its area or width or the width of the right-of-way on which it fronts, provided that:
 - 1. The front yard(s) shall have a setback of no less than half of the required setback for the district in which the lot is located; and
 - 2. The front yard of a lot of record fronting on a right-of-way of less than fifty feet (50') in width shall be set back twenty-five feet (25') from the center line of the road in addition to the required front yard setback for the district in which the lot is located; and
 - 3. The side yard and/or rear yard shall have a setback of no less than half of the required setback for the district in which the lot is located.

- B. Modifications for the re-development of Lots of Record within the eligible transit oriented development overlay area: in any eligible transit oriented development overlay area where dwellings are permitted, a two-family dwelling may be located on any Lot of Record irrespective of the width of the right-of-way on which it fronts and shall comply with minimum lot area and lot width requirements for the district in which the lot is located provided that:
 - 1. The front yard(s) shall have a setback of no less than half of the required setback for the district in which the lot is located; and
 - 2. The front yard of the Lot of Record fronting on a right-of-way of less than fifty feet (50') in width shall be setback twenty-five feet (25') from the center line of the road in addition to the required front yard setback for the district in which the lot is located; and
 - 3. The side yard and/or rear yard shall have a setback of no less than half of the required setback for the district in which the lot is located.

(Ord. 505)

- C. Modification of Front Yard Setback Requirements for the Development of a Lot Between Two Previously Developed Lots: When a building is proposed to be located on an undeveloped lot that lies between two developed lots which do not meet the front yard setback requirement for the district in which they are located, the setback required for the proposed building will be no less than the average of the two front yard setbacks of the adjoining developed lots.

- D. Modification of Height Restrictions: The following buildings and structures are exempted from the height restrictions of this Ordinance: steeples, flag poles, water

tanks and towers, essential service facilities and the equipment required to maintain such buildings or structures, communication towers, and farm buildings and structures.

E. Modification of Setback Requirements for Architectural Features:

1. Front, rear and side yards: The following architectural features may project into the required setback:
 - a. Cornices, canopies, eaves or similar architectural features: not more than six feet (6').
 - b. Fire escapes: not more than four feet six inches (4'6").
 - c. Bay windows and chimneys: not more than three feet (3').
2. Front or rear yards: The following architectural features may project into the required setback:
 - a. Unenclosed porches, porticos, patios, stoops, terraces, verandas, or balconies: not more than six feet (6').
3. Side yard: When adjacent to an interior side lot line, architectural features may project into the required setback not more than three feet (3').

21.4 Satellite Dish Antennas:

- A. In any Residential or Natural Resource district, ground mounted satellite dishes up to thirteen feet (13') in diameter may be authorized by the Zoning Administrator or authorized agent subject to the following criteria:
 1. All installations must comply with all accessory use, height, bulk and setback requirements specified, or as modified, within the district. Front, side, and rear yard setback requirements will include the required setback for the zoning district (as measured from the support post), plus the radius of the dish, cone or horn.
- B. In any Residential or Natural Resource District, roof mounted satellite dish antennas up to three feet, three inches (3'3") in diameter are permitted. Satellite dish antennas with diameters greater than three feet three inches (3'3") may be permitted with Board of Appeals approval subject to the following criteria:
 1. Demonstration by the applicant that compliance with Section 21.4 of this Ordinance would result in the obstruction of the antenna's reception window; and that such obstruction involves factors beyond the control of the applicant.
 2. The height of the proposed installation does not exceed the zoning district's maximum height restriction.

3. All applications must include certification by a registered engineer that the proposed installation complies with those standards listed in the BOCA Basic Building Code. Furthermore, written documentation of such compliance, including loading distributions within the building's support structure, shall be furnished.
- C. In any Commercial or Industrial Zoning District, roof-mounted satellite dish antennas up to six and a half feet (6'6") in diameter are permitted. Ground mounted satellite dish antennas six and a half feet (6'6") in diameter to thirteen feet (13') feet in diameter may be permitted subject to the following criteria:
1. All principal structure installations or accessory structure installations that abut land zoned for residential purposes shall comply with the principal structure setback requirements of the district in which it is located. All accessory structure installations not abutting residentially zoned land shall comply with the accessory structure setback requirement as set forth in Section 5.8.
 2. All installations shall comply with the zoning district's maximum height restrictions.
 3. All installations exceeding thirteen feet (13') in diameter shall be screened from any adjoining residentially zoned land. Such screening can be waived if the antenna is set back a distance at least five (5) times its diameter from any residentially zoned property.
 4. All applications for zoning certificates must include certification by a registered engineer that the proposed installation complies with those standards listed in the BOCA Basic Building Code.

21.5 Planned Unit Developments (PUDs):

- A. Intent: The Planned Unit Development is an overlay option only in certain residential zoning districts designed to provide for small and large scale developments incorporating a variety of residential and related uses which are planned and developed as a unit. Such development may consist of individual lots or common building sites. Common land must be an essential and major element of the plan. The purpose of this section is to permit flexibility and provide performance criteria resulting in planned developments, which provide:
1. a maximum choice in the types of environments and living units available to the public;
 2. green areas and recreation areas;
 3. a pattern of development which preserves trees, outstanding natural topography and geologic features and which prevents soil erosion;
 4. a creative approach to the use of land and related physical development;

5. an efficient use of land resulting in smaller networks of utilities and streets;
6. an environment of stable character in harmony with surrounding development; and
7. a more desirable environment than would be possible through the strict application of other sections of this Ordinance.

B. Location: A Planned Unit Development may be established in the RS, R-1, and R-2 Zoning Districts. A zoning certificate/building permit for any structure in a PUD shall be issued only after the Phase III plans for such development have been approved by the Planning Commission and final plats recorded for the lot or section for which the permit is being requested.

C. Required Land Area: A PUD may not be proposed for any tract of land with an area of less than five (5) acres. The RS and R-1 Zoning Districts require a minimum area of ten (10) acres. A PUD may be owned, leased or controlled either by a single person or corporation or by a group of individuals and/or corporations.

D. Density: The general density (dwelling units per acre) of a PUD is determined by the Master Plan designation for the property on which the PUD is proposed. The table below establishes density ranges for each of the residential Master Plan Classifications.

<u>Master Plan Classification</u>	<u>Density</u>
Low Density Residential	2-5 DU/acre
Low-Medium Density Residential	6-7 DU/acre
Medium Density	8-10 DU/acre

If the PUD is located within more than a single residential classification, the specific density may reflect a weighted average based upon the percentage of land area in each residential classification.

Specific density for each PUD is determined after the Applicant/Developer has submitted a Statement of Requested Land Use Density to the Planning Commission during Phase I review. If the Phase I plans are approved by the Planning Commission, the plans and a recommended specific density will be forwarded to the Mayor and Council for review.

The Planning Commission in its recommendation and Mayor and Council in its final action on the Phase I PUD plan will consider the following issues in determining the specific density of a PUD:

1. Existing and planned availability of public services and facilities;
2. Access to existing or planned major thoroughfares and transportation systems;
3. The physical constraints and environmental conditions of the site, including steep slopes or floodplain;

4. The shape of the tract of land;
5. The proposed design of the PUD;
6. Adjoining and nearby zoning and land use and the recommendation of the Master Plan; and
7. Any other relevant information, which may have a bearing on the development capacity of the PUD.

E. Required Elements: PUDs must provide the following elements (as applicable):

1. Public Facilities: The location, design and extent of public facilities to be provided are subject to the recommendations of the Planning Commission and approval by the Mayor and Council. The following facilities must be provided in PUDs:
 - a. Water and Sewer: All PUDs must be served by a public water and sewer system.
 - b. Transportation: The location and design of roads will be in accordance with the Brunswick Master Plan, the Subdivision Regulations and the Design Manual, or as recommended by the City Engineer.
 - c. Schools: If the PUD contains two hundred fifty (250) or more dwelling units then one acre of land for each hundred (100) dwelling units will be provided for public school sites. However, if it is determined by the Planning Commission upon advice of the Frederick County Board of Education, that a school site is not needed, the owner/applicant may substitute some other public facility (such as fire or police station or library, etc.) in lieu of the school for this site, or land off-site for a public purpose or a fee in lieu of land may be donated for this purpose.
 - d. Recreation: Recreational areas shall be provided at a ratio of one (1) acre per sixty (60) dwelling units. (This is not in addition to the required green space.) Funding for operation and maintenance of facilities for the recreational areas shall be collected from individual property owners (including the developer) by the homeowner's association by the time fifty percent (50%) of the units are built, or an equivalent expenditure may be made by the developer to provide the facilities.
 - e. Other Public Facilities: The Planning Commission and Mayor and Council may require developments containing five hundred (500) or more dwelling units to provide at least one (1) acre for a fire station site and at least ten thousand (10,000) square feet for the provision of

library services, or a fee in lieu of land, as determined by the Mayor and Council. In addition to the above, the Planning Commission and Mayor and Council may require sites for other public facilities if the need is justified.

- f. Ownership and Maintenance of Public Facilities: Following acceptance into the City street system, streets will be owned and maintained by the City of Brunswick. Streets and other improved areas approved by the Planning Commission to be private shall be owned and maintained by privately following the City’s approval of the improvement construction.

- 2. Green areas: Green areas (i.e. open, landscaped or undisturbed vegetated areas) must be provided according to the following table. The calculation of green areas may include recreational areas such as tot lots, ball fields, pools and courts, and at least thirty percent (30%) of all green area (or as otherwise determined by the Planning Commission during Phase II review) must be accessible and usable (on flat land):

<u>Gross Density</u> <u>Gross Area</u>	<u>Minimum Green Area/</u>
1-5 DU/acre	30%
6-7 DU/acre	35%
8-10 DU/acre	40%

Green areas and recreational areas may be owned and maintained by the City of Brunswick or by a homeowner’s association, condominium association, or similar organization, subject to the recommendation of the Planning Commission and Mayor and Council approval of areas to be made public.

- F. Permitted Land Uses: The following uses, subject to the required lot areas, setbacks, and height requirements as stated in Section 21.5(G), are permitted in a PUD:

- 1. All residential uses, with the exception of mobile homes, including single-family detached and attached, duplex, townhouses, multi-family dwellings, and zero lot line dwellings. PUDs must feature a combination of at least two (2) different types of residential uses.
- 2. Commercial uses permitted by right in the B-1 Zoning District, as approved by the Planning Commission, provided that the development contains five hundred (500) or more dwelling units. One (1) acre of land per one hundred (100) dwelling units may be used for commercial purposes. Land proposed for commercial use must be designated on the Phase I and Phase II plans.
- 3. Limited industrial uses permitted by right in the OR Office/Research and the I-1 Light Industrial District, as approved by the Planning Commission, provided the development contains one thousand (1000) or more dwelling units. Five (5) acres of land per one hundred (100) dwelling units may be used for limited

industrial purposes. Land proposed for limited industrial use must be designated on the Phase I and Phase II Plans.

4. Quasi-public uses, as defined in Article 4, shall be permitted subject to Planning Commission approval. Land proposed for quasi-public use must be designated on the Phase I and Phase II plans. Quasi-public uses may also be proposed after Phase II approval, in accordance with the Phase II amendment procedures outlined in Section 21.5(H)4.
5. Accessory uses customarily accessory to or associated with the permitted uses listed above, including private garages, storage spaces, tool sheds or other similar uses.

G. Lot Areas, Setbacks, Height Requirements, and Street Alley Standards:

1. The following minimum setbacks for residential uses (principal buildings) shall be complied with:

Front yard.....	25'
Rear yard.....	25'
Side yards.....	8'

Corner lots, however, shall provide two front yards.

