

ZONING ORDINANCE

TOWN OF THURMONT

ORIGINAL ADOPTION

December 8, 1965

REVISIONS ADOPTED

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Article 1: GENERAL PROVISIONS

§ 1.1 TITLE

These regulations shall be known as the Town of Thurmont Zoning Ordinance. They may be referred to herein as the “Zoning Ordinance” or this “Ordinance”.

§ 1.2 PURPOSE

The purpose of this Ordinance is to protect and promote the public health, safety and general welfare of the community and more specifically to:

- A. Implement the goals, policies, and provisions of the adopted Comprehensive Plan and its subsequent updates.
- B. Provide regulatory mechanisms, which include standards for the quality and character of development, streamlined procedures for certain minor approvals, and enhanced provisions for the oversight, inspection, and conformance with approved plans.
- C. Promote the efficient use of land, the avoidance of congestion and undue crowding of land, safety from fire, panic, and other dangers, and the orderly, efficient, and responsible development of essential and adequate public facilities and services such as schools, parks, water, sewer, and other utilities.
- D. Promote development practices which conserve and protect water, energy, and other resources, protect persons and property from environmental hazard, conserve, protect and enhance property values, and discourage land consumptive and low density development patterns which run counter to traditional building practices in the Town.

§ 1.3 SEVERABILITY

The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any court of competent jurisdiction declares any such part unconstitutional or otherwise invalid in a valid judgment or decree such unconstitutionality or invalidity shall not affect any of the remaining parts of this Ordinance.

§ 1.4 INTERPRETATION OF STANDARDS

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. Where this Ordinance imposes a greater restriction than the restrictions, regulations, ordinances, or private restriction, which may exist, the provisions of this Ordinance shall control.

§ 1.5 CONFORMITY REQUIRED

- A. All departments, officials and employees of the Town of Thurmont who are vested with the authority to issue permits or licenses shall conform to the provisions of this Chapter and shall not issue any permit or license for any use, building, structure, or purpose which would conflict with the provisions of this Chapter. Any permit or license, issued in conflict with the provisions of this Chapter, shall be null and void.
- B. Except as hereinafter specified, no land, building, structure shall be located, erected, reconstructed, extended, enlarged, converted, or altered except in conformity with these regulations herein specified for the district in which it is located.

§ 1.6 SCHEDULE OF FEES, CHARGES AND EXPENSES

- A. The Mayor and Commissioners shall establish a schedule of fees, charges, and expenses, and a collection procedure, for zoning certificates, zoning occupancy permits, appeals, variances, special exceptions, amendments, and other matters pertaining to this Ordinance.
- B. The schedule of fees shall be posted in the office of the Chief Administrative Officer (CAO) or designee and may be altered or amended only by the Mayor and Board of Commissioners.
- C. No certificate, permit, special exception, administrative adjustment or variance shall be issued unless or until such costs, charges, fees, or expenses, have been paid in full, nor shall any action be taken on proceedings before the Board of Appeals or the Planning & Zoning Commission unless or until preliminary charges and fees have been paid in full.

ARTICLE 2: ADMINISTRATION AND ENFORCEMENT

§ 2.1 ROLES OF OFFICIAL BODIES

§ 2.1.1 ZONING ADMINISTRATOR

- A. Establishment: It shall be the duty of the Zoning Administrator to administer and enforce this Ordinance and to take all actions that are required by this Ordinance. Any permit or license issued by any Town official, or County official vested with the authority to issue permits or licenses in the Town, in conflict with the provisions of this Ordinance shall be null and void.
- B. Enforcement: If the Zoning Administrator finds that this Ordinance is being violated, he/she shall notify in writing the person responsible for such violations, indicate the nature of the violation and order action necessary to correct it. In this regard, the Zoning Administrator shall have the following authority:

1. Order discontinuance of the illegal use of land, buildings, or structures;
 2. Order removal of illegal buildings or structures, additions, alterations, or structural changes thereto;
 3. Order discontinuance of any illegal work being done.
 4. Take any other action authorized to ensure compliance or to prevent a violation.
- C. Issuance of Certificates and Permits: It shall be unlawful to locate or begin the excavation, erection, construction, reconstruction, extension, conversion, or structural alteration of any building, structure, fence or wall without first obtaining a Zoning Certificate from the Zoning Administrator. This provision shall not apply to minor utility installations. Every application for a Zoning Certificate shall be signed by the applicant and shall be accompanied by a site plan meeting the requirements of Article 3 of this Ordinance.
- D. Appeals: Any person or agency aggrieved by a decision of the Zoning Administrator may appeal such decision to the Board of Appeals within 30 days of the date of the written decision per §2.3.2 of this Ordinance.

§ 2.1.2 PLANNING & ZONING COMMISSION

- A. The Planning & Zoning Commission shall have the authority to:
1. Prepare and recommend a comprehensive plan for the Town and shall review and update the plan as needed at least once every ten years.
 2. Advise the Mayor and Board of Commissioners on all matters relating to the orderly planning and growth of the Town.
 3. Prepare and recommend amendments to this Ordinance.
 4. Review and recommend amendments to the Official Zoning Map.
 5. Review and make advisory recommendations to the Board of Zoning Appeals on special exceptions and variances, if a recommendation is requested by the Board of Zoning Appeals. The Commission's recommendation shall come after deliberation at its next public meeting, and shall be transmitted to the Board of Zoning Appeals within 45 days of the Commission's receipt of the Board of Zoning Appeals' request. If no recommendation is transmitted prior to the hearing scheduled before the Board of Zoning Appeals, the Board of Zoning Appeals may proceed with the application.
 6. Review proposed public facilities for consistency with the Comprehensive Plan;
 7. Review and decide on Category 1 Site Plans.
 8. Review and decide on requests for certain modifications to site plan requirements including parking, landscaping, and building design modification;
 9. Review and decide on subdivision plats per the Town Subdivision Regulations.