The Planning Commission may consider allowing alternative setbacks to be used. The developer must present justification for the reduced setbacks during Phase 2 of the Planning Commission's review of the PUD. In such cases, the following setbacks will be considered the absolute minimum:

- a. front yard setback of fifteen feet (15') from the right-of-way, except that garages to be accessed from the front yard area must be set back at least twenty-five feet (25') from the right-of-way;
- b. one side yard a minimum of eight feet (8'), a total of twelve feet (12') on both sides, and one rear yard setback a minimum of sixteen feet (16') with no building closer than twelve feet (12') to another building. Where a common party wall is used, there shall be a minimum twelve-foot (12') side yard separation between buildings. In the case of zero lot line development, there shall be a minimum twelve-foot (12') separation between buildings on adjacent lots. For buildings exceeding thirty feet (30') in height, one additional foot of separation is required for every two feet (2') of height (excluding chimneys, vents and antennas)¹.
- c. Neo-Traditional Designs in accordance with the City Community Design Guidelines & Development Principles in a PUD in excess of

¹ Text Amendment BR-TA-01-1 passed 3/13/01

300 acres may be submitted as alternatives to these setbacks requirements with justification from the applicant. The Planning Commission may approve the alternatives after review and concurrence with the justification in relation to the Phase I and Phase II Plans, the Master Plan, and the pattern of relationship to existing development on adjacent or confronting lots and consistency with the purpose and intent and objectives to the PUD option.

2. Accessory buildings/structures may be located anywhere on the lot except in the required front yard setback area, but in all cases they must be located a minimum of three feet (3') from any lot line, or six feet (6') from any building/structure on an adjoining lot. The Planning Commission may approve a modification if the developer presents justification during the Phase III review.
3. The minimum lot area for quasi-public uses are one (1) acre, with a minimum front setback of forty feet (40') and minimum side and rear setbacks of fifty feet (50').
4. Minimum lot areas and setbacks for commercial and industrial uses shall be determined by the Planning Commission during review of the Phase II plans.
5. The Planning Commission may approve modifications to the Design Manual if the developer presents justification during the Phase III Plan review that the design is in accordance with the City Community Design Guidelines & Development Principles.

H. Phased Review: The proposed PUD will be reviewed by the Planning Commission in three (3) phases. The Applicant must receive all necessary approvals by the end of each phase before formally proceeding to the next review phase. The Applicant will bear the cost of the City's engineering or legal review fees. After approval of any phase, any subsequent owner of the PUD shall be bound by the terms of approval of the previously approved phases, or may begin the review process again at Phase I. The three (3) phases are:

1. Phase I - The Justification Phase: The Applicant will provide the Planning Commission and Mayor and Council with sufficient information to assess the overall concept of the project and to set a maximum permitted land use density for the PUD, if approved. The area of the proposed PUD must be classified as S-5 DEV., W-5 DEV., at minimum, on the County's Water and Sewerage Plan to be eligible for Phase I Review.
 - a. The following documents must be submitted to planning staff with the Phase I application:
 - 1) A plan, in a scale of one inch equals four hundred feet (1"=400'), maximum. The plan shall show twenty (20) foot contours, all

natural and man-made features, current zoning, and a vicinity map.

- 2) A schematic overlay, which identifies the location, densities and acreage of all proposed land uses.
 - 3) A Statement of Requested Land Use Density and a Statement of Justification for the overall project.
 - 4) A statement addressing the issues set forth in Section 21.5(H)1b(1)-(9) below:
- b. The Planning Commission and the Mayor and Council, in their respective reviews of the proposed development, will consider all of the following issues to determine whether or not the project should be approved:
- 1) The relationship of the proposed PUD to the Master Plan, Zoning Ordinance, and other applicable regulations and guidelines;
 - 2) The general location of the site and its relationship to existing land use in the immediate vicinity;
 - 3) The long-term implications on subsequent local development patterns and the demand for public facilities and services in the City and neighboring County;
 - 4) The topography and the relationship of the proposed uses to existing natural and man-made features, both on-site and in the immediate vicinity;
 - 5) The PUD's proposed construction schedule and how it relates to the provision of public services and facilities;
 - 6) The availability and suitability of vehicular access; and
 - 7) The availability of water and sewer facilities.
- c. The Planning Commission shall review the Phase I proposal at a public hearing advertised in a newspaper of general circulation at least fourteen (14) days prior to the hearing. Owners of property which abuts or confronts the proposed PUD shall receive written notice of the date, time, and location of the public hearing. After considering information presented at the public hearing, the Planning Commission shall formulate a recommendation regarding their approval or disapproval of the proposed PUD and forward it to the Mayor and

Council. If approval is recommended, the Planning Commission shall include a recommendation for specific land use density.

- d. The Mayor and Council shall hold a public hearing to determine the feasibility and desirability of the proposed PUD, giving at least fourteen (14) days' notice of the hearing in a newspaper of general circulation. Owners of property, which abuts or confronts the proposed PUD shall receive written notice of the date, time, and location of the public hearing. The Mayor and Council shall, at a public hearing, approve or disapprove the PUD and if approved, shall establish a specific land use density.
 - e. If Phase II plans are not submitted and approved within one (1) year of the date of the Mayor and Council's approval of the Phase I plans, the Planning Commission shall review the PUD approval and may recommend to the Mayor and Council a continuance for the project or the termination of Phase I approval.
2. Phase II - The Plan Development Phase: The Applicant will submit to the Planning Commission a detailed plan for the entire PUD project in accordance with the approved Phase I plan. The area of the proposed PUD must be classified as S-4 DEV., W-4 DEV., at minimum, on the County's Water and Sewerage Plan to be eligible for Phase II Review.
- a. Twenty (20) copies of a survey plat shall be submitted to planning staff, including the following information:
 - 1) A land use plan, identifying the type, location, quantity, design, and density of land use and types of dwellings for specific sections of the project and the overall project;
 - 2) The primary street layout and design;
 - 3) A green space plan, which includes planned sites for Quasi-public uses and other public improvements. A time line for the completion of these facilities, which shall be relative to a number of dwelling units completed, shall be included;
 - 4) A detailed engineering plan for the extension of water and sewer facilities, including a time line for the completion of these facilities; and
 - 5) The phasing schedule, showing the sequence of the submission of future plats and the provision of adequate public facilities.
 - b. Prior to presenting the Phase II plans at a regularly scheduled Planning Commission meeting, planning staff will distribute copies of the plans to appropriate agency representatives and officials for review and

comment, and will coordinate a Technical Advisory Committee (TAC) meeting of those agency representatives, officials, and the Applicant/Developer. Staff will forward information obtained at the TAC meeting to the Planning Commission at the meeting.

- c. In its review, the Planning Commission may request changes or additional information. The developer will pay any fees for engineering review or off-site studies that may be required by the Planning Commission.
 - d. If the preliminary plans of Phase III have not been submitted and approved within three (3) years of the Planning Commission's approval of Phase II plans, the Planning Commission shall review the PUD approval and may recommend to the Mayor and Council a continuance for the project or the termination of PUD approval.
3. Phase III - The Execution Phase: The Applicant will submit to the Planning Commission subdivision plats in compliance with the Brunswick Subdivision Regulations, and in accordance with approved Phase I and Phase II plans. The area of the proposed PUD must be classified as S-4 DEV., W-4 DEV., at minimum, on the County's Water and Sewerage Plan to be eligible for Phase III Review. However, the project shall not proceed to final plat or building permits without S-3 DEV., W-3 DEV. The following documents shall be submitted:
- a. Preliminary plans in compliance with the requirements of the Brunswick Subdivision Regulations.
 - b. Nine (9) copies of covenants to be attached to the property, as well as nine (9) copies of the articles of incorporation and by-laws of any homeowner's association. The Applicant/Developer will bear the cost of legal review by the City Attorney.
 - c. Final plats in compliance with the requirements of the Brunswick Subdivision Regulations. However, with the exception of those for single-family detached dwellings, final plats will not be approved before exterior architectural and landscaping plans have been reviewed and approved by the Planning Commission.
4. Amendments to Phase II Plans: Applicants may request an amendment to the Phase II plans to establish a quasi-public use.
- a. In evaluating a quasi-public use request, the Planning Commission will consider the relationship of the proposed use to the existing and future development patterns in the PUD. A quasi-public use may be permitted if the Planning Commission finds that:

- 1) The proposed use is associated with the needs of the PUD and is in harmony with the purpose and intent of the approved PUD plans and of this Section;
 - 2) The nature and intensity of the operations involved, or conducted in connection with the proposed use, and the size of the site in relation to it are such that the proposed use will be in harmony with the appropriate and orderly development of the PUD in which it is located;
 - 3) Operations in connection with the proposed use are no more objectionable to nearby properties by reason of noise, fumes, vibration, or other characteristics than would be the operations of any permitted use;
 - 4) Parking areas are in compliance with the off-street parking requirements of this Ordinance and will be screened from adjoining residential uses. The entrance and exit drives shall be laid out so as to achieve maximum safety;
 - 5) The road system providing access to the site is adequate to serve the proposed use;
 - 6) The site meets the minimum lot area requirement; and
 - 7) The minimum front, side and rear setbacks are met.
 - 8) In addition to the requirements stated above, the Planning Commission may impose reasonable conditions as necessary to protect adjacent properties and the integrity of the PUD.
- b. The Planning Commission shall not consider an amendment to the Phase II plans to establish a quasi-public use unless and until:
- 1) A written request to amend the Phase II plan has been submitted, indicating the grounds on which the approval of the Quasi-public use is requested and a site plan for the proposed use;
 - 2) A notice of public hearing has been posted on the property for a minimum of thirty (30) days prior to the next regularly scheduled Planning Commission meeting, indicating that an amendment to the Phase II plan has been proposed;
 - 3) A public hearing has been held and the Planning Commission finds that the use requested meets the requirements outlined in this section;
 - 4) Upon approval of the quasi-public use, the Phase II plan will be revised to reflect the change; and

- 5) Any use or activity permitted as a quasi-public use in a PUD may not be enlarged or extended beyond the limits authorized in the approved site plan and amended Phase II plan. Any enlargements, extensions, or changes in use shall require an approved site plan amendment and amendments to the Phase II plans.

(Ord. 422)

21.6 Planned Industrial/Commercial Development:

- A. Purpose and intent.
 1. Encourage concentration of complementary uses grouped adjacent to major thoroughfares, thus limiting sprawling strip commercial and industrial development.
 2. Provide for well-planned development on sites with adequate frontage and depth to permit controlled access and maximum convenience and efficiency for users of such facilities.
 3. Allow for overlapping permitted uses and their accessory functions on parcels which are divided into 2 or more commercial or industrial zoning districts, where due to the size and location of the development, and its relationship to the surrounding properties, flexibility of planning may be desirable without disturbance to the harmony of the neighborhood. Accessory functions may include parking, storm water management, streets and utilities servicing the overlapping permitted uses.
- B. Site plan/subdivision.
 1. The Planning Commission shall make the final determination as to whether a planned commercial/industrial development shall be approved. A site plan and subdivision plat must be submitted and approved by the Planning Commission.
 2. When overlapping uses are requested, Sketch/Concept Plan approval is required. The final site plan and subdivision plat must be submitted within one (1) year after such Sketch/Concept Plan approval, at which time the Planning Commission shall make a determination as to whether a planned commercial/industrial development shall be permitted.
 3. In making a determination as to whether the development shall receive approval, the Planning Commission shall consider the intent and purpose of this section as well as the following design standards, which shall serve as guidelines in reviewing the plan and setting conditions to be placed upon the development. The following design standards may be modified as necessary by the Planning Commission in order to achieve the purpose and intent of this section. Subdivision plats shall comply with subdivision regulations and conditions of site plan approval.

C. Design standards.

1. Layout. In general, the plan shall provide a unified and organized arrangement of buildings, service areas, parking and landscaped open space providing for maximum comfort and convenience of customers. Buildings shall be so grouped in relation to parking areas that, after customers arriving by automobile enter the site, establishments can be visited with a minimum of internal automobile movement.
2. Use. All proposed uses shall be identified on the submitted site plan. The uses proposed within the planned commercial/industrial development shall be in accordance with the existing, underlying zoning; however, the development may include 1 subdivided lot which provides for any use permitted within any zoning district in which any part of the lot is proposed, subject to the limitations set forth below and provided such uses may be limited or restricted in accordance with the approved development plan. More than 1 principal use and/or building may be approved on the site.
3. Bulk regulations.
 - a. Project area. Minimum of 2 acres. The land area of any lot with proposed uses not permitted by the underlying zone shall not exceed one times the land area within such proposed lot which is compatible with such zone. The Planning Commission may not permit accessory functions on land in excess of the land specified in this subsection 21.6(C)(3)(a).
 - b. Minimum frontage of 200 feet on a collector or higher classification highway as shown on the Master Plan or the County Comprehensive Plan.
 - c. Minimum front and rear yard setback shall be not less than 40 feet or equal to the height of the building, whichever is greater.
 - d. Minimum side yard setback shall be not less than 15 feet unless adjacent to a Residential District, then the setback shall be not less than 100 feet.
4. Building separation. Unless buildings are built to a common party wall, they shall be separated by a minimum distance of not less than 10 feet, or a distance equal to the height of the building, whichever is greater.
5. Minimum off-street parking requirements. Off-street parking shall be provided in accordance with the zoning requirements for each proposed use and may be modified by the Planning Commission based upon layout, design and usage.
6. Minimum landscaped open space.

- a. Minimum landscaped open space on any individual lot shall not be less than 20% of the land area of the lot.
- b. Such open space shall not be impervious or open to vehicles and shall be landscaped and maintained.

D. Sketch/Concept Plan approval required for overlapping of Permitted Uses.

1. The provisions of this section relating to the overlapping of permitted uses shall be limited to parcels of record with split zoning as of March 8, 2005, or as created by subsequent comprehensive rezonings. Split zoning parcels are defined as those divided into 2 or more of the following zoning classifications: General Commercial, Light Industrial, or Office Research (GC, I-1, or OR).
2. An applicant may request overlapping of permitted uses on a portion of the planned commercial/industrial parcel not presently zoned for such use, by requesting sketch/concept plan approval through the submission of the following to the Zoning Administrator at least 60 days prior to the plan being presented to the Planning Commission:
 - a. An application in a form acceptable to the Planning and Zoning Office;
 - b. A sketch plan at 1 inch equals 100 feet or a greater scale, showing 2 foot contours, all existing natural and man-made features, existing zoning, Master Plan designation and vicinity map;
 - c. A sketch/concept development plan identifying the location and acreage of all proposed land uses and a generalized location of buildings, roadway, parking and other facilities necessary for development of the site; and
 - d. A justification statement setting forth:
 - 1) The relationship of the proposed development with the Master Plan and zoning regulations;
 - 2) The long-term implications which the proposed planned commercial/industrial development will have on local development patterns;
 - 3) Location of site and its compatibility with existing and planned land use in immediate vicinity;
 - 4) The specific proposed uses and the underlying zoning where such uses are proposed;

- 5) Proposed construction phasing schedule in relationship with the available public facilities and services;
- 6) Availability and suitability of existing and proposed vehicular access; and
- 7) Whether the project as proposed encourages concentration of complementary uses and/or promotes the limitation of sprawling strip commercial development.

3. The Planning Commission will consider the feasibility and desirability of the project application in light of the justification criteria set forth in subsection (C) above and shall approve or disapprove the sketch/Concept Plan.

E. Covenants. Agreements to provide for the use and maintenance of all common use areas shall be reviewed and approved by the Planning Commission and the City Attorney at the developer's expense and recorded by the developer if subdivision occurs.

F. Subdivision. A site receiving site plan approval may only be subdivided in full compliance with City of Brunswick subdivision regulations. A lot receiving approval for overlapping permitted uses may only be further subdivided at the discretion of the Planning Commission and only when consistent with the purpose and intent of this section, and no such lot shall further utilize those provisions of this section relating to the overlapping of permitted uses.

G. Approval note. All plans/plats shall contain a note stating, "This plan/plat is being reviewed and approved under the Planned Industrial/ Commercial Development provisions of the Zoning Ordinance".

(Ord. 422)

21.7 Mixed-Use Development (MXD) Option:

A. Purpose and objectives of the Mixed-Use Development.

1. The Mixed-Use Development (MXD) is an overlay development option only in certain zoning districts which is established for the purpose of providing a compatible mixture of commercial, employment, residential, recreational, civic and/or cultural uses which are planned and developed as a unit. The location of an MXD is restricted to areas which are designated General Commercial, Office Research, or Light Industrial on the City of Brunswick Master Plan and Zoned General Commercial, Light Industrial, Office Research, or Open Space, and which meet the location and size requirements set forth in this section. An MXD can be established on undeveloped land or as part of an existing project. PROJECT is herein defined as a development having an approved preliminary plan. An MXD should act as a complement to, and become a focal point for, the surrounding areas.
2. The objectives for this district include:

- a. Allowing for the introduction of a mixture of uses in an integrated manner while encouraging an efficient use of the land. These introduced uses should provide for heterogeneity and convenience while creating a sense of community.
- b. Creating an environment that ensures the integration and compatibility of the project with existing and proposed surrounding developments while acting as a focal point for the area.
- c. Creating open spaces, civic buildings and/or architectural treatments that act as landmarks, symbols and activity centers that provide a strong sense of identity and uniqueness.
- d. Fostering a pedestrian-friendly environment by the development of a comprehensive non-vehicular circulation network which would link residential, commercial, and employment areas as well as open spaces, public facilities and recreation areas.
- e. Allowing for development and design flexibility.
- f. Preserving and integrating into the project existing structures or features on the site which are, or are eligible, to be placed on the National Register of Historic Places or other recognized historic site inventory.
- g. Accommodating mass transit services, as that term is described in Volume I of the Frederick County Comprehensive Plan, which exist or are planned in the vicinity of the MXD site.

(Ord. 457)

B. Location.

1. This Mixed-Use Development (MXD) option shall be located only in areas designated Low Density, Medium Density, and High Density Residential, General Commercial, Office/Research, or Light Industrial on the City of Brunswick Master Plan and zoned Low Density, Medium Density, and High Density Residential, GC, OS, OR, and/or I-1, which have a classification of at least W-4, S-4 on the Water and Sewerage Plan, and which are consistent with the “Community Concept” of development as described in the City of Brunswick Master Plan.
2. The tracts of land eligible for the MXD option shall be located adjacent to existing or planned arterial roads that are or will be adequate to service the proposed development.
3. The feasibility of a site for the MXD option would be governed by the ability to satisfy the MXD purpose, objectives and standards as determined by the Planning Commission.

4. The MXD's character and size would be established based on its compatibility with the existing uses in the neighborhood and with the proposed uses for the neighborhood as shown on the City of Brunswick Master Plan.

(Ord. 457)

C. Size requirements.

1. Tracts of land will be 40 acres or greater to be eligible for the MXD option.
2. Tracts of land eligible for the MXD option will be one (1) or more contiguous tracts of land under the ownership or control of a single developer or owner or two (2) or more contiguous tracts of land owned by two (2) or more owners if they have filed for the MXD option under a joint application.
3. All setback, buffer area and right-of-way requirements for the different land uses within the MXD shall be determined by the Planning Commission with consideration given to applicable standards for similar uses in existing zoning districts. Flexibility in the application of these setback, buffer and right-of-way requirements may be allowed by the Planning Commission to achieve excellence of design, an appropriate mix of the elements of the MXD, the efficient use of land and the provision of suitable amenities for the MXD neighborhood. There will be no minimum lot areas or lot widths required within the MXD.
4. Setbacks and height limitations for all structures proposed to be over 40 feet high in General Commercial or 60 feet high in other districts shall be determined by the Planning Commission at the time of site plan approval and in accordance with requirements of the underlying zoning district.

(Ord. 457)

D. Permitted land uses. Land uses permitted using the MXD Option are limited to only the following uses.

1. Residential. Medium-density and high-density residential uses including townhouses, multiplexes, condominiums, apartments and elderly housing.
2. Commercial. All uses permitted in the General Commercial District of the zoning ordinance with the exception of auction house; lumber yard; mobile home sales; boat sales and service; farm equipment sales and service; carpentry, electric, plumbing, welding, printing and upholstering establishments; contractors, fencing, pool and siding; agricultural products processing; bottling plant; stone monument processing and sales; bus depot; recycling centers; animal auction sales; racetrack; and solid waste transfer stations.

3. Recreational. Passive and active recreational activities such as golf driving range, health club, tennis club, sports field, swimming pool, skating rink, indoor or outdoor theatre, jogging paths, parks and similar uses.
4. Employment.
 - a. If the site is designated and zoned Office/Research on the City of Brunswick Master Plan and Zoning Map, then office business, office professional, laboratory research (experimental or testing), limited manufacturing, assembly uses, and banks or savings and loans.
 - b. If the site is designated and zoned Light Industrial on the City of Brunswick Master Plan and Zoning Map, then office business, office professional, laboratory research (experimental or testing), wholesaling and warehouse, limited manufacturing and assembly uses.
5. Civic/institutional and cultural. Libraries, meeting halls, fire and rescue stations, post offices, government buildings, civic parks, memorials, amphitheatres, bandstands, museums, and similar facilities and uses.

E. Land use mix determination.

1. The amount and intensity of each land use permitted within an MXD shall be determined by the following criteria.
 - a. The relationship of the site to the City of Brunswick Master Plan.
 - b. The gross acreage of the site of land on which, or the project into which, the MXD is established.
 - c. Availability of existing and planned public services.
 - d. Access to existing or planned major thoroughfares and transportation systems.
 - e. Ability to serve the specific needs of the total site or project and the surrounding service area.
 - f. Physical characteristics of the site.
 - g. The amount of dedicated open space.
 - h. Compatibility with surrounding uses and the ability to provide for transition between different uses.
 - i. External and internal relationships which allow for compatibility and transitioning between uses.

j. Efficient use of the land.

2. The residential component of the MXD, as defined in subsection (D)(1) herein, cannot exceed 25% of the gross project acreage exclusive of floodplain areas. The commercial component of the MXD, as defined in subsection (D)(2) herein, cannot exceed 25% of the gross project acreage, except if the MXD has no residential component, then the City of Brunswick in its sole discretion may approve a commercial component which cannot exceed 45% of the gross project acreage, exclusive of floodplain areas. For an MXD with a residential component, the combined residential and commercial portions of the MXD cannot exceed 40% of the gross project acreage or 50% of the gross project acreage exclusive of floodplain areas, whichever is lesser. The City of Brunswick shall have the authority to deny or reduce the size of the residential or commercial component if determined that it is inappropriate for the site or overall area of the MXD. The remainder of the site shall be used for employment uses, civic/institutional and cultural uses, and open space. For MXDs with mixed-use buildings, building square footages for each use will be used to determine the land use percentages. The Planning Commission shall have the right to require the phasing and order of the types of land uses.
3. The total amount of dedicated open space within the MXD shall be no less than 30% of the total area shown for residential development and 20% of the total area devoted to commercial and employment/industrial uses. Existing floodplain areas may be used as part of this open space requirement. Public and noncommercial recreational, cultural and civic activities and facilities may be established in the required open space area(s).
4. Vertical and horizontal integration of uses is encouraged.