10. Prepare and adopt an annual report.
11. Conduct other activities and duties as set forth in this Ordinance, or as requested by the Mayor and Board of Commissioners, or as provided for by the Land Use Article of the Annotated Code of Maryland.

B. Membership

1. The Planning & Zoning Commission shall consist of five members, who are residents of the Town. The Mayor shall appoint members subject to confirmation by the Board of Commissioners.
2. Members shall be appointed for five-year terms and terms of appointment shall be staggered.
3. Vacancy in membership for an unexpired term shall be filled for the unexpired term by appointment by the Mayor and Board of Commissioners.
4. Within six months of appointment, members and alternate members of the Planning & Zoning Commission shall complete an education course on the role of the comprehensive plan; the duties of the Thurmont Planning & Zoning Commission; and the Town's laws and regulations relating to zoning, planned development, subdivision, and general land use matters.

C. Officers

1. The Commission shall elect from its membership a chairperson and vice-chairperson annually.
2. The terms of the officers shall be one year with eligibility for reelection.

D. Meetings

1. The Planning & Zoning Commission shall establish a regular meeting schedule and shall meet frequently enough so that it can act on all complete applications in an expeditious manner. The Planning & Zoning Commission shall hold meetings quarterly or more often, as its duties require. If there is no business before the Planning & Zoning Commission, the Chairman may cancel the meeting. The Planning & Zoning Commission shall hold regular meetings at a regular schedule to conduct the business to be brought before it and shall at least meet every three months or four time per year.
2. The Planning & Zoning Commission shall give reasonable public notice of its meetings. The Chairman may call special meetings of the Commission.
3. All Commission meetings shall be open to the public.
4. Three members of the Commission shall constitute a quorum.
5. No action of the Commission shall be valid unless authorized by a majority vote of those present and voting. A quorum is required for a meeting.

6. The Planning & Zoning Commission may hold more than one meeting concerning an application or other action before taking a vote, if the Commission believes that the additional meeting is reasonably necessary to provide for an opportunity for additional public comment, testimony, or other material or relevant information.
- E. Proceedings of the Planning and Zoning Commission
1. The Commission shall adopt written rules necessary for the conduct of its affairs.
 2. All meetings shall be open to the public as provided by the Open Meetings Act, unless an exception applies.
 3. The Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record.
 4. **Make Decisions Based on Findings of Fact.** All decisions of the Commission, whether favorable or unfavorable to the applicant, shall be based on and supported by written findings of fact pertaining to the case under review. No decision of the Planning & Zoning Commission shall be final until the written decision of the Commission is signed and filed within 14 days by the Chairman or designee the Planning & Zoning Commission. A tie shall constitute a denial of an application.
- F. **Modifying the Provisions of this Ordinance:** The Commission may, upon the review of a site plan, but only where and as so provided in this Ordinance, modify certain provisions upon its finding that such modification is the minimum necessary to faithfully implement the purposes of this Ordinance and implement the adopted Comprehensive Plan. This authority is distinctly different from the authority to grant a variance which authority rests with the Board of Appeals.
1. An applicant cannot submit a new application for a request previously denied for at least 365 days following the denial.
 2. **Appeals:** Any person aggrieved by a decision of the Planning & Zoning Commission and desiring to appeal such decision may file a petition for judicial review through the Circuit Court of Frederick County, following the procedure set forth in the Maryland Rules, Title 7, Chapter 200.

§ 2.1.3 BOARD OF APPEALS

- A. **Establishment:** The Board of Appeals shall have the authority to:
1. Hear and decide appeals from any order, requirement, decision, action, or determination made by the Zoning Administrator. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made, and to that end shall have powers of the Zoning Administrator from whom the appeal is taken. The Board of Appeals is only authorized to hear and decide on appeals of the Zoning Administer and no other agency or body.

2. Authorize a variance from the terms of the Ordinance as provided in §2.3.1 of this Ordinance.
3. Hear and decide Special Exceptions as authorized under §2.3.3 of this Ordinance.
4. Interpret the boundaries of a zoning district upon referral by the Zoning Administrator.
5. Hear and decide approval requests for any non-conforming lots, structures, and uses.

B. Membership

1. The Board of Appeals shall consist of five members who are residents in the Town. The Mayor shall appoint members subject to confirmation by the Board of Commissioners.
2. Members shall be appointed for terms of three years. The Mayor and Board of Commissioners shall fill vacancies for the remainder of the unexpired term.
3. The Mayor shall appoint, subject to confirmation by the Board of Commissioners, one alternate member for the Board of Appeals who is empowered to sit on and participate in decisions with the Board in the absence of any member.
4. Within six months after appointment, members and alternate members of the Board of Appeals shall complete an education course on the role of the comprehensive plan; proper standards for special exceptions and variances; the Town's laws and regulations relating to zoning; and any other topic as determined by the Town.

C. Proceedings of the Board of Appeals

1. The Board shall adopt rules necessary for the conduct of its affairs, including rules specific to the Board of Appeals' appellate review function and the conduct of hearings. Meetings shall be held at the call of the Chairperson. The Chairperson, or in his/her absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses.
2. Three members shall constitute a quorum.
3. All meetings shall be open to the public as provided by the Maryland Open Meetings Act, unless an exception applies.
4. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record.
5. Make decisions based on findings of fact. All decisions of the Board, whether favorable or unfavorable to the applicant shall be based on and supported by written findings of fact pertaining to the case under review. No decision of the Board shall be final until the written decision of the Board is signed and filed. A

quorum must be present for the Board of Appeals to act. A tie shall constitute a denial of an application. In an appeal, a tie shall constitute an affirmation of a decision of the Zoning Administrator.