F. General requirements.

1. In order to achieve design excellence, sound planning and the achievement of the MXD objectives, the applicant may propose design criteria and/or dimension requirements that are not in complete conformance with existing zoning and subdivision regulations for the various land uses and zones. These modifications may be granted by the Planning Commission upon justification by the applicant.
2. The location, design and extent of public facilities shall comply with the following requirements.
 - a. Water and sewer. All MXDs shall be served by public water and sewer.
 - b. Transportation. The location, hierarchy and design of roads will be in accordance with the City of Brunswick Master Plan, the City's subdivision regulations, and the Design Manual. However, flexibility in the application of these regulations will be permitted insofar as those ordinances allow for modifications.

- c. Recreation/civic/cultural and public facilities. The provision for these facilities is encouraged as they act as a catalyst in fulfilling the objectives of the MXD, such as creating a place, achieving a strong sense of identity, and creating activity centers. The selection, mixture, and location of these facilities shall be compatible with the proposed uses and the overall objectives of the MXD, as determined by the Planning Commission.
- d. Ownership and maintenance of public facilities.
 - 1) All water and sewer facilities will be owned by the City of Brunswick.
 - 2) Streets will be owned and maintained by the City of Brunswick if consistent with City policy. Streets or parking areas not dedicated to and accepted by the Mayor and Council shall be maintained by a property owner's association, condominium association or similar organization.
 - 3) Open space, stormwater management facilities and recreation areas will be owned and maintained by the City of Brunswick if consistent with City policy. Those not dedicated to and accepted by the Mayor and Council shall be maintained by a property owner's association, condominium association, or similar organization. The covenants establishing the same shall be subject to the approval of the Planning Commission or other appropriate City authority. To the extent it is in the best interest of the City, the Mayor and Council will have the option of accepting dedication of some or all of such facilities.

G. Phasing. Construction of the MXD project should be phased to fulfill the overall objectives of this district as set forth in subsection (A)(2) above. Some permitted employment uses must exist on the MXD project prior to, or be developed on the MXD project simultaneously with, the establishment of other uses allowed under this option. Phasing should be designed to fulfill on-site and off-site needs, to complement the provision of services, and to fulfill the purpose and objectives of the District.

H. Review and approval of MXD Overlay Option.

- 1. Phase I: Concept Plan. The developer will provide sufficient information for the Planning Commission to approve and recommend to the Mayor and Council to approve or disapprove the development option on the property and the overall concept of the project and to establish the land use mix of the project.
 - a. The MXD option may be approved if it satisfies the objectives and requirements set forth in subsections (A) through (G) of this section. The applicant has the burden of proof on all issues.
 - b. Application. The application submitted must include the appropriate number of copies of each of the following:

- 1) A map of the applicant's entire holding at a convenient scale.
- 2) A vicinity map at a scale of 1 inch equals 2,000 feet 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 within 2,000 feet of the applicant's property.
- 3) A topographic map of the property, at a minimum of 2-foot contour intervals, unless otherwise specified, showing the existing surface of the land and the location of natural features, such as streams, rock outcrops and wooded areas.
- 4) A generalized overall land use plan at 1"=100' scale, showing the type, location, acreage and density of all proposed land uses as well as the general street layout and circulation pattern.
- 5) A Concept Plan at 1"=50' scale showing the location of all proposed lot lines; the location, proposed use, size and height of all existing and proposed buildings; the location of all roads, parking lots, truck loading areas and access and egress drives; and the location and type of all public, recreational, or cultural facilities and areas.
- 6) A phasing schedule describing the timing and sequence of development and public facilities.
- 7) A justification statement addressing the following:
 - a) Relationship to Master Plan, zoning ordinance, and other development regulations;
 - b) Integration and relationship of uses within the project and with existing uses in the neighborhood of the project;
 - c) Long-term implications on local development patterns, facilities and services;
 - d) Topography and relationship to on-site and off-site natural and man-made features;
 - e) The timing of the construction of the MXD project as it relates to the provision of facilities and services;
 - f) Availability and suitability of pedestrian and vehicular access to transportation systems;
 - g) Water and sewer facilities and capacity availability, and any proposal to supply them;

- d. As part of the execution phase, the Planning Commission may approve changes to the location of land uses on the Concept Plan, provided that the amount or percentage mix of commercial and/or residential development on the site does not increase from Phase I Concept Plan approval. Any increase in the amount or percentage mix of commercial and/or residential development must be approved by the Mayor and Council. Any change in the plan which would replace a mixed use area with an area containing only residential uses would also be subject to Mayor and Council approval.

I. Appeals.

1. Any person aggrieved by a final decision of the Planning Commission on the MXD Plans or the Mayor and Council on the MXD Option (Phase I Plan) pursuant to this section may appeal to the Circuit Court pursuant to Maryland Rules, Subtitle B. The decision of the Circuit Court of Frederick County may be appealed to the Court of Special Appeals, or, upon certiorari, to the Court of Appeals of Maryland in accordance with Maryland Rules.
2. The Mayor and Council may file a responsive pleading and be a party to or take an appeal to the Circuit Court of the County, to the Court of Special Appeals of Maryland or, upon certiorari, to the Court of Appeals of Maryland of any decision made under this section.

(Ord. 422)

21.8 Cluster Development:

A. Purpose

The purpose of cluster development is to provide an optional method of development in appropriate circumstances as determined by the Planning Commission that permits variation in lot sizes without an increase in the overall density of population; that allows home buyers a choice of lot sizes according to their needs; that preserves green space, tree cover, scenic vistas, natural drainage ways, or preserves features of outstanding national topography; in order to prevent soil erosion and provide green areas for rest and recreation.

B. Scope

The provisions of this division shall apply only to cluster developments.

C. Districts Where Permitted.

In all R Districts, the Planning Commission in approving subdivision plats may permit modifications in lot area, lot width, yards (building restriction areas) including zero lot lines, or other requirements. Use regulations are governed by the zoning district in which the development is located. Cluster development is not permitted unless public water and public sewer are provided.

D. Density Determination and Design Requirements.

The average dwelling unit density will be no greater than the permitted density for the district in which the units are located. For the purposes of this division, DENSITY means the maximum number of dwelling units which could be built on net developable land area in the zoning district. Net developable land is that land remaining after annual floodplain areas and rights-of-way for principal highways have been deducted from the gross site area.

E. Green Area Space Requirement.

Reduction of individual lot areas will be reserved as green area.

F. Procedure.

The procedure to obtain approval of plats under residential cluster development is as follows.

1. A Concept Plan is to be submitted to the Planning Commission at least 60 days prior to the Commission meeting at which it is to be considered which shows:
 - a. The type of dwelling unit (single-family, townhouse, garden apartment, etc.), building restriction lines, and underlying zoning; and
 - b. Street layout; and
 - c. Green area system; and
 - d. Vicinity map (Scale: no smaller than 1 inch equals 2,000 feet); and
 - e. Topography with minimum 5 foot contours (USGS topographic maps are permitted for the concept plan); and
 - f. Number of acres in the entire tract; and
 - g. Overall dwelling unit density.
2. If the concept plan is approved by the Planning Commission, the developer will then proceed with platting of the development in accordance with the Subdivision Regulations. Final plats filed on cluster development shall bear a statement indicating that the land lies within an approved residential cluster development.
3. In addition, the development is subject to the following conditions.
 - a. The development of land within the cluster is permitted only in accordance with the approved final plat.
 - b. The agreements concerning the ownership and maintenance of open space land must be approved by the Planning Commission and will be recorded simultaneously with the final plat.

- G. Approval note. All plans/plats shall contain a note stating, “This plan/plat is being reviewed and approved under the Cluster Development provisions of the Zoning Ordinance”.

(Ord. 422)

21.9 Townhouse Development:

A. Scope.

The provisions of this division shall apply to townhouse developments.

B. Density.

The overall density shall not exceed the maximum density permitted within the zoning district in which the development is located. When recorded as individual lots, each townhouse lot shall have a minimum of 1,800 square feet. Forty percent of the difference in lot size and net land area per townhouse shall be allocated to green area.

C. Lot Width.

The minimum lot width is 18 feet.

D. Row Lengths.

There shall be no more than 8 and no less than 3 townhouses in a row.

E. Yards.

1. Each townhouse shall have a front yard of 25 feet. The Planning Commission may allow enclosure of front yard space in the townhouse development if the design provides for this feature. Townhouses may be arranged to face onto a common open area, such a common area shall be provided for unobstructed access of emergency vehicles. With such an arrangement, the front yard requirement may be reduced to 10 feet.
2. A side yard at least 10 feet in width shall be provided at each end of every row of townhouses. When an end unit abuts a street, the side yard shall have a minimum of 25 feet.
3. Each townhouse shall have a rear yard at least 30 feet in depth.
4. An accessory building may be located in a rear yard and shall occupy not over 25% of the rear yard area and shall be set back at least 5 feet from any alley or rear service street line.

F. Access Drives and Off-Street Parking.

Pedestrian and vehicular access shall be improved to standards specified by the Design Manual. Off-street parking facilities shall be provided in accordance with the Design Manual and Article 23 of this Ordinance. No parking area shall be more than 200 feet from the townhouse lot it is to serve. Access drives and streets shall be private unless otherwise approved by the Planning Commission.

G. Maintenance of Common Land and Facilities.

If the townhouse development provides for common area, property, or facilities, they shall be conveyed to an incorporated nonprofit home association created under recorded land agreements, as approved by the Planning Commission, through which each lot owner is automatically a member and through which each lot is automatically subject to a charge for a proportionate share of common property maintenance.

H. Approval note. All plans/plats shall contain a note stating, "This plan/plat is being reviewed and approved under the Townhouse Development provisions of the Zoning Ordinance".

(Ord. 422)

21.10 Shopping Centers/Retail Centers:

The following will apply to shopping centers/retail centers.

- A. Parking for a shopping center may be reduced by 10% over the figure arrived at by totaling the requirements of each individual use on the property or may be figured at 5.5 parking spaces per 1,000 square feet of gross leasable floor area. One of the 2 methods may be used at the option of the developer subject to Planning Commission approval. Parking and loading areas may project to within one-half the required setback distance.
- B. The subdivision of any lot off of a tract of land approved as a shopping center development will be governed by the following.
 - 1. The newly created lot will have vehicular access by the same method as the shopping center unless another access point is allowed by the Planning Commission and the new access point will meet the conditions of the Design Manual and Sight Distance Policy as they pertain to access.
 - 2. The newly created lot will be allowed to use the same sign size formula permitted for shopping centers, but will not be permitted to have a freestanding or pylon-type sign.
- C. Bulk regulations.
 - 1. Minimum lot size of 2 acres.

2. Minimum frontage of 80 feet, with access on a public road with a minimum pavement width of 10 feet.
3. Minimum front yard setback of 50 feet.
4. Minimum side and rear yard setback of 30 feet unless adjacent to a residential district or use, then the setback shall be not less than 100 feet.
5. Maximum height of structures shall not exceed 60 feet.

D. Minimum landscaped open space.

1. Minimum landscaped open space shall not be less than 20% of the land area of the lot.
2. Such open space shall not be open to vehicles.
3. All open space must be landscaped and maintained.
4. Approval note. All plans/plats shall contain a note stating, "This plan/plat is being reviewed and approved under the Shopping Centers/Retail Centers provisions of the Zoning Ordinance".

(Ord. 422)

21.11 Transit Oriented Development (TOD):

A. Purpose and objectives of the Transit Oriented Development overlay option.

1. The Transit Oriented Development (TOD) is an overlay option only in the B-1 Neighborhood Business, B-2 Central Business, B-3 Business Transitional, and GC General Commercial zoning districts, which is designed to provide for the development and redevelopment of available parcels of land located within ¼ mile from the Brunswick train station. The goal of the TOD overlay option is to create compact development which encourages pedestrian access to the train station. The TOD overlay option should provide for a compatible mixture of office, general business/retail, and medium to high density residential uses oriented in such a way that it is defined by the transit facility, in terms of parking, density, and building orientation.
2. An appropriate mixture of uses can be realized under the TOD overlay option through the development and redevelopment of more than one (1) parcel within the overlay area which may not be present in any one (1) development proposal. During the Phase I approval process, the Mayor and Council of Brunswick shall have the discretion to determine whether the most efficient and appropriate development for a particular parcel can be achieved under the TOD overlay option and whether the proposed development contributes toward the achievement of the goals and objectives of the overlay option. A mixture of uses is not required if it is determined

by the Mayor and Council at the Phase I stage that the most efficient and appropriate development for a particular parcel is achieved by the development of only one (1) type of use (i.e., commercial, office, or residential). The emphasis of the TOD overlay option will be on medium–high density residential development, with supporting or other office/commercial uses, to take advantage of the proximity to the train station and to reduce dependence on street traffic. The minimum density of any proposed development or redevelopment under the TOD overlay option must be consistent with smart growth guidelines of 3.5 dwelling units per acre. Any proposed development or redevelopment must also include: an integration of local transit service; and public pedestrian throughways to and from the train station.

3. Objectives for the TOD overlay option include:

- A. Allowing for the construction of medium-high density residential development in close proximity to the train station and to encourage pedestrian access from living quarters to the train station for purposes of commuting, thereby reducing reliance on street and other motor vehicular commuting, and achieving resulting benefits to street congestion and the environment.
- B. Promote active, well-defined places near the train station, so as to create amenities for existing transit riders and provide ancillary or support commercial/office uses to complement the residential development, and to further provide larger destination office/commercial uses in proximity to the train station, where deemed appropriate.
- C. Generate new ridership by maximizing residential density and use of vertical multifamily construction in areas located in close proximity to the train station, with particular preference given to those locations that are also located in reasonable proximity to commercial/retail centers.
- D. Allowing flexibility for development and design, including increasing building heights and allowing flexibility, as determined by the planning commission, on building setbacks, other design guidelines, design manual, and other development requirements and guidelines.
- E. Leverage of the public investments in transit to achieve community goals.

B. Location.

- 1. The TOD overlay option area shall be permitted only on parcels located within ¼ mile from the Brunswick train station. For the purposes of this section, a parcel shall be deemed to be located within ¼ mile from the Brunswick train station if more than 50% of the entirety of any parcel is located within such distance, as shown on Brunswick Central Business District – TOD Overlay Option Map. Any new lots subdivided from a parcel which meet the requirements of this subsection shall also be deemed to meet the proximity requirements set forth herein.

C. Size requirement.

1. There shall be no minimum parcel size for a proposed TOD overlay option area.
2. Tracts of land eligible for the TOD overlay option will be one (1) or more contiguous tracts of land under the ownership or control of a single developer or owner, or two (2) or more contiguous tracts of land owned by two (2) or more owners if such owners have filed for the TOD overlay option under a joint application.
3. All setbacks, buffer areas and rights-of-way requirements for the different land uses within the TOD overlay option shall be determined by the Planning Commission, but shall be compatible with applicable standards for similar uses in existing zoning districts.
4. Building heights within the TOD overlay option shall be permitted up to four (4) stories of leaseable/livable space. The Planning Commission in its discretion may permit taller multi-use structures during the Phase II approval based upon its finding that such taller structures are not inconsistent with the surrounding area.

D. Permitted land uses. The following uses are permitted by right within a TOD overlay option.

1. Residential. All residential housing types are permitted, but emphasis will be placed on vertical density and efficient use of land and existing structures.
2. Commercial uses. All uses in the B-1, B-2, B-3 and GC zoning districts are permitted, provided that the following uses are not permitted: auction house; lumber yard; mobile home sales; boat sales and service; farm equipment sales and service; carpentry, electric, plumbing, and welding establishments; contractors, fencing, pool, and siding; agriculture products and processing; bottle plant; stone monument processing and sales; recycling center; animal auction sales; racetrack; and solid waste transfer stations. Multi-use buildings, such as high-rise apartment/condominium buildings with retail/service establishment on the lower floor and professional office on the second or higher floors are encouraged.
3. General. Professional, service and other office uses.
4. Civic/institution and cultural. Libraries, meeting halls, fire and rescue stations, post offices, government buildings, civic parks, memorials, amphitheaters, bandstand, museums, and similar facilities and uses.

E. Land use mixed determination.

1. There shall be no required proportionate mix of permitted land use within a development utilizing the TOD overlay option unless the Mayor and Council so determines during the Phase I approval process. A development under the TOD overlay option may be approved with any or all of the permitted land uses described

above but multiple land uses are not required unless the area in which development is proposed lacks appropriate existing or planned uses to support the proposed TOD overlay option development as determined by the Mayor and Council. In any situation, preference shall be given to medium-high residential use with support commercial/office use.

2. Open space dedication or preservation shall be limited within the TOD overlay option development to reflect the overriding objectives of the TOD overlay option. Appropriate recreational (passive and/or active) facilities shall be provided within the structures as determined by the Planning Commission with consideration given to the uses proposed.
3. Vertical and horizontal integration of uses is encouraged, with preference given to vertical integration.
4. Civic/institutional and cultural uses shall not be permitted in stand-alone buildings unless it is determined by the Planning Commission at the Phase II stage that the most efficient and appropriate development for a particular parcel is achieved by permitting a specific civic/institutional and cultural use in a stand-alone building.

F. General requirements.

1. In order to achieve design excellence, sound planning and the achievement of the goals and objectives of the TOD overlay option, the applicant may propose design criteria and/or dimensional requirements that are not in complete conformance with the existing zoning and subdivision regulations for the various land uses and zones, and the City of Brunswick Design Manual. The Planning Commission may grant these modifications, if the developer presents justification during Phase II that the design is in accordance with the City Community Design Guidelines & Development Principles and the intent of the TOD overlay option.
 - A. Water and sewer. All TOD overlay option developments shall be served by public water and sewer.
 - B. Transportation. The location, hierarchy, and design of streets will be in accordance with the Master Plan, the City Subdivision Regulations, and City Design Manual. However, flexibility in the application of these regulations will be permitted insofar as those ordinances allow for modifications, and the Planning Commission shall be permitted to grant further modifications for the purpose of achieving the stated objectives of the TOD overlay option, particularly with an emphasis on pedestrian movements and the de-emphasis on vehicular access and street commuting. Development plans should emphasize pedestrian and bicycle movements designed and located to encourage use of the train station. To the extent reasonable and practicable the pedestrian and bicycle movements should provide for interconnectivity to existing and future development where appropriate and shall connect where such connections are currently available.

C. Ownership and maintenance of public facilities.

- 1) All water and sewer facilities will be owned by the City.
- 2) Streets will be owned and maintained by the City if consistent with City policy. Streets or parking areas not dedicated to and accepted by the Mayor and Council shall be maintained by a property owners' association, condominium association, or similar organization, or by the developer.
- 3) Open space, stormwater management facilities and recreation areas may be owned and maintained by the city if consistent with city policy. Those not dedicated to and accepted by the mayor and council shall be maintained by a property owners' association, condominium association or a similar organization, or by the developer.

D. Parking. Pursuant to a written request and justification statement from the applicant, the planning commission shall have the authority to reduce the required parking for multifamily units to 1½ parking spaces per unit and may modify parking for commercial and/or office use if the planning commission determines that additional parking is not warranted.

G. Review and approval of TOD overlay option.

1. Phase 1: Concept Plan. The developer will provide sufficient information for the Planning Commission to approve and recommend to the Mayor and Council to approve or disapprove the TOD overlay option on the property and the overall concept of the project and to establish the land use mix of the project.
 - A. The TOD overlay option may be approved if it satisfies the objectives and requirements set forth in subsections 21.11.A through 21.11.F of this section. The applicant has the burden of proof on all issues.
 - B. Application. The application submitted must include the appropriate number of copies of each of the following:
 - 1) a map of the applicant's entire holding at a convenient scale;
 - 2) a vicinity map at a scale of 1 inch equals 2,000 feet 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 within 2,000 feet of the applicant's property.
 - 3) a topographic map of the property, at a minimum of 2-foot contour intervals, unless otherwise specified, showing the existing surface

of the land and the location of natural features, such as streams, rock outcroppings, and wooded areas.

- 4) a generalized overall land use plan at 1" = 100' scale, showing the type, location, acreage, and density of all proposed land uses as well as the general street layout and circulation pattern.
- 5) a concept plan at 1" = 30' scale, or as identified by the Planning and Zoning staff, showing the location of all proposed lot lines; the location, proposed use, size and height of all existing and proposed buildings; the location of all roads, parking lots, truck loading areas and access and egress drives; and the location and type of all public, recreational, or cultural facilities and areas.
- 6) a phasing schedule describing the timing and sequence of development and public facilities.
- 7) a justification statement addressing the following:
 - a) realization of the purpose, goals and objectives of the TOD overlay option.
 - b) integration and relationship of uses within the project and with existing uses in the neighborhood of the project. For purposes of this section "neighborhood" shall be defined as the area encompassing a ¼ mile radius around the train station.
 - c) long-term implications on local development patterns, facilities, and services.
 - d) the timing of the construction of the TOD overlay option project as it relates to the provision of necessary facilities and services.
 - e) availability and suitability of pedestrian and vehicular access, with emphasis on pedestrian access between the residential component of the proposal and the train station.
 - f) water and sewer facilities and capacity availability, and any proposal to supply them.
 - g) preservation and integration into the project of any existing historic structures on the development site.
 - h) consistency with the goals, objectives and policies of the City of Brunswick Master Plan. Consistency with any particular land use designation as depicted on the master

plan is not required. However, the Mayor and Council must be provided sufficient justification to find that the proposed project, notwithstanding its particular land use designation, meets the goals, objectives, and policies of achieving transit oriented development around existing or proposed transit stops which emphasizes the use of public mass transportation and provides options for residents to travel by mass transit, bicycle, or foot, as well as automobile.

- C. In accordance with the submittal schedule for review items for Planning Commission as a 60-day review item, the Planning Commission shall review the Phase I proposal at a public hearing. The Planning Commission shall then make a recommendation to the Mayor and Council as to approval or disapproval of the TOD overlay option application.
 - D. Upon receipt of the Planning Commission recommendation, the Mayor and Council shall hold a public hearing on the proposal. The Mayor and Council shall then determine the feasibility and desirability of the project concept under the TOD overlay option and shall approve or disapprove the TOD overlay option, and if approved, set maximum permitted land use mix percentages for each parcel or parcels within the project.
 - E. If the Phase II execution phase, as provided in Subsection G.2 below, has not commenced within three (3) years of approval of concept plan, the Planning Commission shall review the Phase I Concept Plan to determine if the TOD overlay option is still an appropriate use for the property. The Planning Commission may then grant an extension of the approval or recommend that the TOD overlay option be reviewed by the Mayor and Council for possible removal of the TOD overlay option. The Mayor and Council shall have the authority to remove the TOD overlay option.
2. Phase II: Execution Phase. This guides the project through the customary subdivision and site plan process. Before applying for Phase II execution phase, the land encompassing the TOD overlay option project shall be classified at least W-4, S-4 on the Frederick County Water and Sewerage Plan.
- A. If subdivision is proposed, preliminary and final platting in accordance with the City Subdivision Regulations is required. The submission of five (5) copies of any covenants to be attached to the property and five (5) copies of any homeowners'/property owners' association documents shall be submitted for approval.
 - B. Site plan review shall be in accordance with the Zoning Ordinance to include any covenants to be attached to the property and any homeowners'/property owners' association documents and approved by the Planning Commission.