6. The Board of Appeals may hold more than one meeting concerning an application or other action before taking a vote, if the Board believes that the additional meeting is reasonably necessary to provide for an opportunity for additional public comment, testimony, or other material or relevant information.

D. Special Procedural Provisions

1. The concurring vote of the majority of Board members shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to affect any variation in the application of this Ordinance.
2. If the Board disapproves any application or request, thereafter the Board shall not accept application for substantially the same proposal on the same property for a period of one year from the date of such disapproval.
3. If an appeal to the Board is filed and the public hearing date set and public notice given, and thereafter the applicant withdraws the appeal, the applicant may file a new application after paying the appropriate fees.
4. An applicant cannot submit a new application for a request previously denied for at least 365 days following the denial.
5. A person aggrieved by the decision or action of the Board of Zoning Appeals, a taxpayer, or an officer or unit of the Town may file a request for judicial review of a decision of the Board of Appeals to the Circuit Court for Frederick County, in accordance with Md. Code Ann. Land Use Art. § 4-401, *et seq.*, and the Maryland Rules.

§ 2.1.4 MAYOR AND BOARD OF COMMISSIONERS

A. Duties of Mayor and Board of Commissioners

The duties of the Mayor and Board of Commissioners in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise.

B. Under this Ordinance, the Mayor and Board of Commissioners shall have the following duties:

1. To consider and decide on proposed amendments or the repeal of this Ordinance, as provided by law.
2. To consider and decide on annexation petitions upon receiving a recommendation from the Planning & Zoning Commission.

3. To enter into Public Works Agreements and other development agreements as necessary and allowed by law to implement this Ordinance.
4. To establish a schedule of fees, fees-in-lieu, and charges.
5. To appoint and confirm qualifying members of commissions and boards.
6. To remove any member of a commission or board established by this Ordinance for inefficiency, neglect of duty, or malfeasance in office after providing written notice of charges and conducting a public hearing.

§ 2.2 GENERAL PERMIT AND APPLICATION PROCEDURES

§ 2.2.1 ZONING CERTIFICATES AND CERTIFICATES OF OCCUPANCY

A. Zoning Certificate Required

1. A zoning certificate certifies that an application complies with this Ordinance. The applicant must obtain a zoning certificate from the Zoning Administrator before an individual does any of the following: erect a building or structure, enlarge, move, add to, or structurally alter a building, excavate for a building or structure, initiate any development activities pursuant to an approved site plan or subdivision plat.
2. Before a zoning certificate is issued, the Zoning Administrator shall find in writing that all plans have been inspected and approved as provided in this Ordinance.
3. Before a zoning certificate is issued, the lot and location of the building, structure, or other improvements shall be staked out on the ground unless the Zoning Administrator expressly waives this requirement upon a finding that the public interest is not served by such action.
4. No zoning certificate for a residential structure shall be issued if it is located on or within 100 feet of "wet soils" unless the requirements of Section 6.3 of this Ordinance have been met.

B. Expiration of Zoning Certificate

1. A zoning certificate shall automatically expire one year from the date of its issuance if no work described in the permit has begun. The Zoning Administrator shall cancel the permit and provide written notice thereof to the applicant. All fees or charges shall be refunded.
2. If work described in any zoning certificate has not been substantially completed within two years of the date of issuance, unless work is satisfactorily proceeding thereon, the Zoning Administrator shall cancel the permit and provide written notice thereof to the applicant, fees and charges shall be refunded. Upon written request submitted to the Zoning Administrator no later than one month prior to

the expiration date, and for good cause shown by the applicant, the Zoning Administrator is authorized to grant in writing a one-time extension for a period not to exceed 180 days, subject to payment of any applicable fees for such extension.

3. No work on a cancelled permit may proceed unless and until a new zoning certificate has been obtained.

C. Certificate of Occupancy for New, Altered, or Non-Conforming Uses

1. It shall be unlawful to use, occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Occupancy has been signed by the Zoning Administrator and issued by the County Department of Permits and Inspections, stating that the proposed use of the building or land conforms to the requirements of this Ordinance and other applicable laws.
2. No non-conforming structure or use shall be used more frequently for the same or similar use until the Zoning Administrator has issued a Certificate of Occupancy. It shall state specifically wherein the non-conforming use differs from the provisions of this Ordinance.
3. An applicant for a Certificate of Occupancy involving a change of use of a building shall submit the application to the Frederick County Government for review and comment pursuant to the building code and then to the Zoning Administrator for review.
4. The Zoning Administrator may issue a temporary Certificate of Occupancy for a period not exceeding six months during alterations or partial occupancy of a building pending its completion, provided that such temporary permit may require such conditions and safeguards that protect the safety of the occupants and the public.
5. Failure to obtain a Certificate of Occupancy shall be a violation of this Ordinance

D. No zoning certificate shall be issued until the proposed water supply system and disposal of sanitary waste has been approved by the Frederick County Health Department if either public service is unavailable.

E. No zoning certificate shall be issued until the proposed location and design of any driveway or drainage structures connected with any public road is approved by the Town Supervisor of Public Works, the Frederick County road's engineer, or the State Highway Administration District Engineer, whichever has jurisdiction.

F. Before a Certificate of Occupancy is issued by the Zoning Administrator, all buildings, structures, and required improvements shall be inspected and approved to ensure that they conform to their approved plans and meet Town's specifications. The Zoning Administrator has the discretion to approve the issuance of a Certificate of Occupancy even though the streets, parking, sidewalks, curbs and gutters may not be completed, if satisfactory bond is furnished to the Commissioners of Thurmont guaranteeing completion within a reasonable time.

- G. As-built site plans: Two copies of the “as-built” site plan certified by a licensed engineer or architect shall be submitted to the Zoning Administrator prior to issuance of an occupancy permit for any building shown on a Category 1 Site Plan.
- H. The Zoning Administrator shall maintain a record of all Certificates of Occupancy and copies shall be furnished upon request to any person.
- I. Construction and Use to be as provided in Applications, Plans, Certificates, and Permits:
 - 1. Zoning Certificates and Certificates of Occupancy authorize only that which is set forth on approved plans and applications and no other use, arrangement, or construction.
 - 2. Any use, arrangement or construction differing with that authorized shall be deemed a violation of this Ordinance.

§ 2.2.2 BUILDING AND DEMOLITION PERMITS

- A. Purpose of Building Permit: A building permit certifies that an application complies with the Frederick County Building Code as may be supplemented, amended, and revised from time to time.
- B. Building Permit Required: An applicant must obtain a building permit before any of the following can take place: erect a building or structure, enlarge, move, add to, or structurally alter a building, excavate for a building or structure, initiate any construction activities pursuant to an approved development site plan or subdivision plat.
- C. Frederick County Permit and Inspection Approval Required: Before a building permit can be issued, the Frederick County Division of Permits and Inspections must have reviewed and approved the required plans and issued a County Building Permit.
- D. Conditions and Restrictions on a Building Permit: The Zoning Administrator may place conditions on a building permit.
- E. Demolition Permits Required:
 - 1. Before any activities to demolish or remove in whole or part, any building or structure an applicant must first obtain a demolition permit from the Zoning Administrator and Frederick County Government, which permit may be subject to an applicable fee set forth in the Town’s Schedule of Fees.
 - 2. Upon receipt of an application for a demolition permit and 15 days prior to acting on the application, the Zoning Administrator shall cause to be published in a local newspaper one public notice of the receipt of an application for demolition which shall include the address of the property and shall post the property with a public notice sign stating the same. Both notices shall indicate that written comments will be received by the Zoning Administrator up to 15-days from the date the notice was first published and posted.

3. The Zoning Administrator may place conditions on the issuance of a demolition permit.
- I. Expiration of Building or Demolition Permit: Every permit issued shall become null and void if the work authorized by such permit is not commenced within 180 days after its issuance or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the work is commenced. The Zoning Administrator is authorized to grant in writing one or more extensions of time for periods of not more than 180 days each subject to payment of an applicable fee for each such extension which fee amount shall be set forth in the Town's Schedule of Fees. The extension shall be requested in writing with justifiable cause demonstrated.

§ 2.2.3 MAP AMENDMENTS; TEXT AMENDMENTS TO THIS ORDINANCE

- A. Who May Initiate: A proposal for zoning map amendment, supplement, change, modification, or repeal may be initiated by the Mayor and Board of Commissioners on its own motion, by the Planning & Zoning Commission, or by petition of any property owner or his duly authorized agent, or contract purchaser to be affected by the proposed map amendment.
- B. Proposals for a text amendment to, supplement, change, modify, or repeal of this Ordinance may be initiated by the Mayor and Board of Commissioners, on its own motion, or by recommendation from the Planning & Zoning Commission.
- C. Applicants proposing amendments are subject to the following procedural provisions, as applicable:
 1. Proposals originated by the Mayor and Board of Commissioners. The Mayor and Board of Commissioners shall refer every proposal originated by it to the Planning & Zoning Commission. Within 60 days of the submission, the Planning & Zoning Commission shall submit to the Mayor and Board of Commissioners a report containing the Planning & Zoning Commission's recommendations, including any recommended additions or modifications to the original proposal.
 2. Proposals originated by the Planning & Zoning Commission. The Planning & Zoning Commission may at any time transmit to the Mayor and Board of Commissioners a proposal.
 3. Proposals originated by petition. Each petition for a Map Amendment by one or more owners of property to be affected by a proposal for amendment, supplement, change, or modification shall be submitted on forms provided by the Zoning Administrator. On receipt of said petition, the Zoning Administrator shall transmit a copy of the petition to the Planning & Zoning Commission.
 4. The Planning & Zoning Commission shall cause such investigation to be made as it deems necessary and may require the submission of all pertinent data and information by any person concerned and shall submit its written report,

recommendation, and proposed changes to the Mayor and Board of Commissioners within a reasonable length of time.

5. All amendments shall be the subject of a public hearing conducted by the Planning & Zoning Commission. The Planning & Zoning Commission shall conduct the hearing within 60 days of submission of proposed amendment.
6. The Mayor and Board of Commissioners shall defer action on a petition until the recommendations of the Planning & Zoning Commission are received and reviewed.

D. **Criteria for a Valid Zoning Map Change:** Except as part of a comprehensive rezoning of the Town of Thurmont, the Mayor and Board of Commissioners shall approve no amendments to the Official Zoning Map unless it first finds upon a preponderance of evidence that either of the following criteria have been met:

1. There was a mistake in the preparation of the Official Zoning Map; or
2. Since the adoption of the current Comprehensive Plan, there has been a substantial change in the character of the neighborhood where the map amendment is proposed.

E. **Mayor and Board of Commissioners Public Hearing and Notice:**

1. No such amendment, supplement, change, modification, or repeal shall become effective until at least one public hearing by the Mayor and Board of Commissioners has been held.
2. When such hearing concerns a zoning map change, the Town shall post in a conspicuous place on the property involved a notice of pending action; such posting to take place at least 15 days prior to the date fixed for public hearing.
3. When such hearing concerns a zoning map change, the Town shall give written notice of the time and place of such hearing, sent by certified mail to the applicant and to the owners of property contiguous to or opposite the property affected.

§ 2.2.4 ADMINISTRATIVE ADJUSTMENTS

A. **By Authority of the Zoning Administrator:** The Zoning Administrator is authorized to make certain administrative adjustments that are in harmony with the general purpose and intent of this Ordinance, in the specific instances set forth herein, where the Zoning Administrator makes findings of fact in accordance with the standards prescribed and finds that there are practical difficulties in carrying out these regulations.