- C. Adequate public facilities ordinance (APFO) review will occur during the Phase II execution phase.
- D. Written requests and justification for modification of the bulk requirements such as parking, etc., shall be presented to the Planning Commission for approval based on the merits of the application.
- E. As part of the Phase II execution phase, the Planning Commission may approve changes to the location of land uses on the Phase I concept plan.

H. Appeals.

- 1. Any person aggrieved by a final decision by the Planning Commission (during Phase II) or the Mayor and Council pursuant to this section may appeal to the Circuit Court pursuant to Rule 7-201 of the Maryland Rules of Procedure. The decision of the Circuit Court may be appealed to the Court of Special Appeals, or, upon certiorari, to the Court of Appeals of Maryland in accordance with Maryland Rules of Procedure.
- 2. The Mayor and Council may file a responsive pleading and be a party to or take an appeal to the Circuit Court of the County, to the Court of Special Appeals of Maryland or, upon certiorari, to the Court of Appeals of Maryland of any decision made under this section.

(Ord. 455)

21.12 Solar Collection Systems:

- A. A Solar Collection System is permitted in any zoning district on the roof and/or exterior walls of structures.
- B. The following standards shall apply to the development of Solar Collection Systems:
 - 1. Solar Collection Systems, which are not attached by any part of common wall or common roof to a principal building/structure, are accessory structures and shall be permitted in accordance with Section 5.8.
 - 2. Solar Collection Systems shall not be located in any front yard.
 - 3. Solar Collection Systems located on the roof of a structure are subject to the following restrictions:
 - a. Solar Collection Systems shall not extend more than three (3) feet above the roof peak or more than three (3) feet into the required side or rear setbacks of residential or open space district.
 - b. Solar Collection Systems shall not extend more than six (6) feet above the roofline of commercial or industrial district.

- c. Solar Collection Systems shall not protrude above the maximum height permitted in the zoning district in which it is located.
 - d. Solar Collection Systems shall be limited in size to 50% of the cross sectional area of the roof or exterior wall.
- C. Applicants shall locate a Solar Collection System so that tree or shrub removal is not required to the extent practical. Any trees or shrubs to be removed to accommodate a Solar Collection System shall be shown on a site plan demonstrating the need to remove the trees or shrubs and the provisions for replacement of trees or shrubs for approval by the Planning Commission.
- D. Solar Collection Systems shall comply with all applicable provisions of the Frederick County Building Code.

(Ord. 487)

21.13 Solar Arrays:

- A. The footprint of the solar array and any individual component shall be used in calculating the square footage by drawing a line around the exterior limits of an individual solar array.
- B. Solar arrays are permitted in any zoning district subject to the following setback and size restrictions:
 - 1. The total square footage of the solar array(s) shall not exceed that of the principal structure; and
 - 2. The footprint of an individual solar array shall not exceed the greater of:
 - a. One-half (1/2) of the footprint of the principal structure, or
 - b. Six Hundred (600) square feet.
- C. Solar arrays are accessory structures and shall be permitted, in accordance with Section 5.8.
- D. Applicant shall locate a solar array so that tree or shrub removal is not required to the extent practical. Any trees or shrubs to be removed to accommodate a solar array shall be shown on a site plan demonstrating the need to remove the trees and shrubs and the provisions for replacement of trees or shrubs for approval by the Planning Commission.
- E. Solar arrays shall be located so that any glare is directed away from adjoining properties or right-of-way.
- F. Solar arrays shall comply with all applicable provisions of the Frederick County Building Code.

21.14 Community Gardens:

A. Intent

1. Allow the growing and crops in urbanized areas while minimizing negative impacts to adjacent properties and the community.
2. Encourage locally grown produce, promote healthy and nutritional food, and fill gaps in food accessibility for a community.
3. Foster community development by providing opportunities for recreation, education/training, special events, social interaction, and economic potential.
4. Provide green space in urbanized areas to enhance community character and reduce the impact of pollutants and stormwater runoff.

B. Definition

1. Community Garden – land managed and maintained by a public or nonprofit organization, or a group of individuals, to grow and harvest food crops and/or ornamental plants for use by a group, individuals cultivating the land and their households, or for donations, community gardens may be divided into separate plots for cultivation by individuals or used collectively by members of a group, a community garden may be a principal or accessory use of a site. The keeping, raising, breeding, and/or boarding of animals, fowl or livestock of any kind at a community garden shall be prohibited.
2. Cold Frame – An unheated outdoor structure consisting of a wooden or concrete frame and a top of glass or plastic, used for protecting seedlings and plants from the cold.

C. Permitted Uses

1. Community gardens are permitted by right in every zoning district subject to the requirements of this section.
2. Community gardens may include the following uses:
 - a. The cultivation, growing and harvesting of agricultural, floricultural, or horticultural plants.
 - b. Cold frames and similar structures, up to fifty (50) square feet maximum, for growing plants.
 - c. Sheds and similar structures, up to fifty (50) square feet maximum, as accessory uses.

- d. Open space for active and passive recreation including children's play areas. However, playground equipment is prohibited.
- e. Composting as an accessory use.
- f. Containers for water collection or storage.

D. Specific Criteria for Community Gardens

1. Community gardens are subject to the following regulations:

a. Lot size and width

- 1) Community gardens shall comply with the minimum lot size and width in the district in which it is located.

b. Setbacks

- 1) All structures must comply with the setbacks for accessory structures in the district in which it is located unless a more restrictive setback is required by this Section.

c. Coverage

- 1) Impervious coverage from buildings and parking areas associated with community gardens is limited to 10% of the Lot.
- 2) Area of disturbance shall be limited to no more than five thousand square feet (5,000'²).
- 3) For multiple adjoining Lots that are under common ownership and used as a community garden, the limit for the combined area of structures is applied over the entire site rather than each individual Lot.

d. Height

- 1) No structure shall be greater than ten feet (10') in height.

e. Parking

- 1) The Applicant shall demonstrate that sufficient parking spaces and loading spaces will be available or provided for all uses proposed.
- 2) If after opening the facility, the City of Brunswick determines that additional parking space is needed, the governing body can require additional parking/loading space be provided.

f. Signs

- 1) A community garden may include one (1) sign, no larger than four square feet (4'²) in a residential district; and twelve square feet (12'²) in a non-residential district.

g. Composting

- 1) Setback regulations for composting containers and materials shall comply with underlying zoning regulations for accessory structures.
- 2) Designated composting areas shall be screened from adjoining residential districts with either a fence or suitable screening materials.
- 3) Composting areas and structures must be maintained in a way that protects adjacent properties from nuisance odors and the attraction of rodents and other pests.
- 4) Composting materials shall only be generated onsite.

h. Operations

- 1) The hours of operation shall be dawn until dusk and protect neighbors from light, noise, disturbance or interruption.
- 2) Gardening tools and supplies may be stored within an accessory building that is in compliance with this Section.
- 3) A community garden shall be conducted in such a way that no traffic congestion, noise, glare, odor, smoke, vibration, fire hazards, safety hazards, electromagnetic interference, or otherwise, shall be noticeable to or beyond the property line.
- 4) A community garden shall not be a commercial business.
- 5) The community garden site shall be maintained in a manner to contain sediment and erosion onsite during a storm event.

E. Permitting Process for Community Gardens

Applicant's proposing a community garden must submit a Zoning Certificate application to the Planning and Zoning Administrator which provides the following information:

1. Location map and property addresses.
2. Name and contact information of person or organization.

3. All existing and proposed structures and buildings.
4. Location and height of proposed structures and buildings including sheds, containers, compost facilities, landscaping and fencing.
5. Description of the proposed operation and activities.
6. Distance between structures/activities and neighboring properties.
7. Driveways, access drives, parking areas, and loading areas.
8. Estimated number of separate plots to be cultivated by individuals.
9. Certify compliance with all applicable local, state, and federal regulations and permits.

(Ord. 506)

21.15 Specific Development Standards Within a PUD or MXD:

- A. Where a PUD or MXD is comprised entirely or partially of an age restricted community (ARC PUD or ARC MXD), the original lot shall have a minimum width of two hundred feet (200') and a minimize size of fifty (50) acres.
- B. If any development or portion thereof requests designation as an age-restricted community for the purpose of being exempt from the Adequate Public Facilities Ordinance (APFO) Schools Adequacy Test under Section 1.7(D), this request must be made as part of the Applicant's Phase I application or during a Phase II revision per Zoning Ordinance Section 7.3(C). The request must indicate the number and location of the proposed age-restricted dwelling units.
- C. The Planning Commission and the Mayor and Council, in their respective reviews of the proposed development as part of the Phase I plan, shall consider the following criteria to determine whether the development or portion thereof may be approved for designation as an age-restricted community:
 1. Active and passive recreational amenities.
 2. Availability, suitability and proximity of the development to planned support services.
 3. The amount of existing and approved age-restricted development in the City and the County and in proximity to the proposed development.

An adaptive reuse project is not required to be designated at Phase I as an age-restricted community in order to apply for the exemption from APFO School Adequacy Test under Section 1.7(D).

(Ord. 553)

ARTICLE 22: SIGNS

22.1 General:

- A. All signs, as defined in Article 4 of this Ordinance, shall be measured according to the following formula:

$$\text{area} = \text{height of sign surface} \times \text{width of sign surface}$$

1. Area shall not include the length or width of the supporting post(s).
 2. The area of the sign shall include a measurement of only the visible surface. If both sides of the sign are visible, only one shall be measured. The two visible surfaces of V-shaped signs shall be considered one surface, as long as the interior angle of the sign does not exceed thirty (30) degrees. Otherwise, both visible surfaces shall be included in the measurement.
- B. All signs shall be maintained in good structural condition and shall comply with all applicable provisions of the Frederick County Building Code at all times.
- C. With the exception of Directional/Informational signs, all other signs shall be immobile, non-flashing, and shall in no way resemble traffic signals or other warning devices, and may only be lighted indirectly or from within.
- D. With the exception of traffic-related Directional/Informational signs, no sign shall project into a right-of-way.
- E. With the exception of temporary signs, signs may be located only on the property with which they are associated.
- F. A sign shall be removed when the circumstance leading to its erection is no longer valid.

22.2 Permitted Sign Types:

- A. Freestanding signs
1. Shall be subject to one-half the setback requirement for the principal permitted use of the property as required in the district in which it is located, and shall be so placed as to allow clean and ample visual sight lines for access and egress points, including all rights-of ways.
 2. Shall not exceed twenty-five feet (25') in height, as measured from the average grade of the site.
- B. Overhanging:
1. Shall not extend more than four feet (4') beyond the building to which it is attached.

- 2. Shall not be less than nine feet (9') above sidewalk level.
- C. Sidewalk: Shall not project more than half-way into the sidewalk.
- D. Rooftop: Shall not project more than three feet (3') above the roofline of the building to which it is attached.
- E. Window/Door/Wall (Signs attached thereto)

22.3 Permitted Signs:

The following signs are permitted in association with the permitted uses and authorized special exceptions of the zoning district in which the uses are located.