B. **Procedures**

1. All applications for administrative adjustments shall be filed with the Zoning Administrator on a form provided by the Town.

2. The Zoning Administrator is authorized to approve administrative adjustments, after determining that the submission is complete and finding that the request meets the requirements for granting an administrative adjustment.
 3. Within fifteen days, the Zoning Administrator shall decide to: (1) approve the application, (2) approve the application subject to specific conditions; or (3) deny the application. The Zoning Administrator's decision shall be based on written findings of fact and he/she may impose such conditions or restrictions upon the premises as may be necessary to comply with the standards and purposes established in this Ordinance.
 4. The Zoning Administrator shall transmit a copy of the decision to the applicant and all other persons previously receiving notice of the application.
- C. Permitted Administrative Adjustments: Administrative adjustments may be granted only for the following:
1. Setbacks. To permit setbacks of up to 10 percent less than required by applicable regulations.
 2. Building Height. To permit a building height of up to 10 percent more than required by applicable regulations.
 3. Signs. To permit the increase of up to 20% per sign section in the area or height of an otherwise permitted sign.
- D. Adjustments for Non-Conforming Lots Prohibited
The Zoning Administrator may not approve administrative adjustments when the minimum lot width and area requirements for the property are not met.
- E. Review Criteria and Findings
The Zoning Administrator shall not grant an administrative adjustment unless he/she makes findings based upon the evidence presented in each specific case that:
1. Practical Difficulties. The particular physical surroundings shape or topographical conditions of the subject property result in practical difficulties for the owner, which have not been created by any persons having an interest in the property;
 2. Unique Conditions. The conditions upon which an application for an adjustment is based are unique to the subject property and are not applicable, generally, to other property within the same zoning classification; and,
 3. Public Safety and Welfare. The granting of the adjustment will not be detrimental to the public safety or welfare or injurious to other property or improvements in the neighborhood in which the property is located.
- F. Expiration of Approval
1. No decision granting an administrative adjustment shall be valid for a period longer than one year from the date of the decision, unless the building permit is obtained within that period and the erection or alteration of a building is started or the use is commenced within that period.

2. The Zoning Administrator may, upon a showing of good cause, grant one 180-day extension of an administrative adjustment, if a written application for extension is filed while the decision is still valid.

G. Appeals

Within 30 days of the grant or denial by the Zoning Administrator, an Administrative Adjustment may be appealed to the Board of Appeals, pursuant to the procedure for such appeals set forth in section 2.3.2.

§ 2.3 THE WORK OF THE BOARD OF APPEALS

§ 2.3.1 VARIANCES

- A. **By Authority of the Board of Appeals:** A property owner, contract purchaser, or lessee with consent from the property owner, may apply to the Board of Appeals for a variance from the strict application of the dimensional requirements of this Ordinance to avoid unwarranted hardship to the applicant. Provided, however, that this shall be narrowly construed and applied by the Board to avoid undermining the purpose, integrity, intent and generally uniform application of this Ordinance.
- B. **Procedures:** Applications for a variance shall be submitted to the Zoning Administrator and shall include written statements addressing the following:
 1. The specific provisions from which a variance is sought.
 2. The nature and extent of the variance sought.
 3. The special conditions of the property that would make a variance necessary.
 4. A statement indicating why the variance should be granted.
 5. The description of the alleged hardship that is caused by the physical surroundings, shape or topographical conditions of the subject property.
 6. A property owner, contract purchaser, or lessee with consent from the property owner may make an application for a variance. A lessee or contract purchaser must file with the application, a copy of the contract and a sworn written statement, which indicates endorsement of the application from the property owner.
- C. **Public Hearing Required:** The Board shall not authorize any variance until at least one public hearing has been held to consider the request.
- D. **Burden of Proof:** The applicant for a variance shall have the burden of proof, which shall include the burden of producing evidence to demonstrate the application meets the criteria for a grant of a variance request and the burden of persuasion on all questions of fact and law that are to be determined by the Board of Appeals.

E. Decision on Variances, Standards: The Board of Appeals shall not grant a variance unless it makes written findings of fact based upon the evidence that each of the following standards is met:

1. Because of the particular physical surroundings, shape or topographical conditions of the subject property, a particular hardship to the owner would result as distinguished from a mere inconvenience, if the strict letter of the regulations were followed. The alleged hardship shall relate to the land, not to personal circumstances.
2. The conditions upon which a petition for a variance is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property within the same zoning classification.
3. The conditions upon which a petition is sought did not result from the actions of the applicant.
4. The granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
5. The variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion of the public streets, increase the danger of fire, endanger the public safety, or alter the essential character of the neighborhood or district in which the property is located.
6. Within the intent and purpose of this Ordinance, the variance, if granted, is the minimum variance necessary to afford relief.
7. No non-conforming use of neighboring lands, structures, or buildings in the same zone, and no permitted use of lands, structures, or buildings in other zones shall be considered grounds for the issuance of a variance.

F. Conditions and Restrictions

1. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.
2. In granting a variance, the Board may impose such reasonable conditions as will ensure that the use of the property will be compatible as practical with surrounding properties.
3. No action will be taken which will be contrary to the adopted Town Comprehensive Plan. When a question arises as to whether the contemplated action of the Board is contrary to the adopted Plan, the Board shall request the recommendation of the Planning & Zoning Commission.

- G. Prohibited Variance: Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the zone involved or any use expressly or by implication prohibited by the terms of this Ordinance in said zone.
- H. Expiration of Approval
 - 1. No decision granting a variance shall be valid for a period longer than one year from the date of the decision, unless the building permit is obtained within that period and the erection or alteration of a building is started or the use is commenced within that period.
 - 2. The Zoning Administrator may, upon a showing of good cause, grant one 180-day extension of a variance, if a written application for extension is filed while the decision is still valid.

§ 2.3.2 APPEALS

- A. Initiation: Any person or agency aggrieved by an action or decision of the Zoning Administrator may appeal such action or decision to the Board of Appeals.
- B. Timing for Appeal: An appeal must be taken within 30 days of the written decision.
- C. Processing and Public Hearing Requirements
 - 1. A notice of appeal shall be filed with the Zoning Administrator and the Board of Appeals. The Appellant shall specify in its notice of appeal each error, the ground for the appeal and the relief sought.
 - 2. The Zoning Administrator shall forthwith transmit all papers constituting the record upon which the decision or action appealed was taken.
 - 3. The Board of Appeals shall give reasonable public notice of the existence of the appeal and of the hearing to the parties in interest and to other persons entitled to receive notice pursuant to this Ordinance.
 - 4. The Board shall conduct a de novo hearing on those issues that have been appealed. The Board of Appeals may hear testimony and consider additional evidence pertaining to the issue or issues presented on appeal.
 - 5. In any hearing conducted on appeal from the Zoning Administrator, the Appellant shall have the burden of proof of establishing facts necessary to any determination to be made on review.
 - 6. The Board shall decide the appeal within 30 days of closing its hearing on the appeal.
- D. Scope of Decision of the Board: The Board may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made, and to that end shall have powers of the Zoning Administrator from whom the appeal is taken.

- E. Stay of Proceedings: An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Appeals after the notice of Appeal is filed with him, that because of facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Appeals or by the Circuit Court on application, on notice to the Zoning Administrator from whom the appeal is taken and on due cause shown.

§ 2.3.3 SPECIAL EXCEPTIONS

- A. Purpose and Intent: There are certain uses, which by their nature or design can have an undue impact upon or be incompatible with other uses of land in the same zoning district. These uses may be allowed within given designated zoning districts under the controls, limitations and regulations of a special exception.

- B. Authorization: In consideration of an application filed with the Zoning Administrator, the Board of Appeals may authorize the establishment of a special exception listed in a particular district in Article 4 of this Ordinance or as identified on the Use Table.

- C. Application Procedure

1. The Board shall not grant a special exception unless and until a written application is submitted indicating the section of this Ordinance under which the special exception is sought and stating the grounds on which it is requested.
2. Applications for a special exception shall be submitted to the Zoning Administrator. The application shall be completed and shall be accompanied by information which will be necessary to evaluate a given proposed category or use. The Zoning Administrator, upon receipt of a properly completed and documented application, shall refer the application along with pertinent evaluation material to the Board.
3. A property owner, lessee with consent from the property owner, or contract purchaser may make an application for a special exception. A lessee or contract purchaser must file with the application, a copy of the contract and a sworn written statement, which indicates endorsement of the application by the property owner.

- D. Standards

The Board of Appeals shall grant a special exception only if it finds, from a preponderance of evidence of record, that any proposed use submitted for a special exception will meet all the following general standards:

1. The establishment, maintenance and operation of the special exception will not be detrimental to or endanger the public health, safety, or general welfare.
2. The special exception shall be such that it will be harmonious in character as well as appropriate in appearance with and will not be injurious to the use and enjoyment of other property in the neighborhood for the purposes already

permitted, nor substantially diminish and impair property values within the neighborhood.

3. The establishment of the special exception will not impede the normal and orderly development and improvement of surrounding properties for the uses permitted in the district.
 4. Adequate utilities, public water and sewer facilities, access roads, drainage and all necessary facilities have been or are being provided.
 5. The special exception shall be such that pedestrian and vehicle traffic associated with such use will not be hazardous to or unduly conflict with the existing and anticipated traffic in the neighborhood.
 6. The establishment, maintenance and operation of the special exception are consistent with the Comprehensive Plan.
 7. The special exception application shall meet any specific standards or conditions which may be listed for the proposed use in §4.2.4.
- E. Burden of Proof: The applicant for a special exception shall have the burden of proof, which shall include the burden of producing evidence to demonstrate that the application meets each of the general and specific criteria relevant to the application, and the burden of persuasion on all questions of fact and law that are to be determined by the Board of Appeals.
- F. Conditions and Restrictions: The Board of Appeals, in approving a special exception, may impose such conditions and restrictions upon the proposed use, as it may deem necessary in the public interest to secure compliance with the provisions of this Ordinance and to promote implementation of the Comprehensive Plan.
- G. Status of Special Exception Uses
1. Once a special exception has been approved, any site plan, subdivision plat, building permit, Zoning Certificate, and Certificate of Occupancy hereafter submitted for the development or use of the property in accordance with the special exception shall conform with the approved special exception and no development or use shall be approved by the Zoning Administrator in the absence of such conformance.
 2. Once established, the use shall be conducted in strict accordance with any condition or restriction imposed by the Board of Appeals and all other requirements of this Ordinance. No use shall be enlarged, expanded, increased in intensity or relocated and no condition of the special exception shall be modified or a new special exception granted unless an application is made and approved for an amendment to the special exception or a new special exception is approved.
- H. Processing and Public Hearing Requirement: The Board of Appeals shall process all applications for special exception in accordance with the provisions and public hearing requirements provided in this Ordinance.