- A. Home occupation/resident professional office signs: Not exceeding an area of two (2) square feet, nor projecting more than one (1) foot beyond the building, one (1) non-illuminated sign is permitted for the purpose of identifying a home occupation or the office of a resident professional.
- B. Farm signs: Not exceeding an area of eight (8) square feet, one (1) sign is permitted for the purpose of displaying the name of the owner, the nature of the farm, and advertising only those products produced on the premises.
- C. Non-profit organization signs: Not exceeding an area of ten (10) square feet, and containing no commercial advertising, one (1) sign is permitted for the purpose of identifying a non-profit organization (as defined in Article 4), services available, or giving direction thereto.
- D. Institutional signs: Not exceeding a total area of fifty (50) square feet, one (1) bulletin board and one (1) sign for identification purposes are permitted on the premises of any church, school, or governmental property.
- E. Directional/informational signs: Not exceeding an area of sixteen (16) square feet, and containing no advertising, signs that are official in nature and so placed for the purpose of directing, informing, or warning the public are permitted in any zoning district.
- F. Community/Neighborhood Identification Signs: Not exceeding an area of twenty (20) square feet, and containing no commercial advertising, signs for the purpose of identifying the name of a community and placed at the entrance to that community are permitted.
- G. Commercial/industrial signs:
 - 1. The total area for all signs for an individual commercial or industrial use shall not exceed the maximum total sign area per use for the zoning district in which it is located, as established by Table 22.1.
 - 2. In addition to the maximum permitted total sign area per use, one (1) free-standing sign, not exceeding an area of one-hundred fifty (150) square feet, is permitted for the purpose of advertising a shopping center, industrial park, or other integrated group of commercial buildings.

3. Not exceeding an area of fifty (50) square feet, one sign for the purpose of identifying an industrial plant is permitted.

H. Temporary Signs:

1. Temporary signs are permitted in any zoning district in association with a permitted temporary use. Temporary signs must be removed within ten (10) days of the conclusion of the event or commercial activity advertised.
 - a. Real estate signs: Not exceeding six (6) square feet in area, one sign is permitted for the purpose of advertising the sale or lease of the property on which the sign is displayed.
 - b. Community signs: Not exceeding one hundred (100) square feet in area, one sign is permitted for the purpose of advertising the opening of a residential subdivision or development.
 - c. Political campaign signs: Not exceeding forty (40) square feet in area, signs for the purpose of identifying candidates seeking public office and/or political issues are permitted.
 - d. Special event signs: Signs, including banners, are permitted for the purpose of advertising an event of general interest.
 - e. Commercial Signs: Not exceeding fifty (50) square feet in total area, signs for the purpose of advertising temporary commercial activity, (roadside stands, garage sales, seasonal activities) are permitted.

Table 22.1 Maximum Total Sign Area Per Commercial or Industrial Use by Zoning District

Zoning District	B-1	B-2	B-3	GC	HS	I-1	I-2	OR
Maximum number of total square feet per use	100	200	100	200	1,000	400	1,000	400
Percentage of gross ground floor area of principal building	4%	6%	4%	6%	8%	2%	2%	2%
Square feet of signage per linear foot of street frontage	2.0	3.0	2.0	3.0	4.0	NA	NA	NA

ARTICLE 23: PARKING AND LOADING AREAS

23.1 General:

The following requirements are intended to ensure that all uses provide adequate off-street parking areas. Parking spaces shall be, at minimum, nine feet (9') in width, and twenty feet (20') in length.

A. Residential Uses - All residential uses shall provide the following number of off-street parking spaces:

1. Single-family dwellings, duplex or two-family dwellings: two (2) spaces per dwelling unit.
2. Townhouses: two (2) spaces per dwelling unit plus one-half (1/2) space per bedroom, per unit.
3. Multi-family dwelling:
 - a. One bedroom or efficiency: two (2) spaces per unit;
 - b. Two bedrooms: two and a half (2.5) spaces per dwelling unit;
 - c. Three or more bedrooms: three (3) spaces per dwelling unit plus one (1) per eight (8) dwelling units.
4. Resident Professionals/Home Occupations:
 - a. Minor-Impact home occupation/resident professional office: at least two (2), and no more than five (5) off-street parking spaces;
 - b. No-Impact home occupations: no additional off-street parking is required.

B. Commercial uses - Commercial uses shall provide the following number of off-street parking spaces:

1. GC and HS Zoning Districts: five and one half (5.5) spaces per one thousand (1,000) square feet of gross floor area, or as otherwise permitted by the Planning Commission during site plan review.
2. B-1 District: two and one quarter (2.25) parking spaces per one thousand (1,000) square feet of gross floor area, or as otherwise permitted by the Planning Commission during site plan review.
3. B-2 and B-3 Districts: provided that on-street parking is allowed in the area, no off-street parking spaces are required. If no on-street parking is available, uses shall provide off-street parking equivalent to that required in the B-1 District.

- C. Industrial uses: all industrial uses shall provide one (1) space per two (2) employees plus one (1) per business vehicle. Industrial uses which employ more than eighty (80) people shall also provide ten (10) visitor spaces.

23.2 Parking Lot Requirements:

Off-street parking facilities for more than five (5) automobiles shall meet the following standards:

- A. Screening - Parking lots shall be screened by a wall, fence, or compact planting when adjoining or facing the side or rear lot line of residential or institutional properties or when they are across the street from such uses. Screening shall be at least four feet (4') in height, except when located near an intersection. Within twenty feet (20') of an intersection the screening shall not be more than three feet (3') in height. Planting strips will be no less than five feet (5') 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 three to six feet (3'-6') in height (as appropriate) within (3) years. Planting shall not encroach on adjoining property.
- B. Surface - Parking lots shall feature an impervious surface and shall be properly drained, unless otherwise permitted during site plan review.
- C. Lighting - Any fixture used to illuminate any parking lot shall be so arranged as to reflect the light away from residential lots.
- D. Bicycle parking - Commercial parking lots with more than one hundred (100) parking spaces shall provide a bicycle rack designed to accommodate at least ten (10) bicycles.
- E. Parking lots shall be set back at least eight feet (8') from the edge of the street pavement.

23.3 Loading Areas:

In any district, in connection with every building or part thereof hereafter erected having a gross floor area of ten thousand (10,000) square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly requiring the receipt of or distribution by vehicles of material or merchandise, there shall be provided and maintained, on the same lot with such building, at least one (1) off-street loading space plus one (1) additional such loading space for each twenty thousand (20,000) square feet or major fraction thereof gross floor area so used in excess of twenty thousand (20,000) square feet, or as otherwise permitted by the Planning Commission during site plan review.

- A. Each loading space shall not be less than ten feet (10') in width, forty-five feet (45') in length and fourteen feet (14') in height.
- B. Such space may occupy all or any part of any required yard, except a front yard.
- C. No such space shall be located closer than fifty feet (50') to any other lot located in a residential zoning district, unless the loading space is wholly within a completely enclosed

building or unless enclosed on all sides by a wall or uniformly painted board fence not less than six feet (6') in height.

ARTICLE 24: BOARD OF APPEALS

24.1 General:

In compliance with provisions of Article 66B of the Annotated Code of Maryland, the Board of Appeals of the City of Brunswick is hereby created. The Brunswick Board of Appeals shall consist of a chairperson and two members, each appointed and confirmed by the Mayor and Council and serving staggered terms of one to three years. An alternate member shall also be appointed and confirmed by the Mayor and Council, and shall sit on the Board in the absence of any member. If the alternate member is also absent, a temporary alternate member may be designated by the Mayor and Council.

A member of the Board may be removed for cause, upon written charges, and after a public hearing. Vacancies shall be filled for the unexpired terms of any member whose term becomes vacant.

24.2 Organization:

The Board shall organize and adopt rules in accordance with the provisions of this Ordinance. Meetings of the Board shall be held at the call of the Chairman, or in his/her absence, the Acting Chairman. The Chairman (or Acting Chairman) may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall make a record of all proceedings in the form of minutes, showing the vote of each member upon question, or, if absent or failing to vote, indicating such fact, which shall be filed at City Hall and shall be a public record. All actions of the Board shall be by resolution. Each member of the Board shall be paid fifteen (\$15.00) per meeting attended for the purpose of hearing appeal(s).

24.3 Powers of the Board of Appeals:

- A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator or authorized agent under the provisions of this Ordinance.
- B. To hear and grant or deny special exceptions as allowed by the terms of this Ordinance.
- C. To authorize, upon appeal, in specific cases, variances from the terms of this Ordinance, provided that the need justifying the variance is substantial and immediate and not merely for the convenience of the applicant or to increase the dollar value of a property. The applicant must prove that the strict application of the regulation creates a practical difficulty, or specifically that:
 - 1. strict compliance with the regulation would prevent the use of the property for a permitted purpose or would render conformance unnecessarily burdensome;
 - 2. a lesser variance than that applied for would not provide adequate relief; and

3. granting the variance would not contradict the purpose and intent of the Zoning Ordinance or compromise the public interest.
- D. To authorize the substitution of one non-conforming use for another, provided that the proposed use is determined to be more appropriate to the zoning district than the non-conforming use it is proposed to replace, that it conforms to the intent and the purpose of the zoning district in which it is proposed to be located, and is of the same general character as the principal permitted uses or authorized special exceptions of that district. Furthermore, the use must conform to the recommendations of the Master Plan. The Board of Appeals may impose reasonable conditions on the use for the purpose of protecting the public interest.
- E. To authorize the expansion of a principal or accessory building or structure containing a non-conforming use, taking into consideration the nature of the neighborhood and the effect of the proposed expansion on nearby property owners. Reasonable conditions may be imposed for the purpose of protecting the public interest.
- F. To authorize the expansion of, or addition to, a non-conforming principal or accessory building or structure, taking into consideration the nature of the neighborhood, the effect of the proposed expansion on nearby property owners, and the power of the Board of Appeals to grant variances from height and setback restrictions in accordance with the applicable sections of this Ordinance pertaining to variances. Reasonable conditions may be imposed for the purpose of protecting the public interest.
- G. Floodplain Ordinance. The Board of Appeals may consider a special exception and/or variance application to permit the expansion or replacement (substitution) of an existing nonconforming use or to permit development of an existing parcel of record, as defined herein, lying totally within the Floodplain Areas in accordance with the Floodplain Ordinance and shall apply the following criteria:
 1. Variances shall only be issued upon:
 - a. A showing of good and sufficient cause by the applicant;
 - b. A determination that failure to grant a variance would result in exceptional hardship (other than economic) to the applicant;
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing local and State laws or ordinances. The variance action shall be the minimum necessary, considering the flood hazard, to afford relief. In considering a variance action, comments from the State Coordinating Office of the Water Resources Administration must be taken into account and maintained with the permit file; and
 - d. The requirements for the granting of a variance in non-floodplain areas set forth in Section 24.3.C. and Section 24.8.B. have been satisfied.

2. Variances may not be granted for the following:

- a. placement of fill or any development in the floodway if any increase in flood levels would result; or
- b. new buildings in the floodway.

(Ord. 423, 444)

24.4 Appeals:

Any person aggrieved, or any officer, department, board or bureau of the City may appeal any decision made by the Zoning Administrator or authorized agent by filing, within twenty (20) days of the decision, a notice of appeal, specifying the grounds on which the appeal is based. The Zoning Administrator/authorized agent shall forward to the Board all records pertaining to the decision and subsequent appeal.

24.5 Fees:

A fee Established by the Mayor and Council shall accompany each application of an appeal to the Board. (Amended Ord. 03-07)

24.6 Stay of Proceedings:

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board, after notice of appeal has been filed, that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such a case, proceedings shall not be stayed otherwise than by restraining order which may be granted by the Board or by the Circuit Court of Frederick County, on application after notice to the Zoning Administrator and on due cause shown.

24.7 Appeal Hearings:

The Board shall hold a public hearing before making a decision on any appeal, and shall render a decision regarding that appeal within a reasonable time after it is submitted. At the hearing, any party may appear in person or by agent or attorney.