- I. Termination or Revocation
 - 1. Unless a time limit is specified for a special exception, the same shall be valid for an indefinite period, except that, if the use or activity should cease for any reason for a continuous period of one year, the special exception shall automatically terminate. The approval of a new special exception shall be required prior to any subsequent reinstatement of the use. Prior to the end of that one-year cessation of use and upon its conduct of a hearing, the Board of Appeals may upon receiving a petition demonstrating good cause for the extension, grant one or more extensions if the total period authorized is not extended for a period more than two years from the first date that the use or activity ceased.
 - 2. After the owner or operator begins utilizing a valid special exception, the special exception shall be revocable on the order of the Board of Appeals at any time because of the failure of the owner or operator of the use covered by the exception to observe all requirements of law with respect to the maintenance and conduct of the use and all conditions in connection with the exception that were designated in issuing the same.
 - 3. Before revoking any special exception, however, the Board of Appeals shall give the holder thereof at least ten days' written notice of violation. If within ten days, the exception holder so requests, the Board of Appeals shall hold a hearing on the revocation of the exception, giving the applicant advanced written notice of the hearing date.
 - 4. The foregoing provisions shall not be deemed to preclude the use of any other remedy prescribed by law or by this Ordinance with respect to violations.
- J. Time Limit for Use of a Special Exception: A special exception, which has not been utilized within a period of two years from the date of the final order granting it, shall thereafter be void. Prior to the end of that two-year period and upon its conduct of a hearing, the Board of Appeals may upon receiving a petition demonstrating good cause for the extension, grant one or more extensions provided the total period authorized is not extended for a period of more than four years from the date of the order granting the special exception.

§ 2.3.4 HEARINGS OF THE BOARD OF APPEALS

- A. Hearing Required: Before deciding on an appeal or an application for a variance, special exception, a petition to revoke a special exception, or taking any other action that requires the deliberation or vote of the Board, the Board of Appeals shall hold at least one public hearing.
- B. Format of Hearing
 - 1. The hearing shall be open to the public and all interested persons shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.
 - 2. The Board of Appeals may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses to provide all interested persons with an opportunity to be heard, while having due

regard to the interests of excluding irrelevant or repetitive evidence and conducting the hearing in an orderly and efficient manner so that the matter at issue may be heard and decided without undue delay.

3. The Board may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. The Board shall announce the date and hour of continuance of such hearing while in session.

§ 2.3.5 NOTICE OF PUBLIC HEARING

- A. **Public Notice to be Given:** Public notice shall be given at least 15 days in advance of the hearing in the following ways:
 1. Notice shall be posted on the subject property and at the Town Office,
 2. Notice shall be published in a newspaper of general circulation in the Town, and
 3. Written notice shall be provided to the adjoining property owners.
- B. **Notice to Interested Parties:** Verifiable notice shall be given to the appellant or applicant and any other person who makes a written request for such notice at least 15 day in advance of the hearing.
- C. **Contents of Notice:** The notice required by this section shall state the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

§ 2.3.6 EVIDENCE AND RECORD OF HEARING

- A. **Sworn Testimony:** All persons who intend to present evidence to the Board rather than arguments only shall be sworn.
- B. **Evidence:** All findings and conclusions necessary to the issuance or denial of the requested permit or appeal shall be based upon reliable, probative evidence. The Board may admit reliable evidence that reasonable and prudent individuals commonly accept in the conduct of their affairs and give probative effect to that evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available. The Board may exclude evidence that is incompetent, irrelevant, immaterial, or unduly repetitious. Board members may draw on experience, technical competence, and specialized knowledge in evaluation of the evidence.
- C. **Record of Hearing**
 1. An audio recording shall be made of all hearings and such recordings shall be kept for at least two years. Accurate minutes shall also be kept.
 2. Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the Town for at least two years.

§ 2.3.7 MODIFICATION OF APPLICATION AT HEARING

- A. Applicant May Modify Application: In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of Appeals, the applicant may agree to modify his/her application, including the plans and specifications submitted.
- B. Board Approval of Modified Application: Unless such modifications are so substantial or extensive that the Board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, or the modifications are of such a material nature to compel additional notice to property owners, the Board may approve the application with the stipulation that any associated permits will not be issued until plans reflecting the agreed upon changes are submitted to the Zoning Administrator for review and permit approval.

§ 2.3.8 WRITTEN DECISION

- A. Interested Parties to be Provided Written Decision: Any decision made by the Board of Appeals regarding an appeal, variance, or issuance or revocation of a special exception, shall be reduced to writing and served upon the applicant or appellant and all other persons who make a written request for a copy.
- B. Findings and Conclusions: In addition to a statement of the Board's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the Board's findings and conclusions, as well as supporting reasons or facts.
- C. Appeal of Board Decision: A person aggrieved by a decision or action of the Board of Zoning Appeals, a taxpayer, or an officer or unit of the Town may file a request for judicial review of a decision of the Board of Appeals to the Circuit Court for Frederick County within 30 days of the date of the written decision, in accordance with Md. Code Ann. Land Use Art. § 4-401, *et seq.*, and the Maryland Rules.

§ 2.4 NON-CONFORMING LOTS, STRUCTURES, AND USES

§ 2.4.1 INTENT OF REGULATIONS

- A. Purpose and Intent
 - 1. It is the intent of this Ordinance to discourage the continuation of non-conformities. Such uses are incompatible with permitted uses in the zoning districts involved.
 - 2. It is further the intent of this Ordinance that non-conformities shall not be enlarged, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zone.

- B. Extension of Non-Conformities Prohibited: A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land shall not be extended or enlarged after February 7, 1990, or at the time of amendment of this Ordinance, by attachment on a building or premises, or by the addition of other uses of a nature which would be prohibited in the applicable zone.
- C. Impact on Ongoing Lawful Construction: To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which the actual starting of construction, defined in Article 7 of this Ordinance, was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been performed.