24.8 Appeals, Variances, Etc.:

A. Generally

1. An application for appeals, variances or special exception shall be made on forms approved by the Planning and Zoning Office.
2. The application and the information required in subsection (3) below shall be filed with the Zoning Administrator a minimum of 30 days prior to the regularly scheduled monthly meeting of the Board of Appeals.
3. Required information shall include:

- a. Plot plan or accurate drawing of the property showing the distances of all existing and proposed structures from all property lines, driveways and parking areas and surrounding zoning;
 - b. Name and address of each person owning property adjacent to the subject property;
 - c. Plans, architectural drawings, photographs, elevations, specifications or other detailed information fully depicting the exterior appearance of any existing structures on the property, including signs and the proposed construction;
 - d. In addition, for all applications for a special exception, a statement shall be provided explaining in detail how the use is to be operated. The following information is required to be submitted:
 - 1) Hours of operation;
 - 2) Number of anticipated employees;
 - 3) Equipment involved; and
 - 4) Any special conditions or limitations, which the applicant proposes for adoption by the Board.
4. Fee shall be paid at the time of filing of application in accordance with the fee schedule.
 5. The Board of Zoning Appeals shall hold a public hearing before making a decision on any appeal or other matter within its powers. Upon accepting an application for an appeal, variance, or special exception, the Zoning Administrator shall schedule the public hearing by the Board of Appeals. Appeals and applications filed in proper form shall be numbered serially, docketed and placed upon the calendar of the Board.
 6. The Administrator shall cause to be published a notice of the public hearing. This notice shall be published in a newspaper of general circulation in the city appearing once each week for two (2) successive weeks with the first appearing at least fourteen (14) days prior to the date set for the hearing. All property owners within three hundred feet (300') of the site, whether separated by streets, railroads, or other rights-of-way, shall be notified by mail of the time, date, place, and nature of the public hearing.
 7. The Board of Appeals shall make an on-site inspection of the premises involved in the application.
 8. A decision of the Board granting a variance or a special exception will be void 2 years from date of approval by the Board of Appeals unless the use is established or a building permit is issued and construction has begun and is in accordance with the terms of the decision. 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 one-time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.

B. Variances

1. The Board of Appeals may authorize a variance in height, lot area and yard regulations only in cases where the strict compliance with the terms of this chapter would result in unreasonable hardship, and only if in strict harmony with the spirit and intent of such regulations and only in a manner so as to grant relief without substantial injury to the public health, safety and general welfare.
2. An application for a variance shall be filed with the Board of Appeals only after refusal of a zoning certificate by the Zoning Administrator.
3. The Board of Appeals shall not grant a variance unless and until the following conditions are satisfied:
 - a. That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same district;
 - b. The literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under terms of this chapter;
 - c. That the special conditions and circumstances do not result from the actions of the applicant;
 - d. That granting the variance will not confer on the applicant any special privilege that is denied by this chapter to other lands or structures in the same district;
 - e. A public hearing has been held; and
 - f. That the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
4. In granting the variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted is a violation of this chapter.
5. Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this chapter in the zone involved, or any use expressly or by implication prohibited by the terms of this chapter in said zone.

C. Special Exceptions

1. An application for a special exception may be made only by persons with a financial, contractual or proprietary interest in the property for which a special exception is requested.

2. A grant of a special exception is basically a matter of development policy, rather than an appeal based on administrative error or on hardship in a particular case. The Board of Appeals should consider the relation of the proposed use to the existing and future development patterns. A special exception shall be granted when the Board finds that:
 - a. The proposed use is consistent with the purpose and intent of the Master Plan and of this chapter;
 - b. The nature and intensity of the operations involved in or conducted in connection with it and the size of the site in relation to it are such that the proposed use will be in harmony with the appropriate and orderly development of the neighborhood in which it is located;
 - c. Operations in connection with any special exception use will not be more objectionable to nearby properties by reason of noise, fumes, vibration, or other characteristics than would be the operations of any permitted use not requiring special exception approval;
 - d. Parking areas will comply with the off street parking regulations of the Zoning Ordinance and will be screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety; and
 - e. The road system providing access to the proposed use is adequate to serve the site for the intended use.
3. In addition to the general requirements listed above, uses requiring a special exception shall be subject to the specific requirements for each use.
4. A special exception approval may be granted in accordance with the general and specific requirements enumerated in this section. The Board of Appeals may, in addition to other requirements imposed under this chapter and is hereby authorized to add to the specific requirements any additional conditions that it may deem necessary to protect adjacent properties, the general neighborhood, and its residents or workers. Violation of such additional conditions, when made a part of the terms under which the special exception permit is granted, is a violation of this chapter and may be grounds for termination of the special exception.
5. The Board of Appeals shall not grant a special exception unless and until:
 - a. A written application for a special exception is submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested; and
 - b. A public hearing has been held; and the Board had made a finding of fact that the special exception requested meets the general and specific requirements outlined in this section.

6. No use or activity permitted as a special exception shall be enlarged or extended beyond the limits authorized in the grant of special exception. All enlargements, extensions, and changes in use shall require grants of special exception, as in the case of an original petition.
7. If a grant of special exception is denied, no new petition for the denied use on the same property shall be accepted by the Board of Appeals for one (1) year after the date of denial of the petition.

D. Questions of Interpretation and Enforcement

All questions of interpretation and enforcement (including applications for Zoning Certificates) shall be first presented to the Zoning Administrator and then such questions shall be presented to the Board of Appeals only on appeal from the decision of the Zoning Administrator, and recourse from the decisions of the Board of Appeals shall be to the courts as provided by law. In addition, certain provisions of this chapter are adopted and enforced as an agreement with the Federal Emergency Management Agency, National Flood Insurance Program regulations, and the Maryland Water Resources Administration flood management grant program regulations. Should a dispute arise concerning the interpretation of these provisions of the chapter, the counsel of the Federal Emergency Management Agency, the Maryland Department of Natural Resources, or the National Flood Insurance regulations shall prevail. The City of Brunswick Floodplain Ordinance shall be amended as required by federal regulations. Any amendments to flood hazard management regulations are subject to the approval of the Federal Emergency Management Agency and the Maryland Department of Natural Resources.

(Ord. 423)

24.9 Action of the Board of Appeals:

In exercising its power, the Board may, in conformity with the provisions of statute and of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator.

The Board may not take action that will be contrary to City of Brunswick's Master Plan. When a question arises as to whether the Board's contemplated action is contrary to the Master Plan, the Board shall request the recommendation of the Planning Commission.

24.10 Application Disapproved:

If the application is disapproved, the Board shall take no further action on another application for substantially the same proposal, concerning the same property, for one (1) year from the date of such disapproval. If an applicant submits and then withdraws an application for appeal, the applicant shall be precluded from filing another application for substantially the same proposal concerning the same property for six (6) months from the date of the withdrawal of the application.

24.11 Appeals:

- A. Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board, commission, or bureau of the jurisdiction affected by any decisions of the administrative officer not including the Planning Commission. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to Board all the papers constituting the record upon which the action appealed from was taken.
- B. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals after notice of appeal shall have been filed with him that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.
- C. The Board of Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.
- D. In exercising the above-mentioned powers such as Board may, in conformity with Md. Ann. Code, Art. 66B, as amended, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
- E. Appeals from decisions of the Board of Appeals shall be to the Circuit of Frederick County in accordance with the Maryland Rules.

(Ord. 423)

ARTICLE 25: AMENDMENTS

25.1 General:

Whenever the public necessity, convenience, general welfare, or good zoning practice require, the Mayor and Council may by Ordinance, after recommendation by the Planning Commission and subject to the procedure set forth in this Article, amend or supplement the regulations, zoning district boundaries, or Master Plan classifications of property now or hereafter established by this Ordinance or amendments thereto. Such amendments, or supplements, may be initiated by resolution of the Mayor and Council, by motion of the Planning Commission, or by petition of any property owner.

The Mayor and Council hereby expresses recognition of the fact that sections of Brunswick are rapidly changing from a rural area to residential, commercial, industrial, and other urban uses, and although an attempt has been made in the official Master Plan to anticipate and direct such growth along desirable lines, it is inevitable that no such plan can be perfect or everlastingly valid. The Mayor and Council therefore anticipate that the Master Plan will require modification from time to time as contemplated and authorized by Article 66B, and that the Zoning Map must also be amended from time to time, in order that it may continue to be in conformity with the Master Plan as required by Article 66B.

25.2 Amendment Procedure:

Any proposed amendments or supplements originating with or received by the Mayor and Council shall first be referred to the Planning Commission for consideration and recommendation. The Planning Commission shall research the issue, and may require the submission of pertinent information by the Applicant, and may hold public hearings in accordance with the Planning Commission By-Laws. The Planning Commission shall then submit its report and recommendation to the Mayor and Council within sixty (60) days of the referral, unless an extension of time is granted by the Mayor and Council.

After receiving the recommendation of the Planning Commission on any proposed amendment, or supplement, and before adopting an amendment, the Mayor and Council shall hold a public hearing in relation thereto, at which interested parties and citizens shall have an opportunity to be heard. Notice of the time and place of the public hearing, together with a summary of the proposed regulation, restriction, or boundary, shall be published in at least one (1) newspaper of general circulation in Brunswick once each week for two (2) successive weeks with the first such publication of notice appearing at least fourteen (14) days prior to the hearing.

A regulation, restriction or boundary may not become effective until ten (10) days after the public hearing.

Where the purpose and effect of the proposed amendment is to change the zoning classification for a particular property or group of properties, the Mayor and Council shall make findings of fact in each specific case including, but not limited to, the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development for the area, the recommendation of the Planning Commission, and the relationship of such proposed amendment to the Master Plan; and may grant the

amendment based upon a finding that there was a substantial change in the character of the neighborhood where the property is located or that there was a mistake in the existing zoning classification. A complete record of the hearing and the votes of all members of the Mayor and Council shall be kept.

Where the purpose and effect of the proposed amendment is the result of a comprehensive review and update of the zoning map, the Mayor and Council shall make findings of fact in each specific case for only those properties in which a particular zoning classification is requested by the property owner, whether in response to the Planning Commission's recommendation or in addition to it. The Mayor and Council shall take into consideration the Planning Commission's recommendation as well as the property owner comments and requests in its review of the proposed amendment. All other proposed zoning map amendments which result from the Planning Commission's recommended comprehensive review and update require a general review by the Mayor and Council.

The Mayor and Council shall make no change in or departure from the proposed amendment as recommended by the Planning Commission unless the issue is resubmitted to the Planning Commission for its further recommendations. No amendment or supplement shall be adopted contrary to the recommendations of the Planning Commission except by a two-thirds (2/3) majority vote of the Mayor and Council.

An application for a reclassification or rezoning shall not be accepted by the Mayor and Council if it is for the reclassification or rezoning of the whole or any part of land the reclassification or rezoning of which has been denied by the Mayor and Council within one (1) year from the date of the local legislative body's denial.

Rezoned or reclassified properties (with the exception of those rezoned or reclassified as the result of a comprehensive rezoning) shall automatically revert to their prior zoning designation or classification three (3) years after the effective date of the rezoning or reclassification unless:

- A. a preliminary or final subdivision plan has been approved and at least ten percent (10%) of the lots have been recorded; or
- B. site plan approval has been obtained and construction of approved buildings or structures has begun. See Article 4 for the definition of "start of construction".

Properties rezoned or reclassified for agricultural use and those properties in which subsequent comprehensive zoning actions have resulted in no change to the zoning of the property will not revert to the original zoning designation or classification.

25.3 Fee:

A fee established by the Mayor and Council shall be charged for processing an application for a change in zoning or a reclassification. (Amended Ord. 03-07)

25.4 Saving Clause:

If an article, section, sub-section, clause, or phrase of this Ordinance is for any reason held unconstitutional or void, such decision shall not invalidate the remaining portions of the Ordinance.