§ 2.4.2 NON-CONFORMING LOTS STRUCTURES, AND USES

- A. Non-Conforming Lots of Record
 - 1. In any zone in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record provided all approvals and permits for such construction were obtained prior to the effective date of adoption or amendment of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area, or width, or both, that are generally applicable in the zone, provided that yard dimensions shall conform to the regulations for the zone in which such lot is located. Any variance of area or dimensional requirements, including setback, shall be obtained only through action of the Board of Appeals.
 - 2. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this Ordinance, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and said parcel shall be used only in a way which meets lot width and area requirements established by this Ordinance, and no use shall be granted or permitted by the Town which creates a non-conforming lot.
- B. Non-Conforming Uses of Land: Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:
 - 1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
 - 2. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel not occupied by such use as of February 7, 1990, or as of amendment to this Ordinance.

3. If any such non-conforming use of land ceases for any reason, except as provided in §2.4.2 F, for a period of more than 180 days the non-conforming use shall be automatically deemed abandoned without notice, and any subsequent use of such land shall conform to the regulations specified by this Ordinance for the zone in which such land is located.
- C. Non-conforming Structures: Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance because of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued subject to §2.4.2E, so long as it remains otherwise lawful, subject to the following provisions:
1. No such structure may be enlarged or altered in a way that increases its non-conformity.
 2. Should such structure be destroyed by any means to an extent of more than 25 percent of its replacement cost at time of destruction as determined by the Zoning Administrator, it shall not be reconstructed as a non-conforming use, unless such structure is to be restored pursuant to §2.4.2F.
 3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zone in which it is located after it is moved, and the non-conformity at the prior location shall automatically terminate.
- D. Non-Conforming Uses of Structures: If a lawful use of a structure or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the zoning district under the terms of this Ordinance, the lawful use may be continued subject to §2.4.2E of this Ordinance, so long as it remains otherwise lawful, subject to the following provisions:
1. No existing structure devoted to a use not permitted by this Ordinance in the zone in which it is located, except dwellings, shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except for reasons of public health and safety or to in change the use of the structure to a use permitted in the zone in which it is located.
 2. Any non-conforming use may be extended throughout any parts of a building that were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, so long as the nature and character of the use is unchanged and substantially the same facilities are used, but no such use shall be extended to occupy any land outside such building.
 3. If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use, if the Zoning Administrator shall find that the proposed use is equally appropriate or more appropriate to the zone than the existing non-conforming use. In permitting such change, the Zoning Administrator may require appropriate conditions and safeguards in accord with the provisions of this Ordinance.
 4. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the

regulations for the zone in which such structure is located, and the non-conforming use shall terminate.

5. When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for 180 consecutive days, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the zone in which it is located.
6. Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structures shall eliminate the non-conforming status of the land.

E. Repairs and Maintenance of Non-Conforming Structure

1. On any structure devoted in whole or in part to any non-conforming use, ordinary repairs, or repair or replacement of non-bearing walls, fixtures, wiring or plumbing, may be performed if the cost of the ordinary repairs or replacements do not exceed ten percent of the current assessed value of the structure, as demonstrated by the property owner, and provided that the footprint of the building, as it existed at the time of passage or amendment of this Ordinance shall not be increased by such repairs or maintenance.
2. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

F. Restoration: Nothing in this Ordinance shall prevent the reconstruction or restoration of a valid nonconforming building or structure destroyed by fire, windstorm, flood, explosion or act of public enemy or accident subject to the following provisions:

1. The reconstructed structure or building shall not exceed the height, area, or volume of the damaged structure or building.
2. A zoning certificate is obtained.
3. Reconstruction shall begin within one year after the date of damage and shall be carried on without interruption unless the Planning & Zoning Commission grants an extension upon formal application to it. The Planning & Zoning Commission shall have the discretion to impose a completion date for reconstruction, based upon the complexity of the construction and surrounding circumstances.
4. An applicant may formally apply to the Planning & Zoning Commission to extend the period provided for above beyond one year. Upon review of the application, the Planning & Zoning Commission may approve such an extension provided the applicant shows to the Commission's satisfaction that bona fide progress toward reconstruction is underway. No application for extension shall be approved that would extend the time for initiation of reconstruction beyond two years of the date of damage.

§ 2.5 ENFORCEMENT OF THIS ORDINANCE

§ 2.5.1 REQUIRED COMPLIANCE WITH ORDINANCE

- A. Permits in Conflict are Null and Void: Any permit or license, issued after the effective date of this Ordinance in conflict with the provisions of this Ordinance, shall be null and void, provided no construction has been undertaken.
- B. Zoning Administrator to Act on Violations: If the Zoning Administrator finds that any of the provisions of this Ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, signs, buildings, or structures; removal of illegal buildings, structures or of additions, alterations, or structural changes hereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.
- C. Questions of Interpretation: All questions of interpretation and enforcement shall be first presented to the Zoning Administrator upon payment of the applicable fee, and such questions shall be presented to the Board of Appeals only on appeal from the decision of the Zoning Administrator.

§ 2.5.2 PENALTIES FOR VIOLATION

- A. Violation Constitutes a Municipal Infraction
 - 1. A violation of any of the provisions of this Ordinance or failure to comply with any of its requirements shall constitute a municipal infraction, subject to a fine of one hundred dollars (\$100) for the first violation. The fine for each subsequent violation shall be one hundred dollars (\$100). Each day such violation continues shall be considered a separate offense.
 - 2. The owner or tenant of any building, structure, premises, or part thereof, and any architect, engineer, builder, contractor, agent, or other person, who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.
- B. Provisions Concerning Unlawful Demolition: In addition to the penalties and remedies provided in §2.5.2(A) of this Ordinance, any site or structure demolished without proper permit in violation of this Ordinance shall be ineligible for any use and/or zoning certificates and/or building permits for the erection or rebuilding of the building or structure for a period of five years from the date of such demolition. Upon expiration of the five-year period the owner may make application for a zoning certificate and/or building permit in accordance with the procedures set forth in this Ordinance.
- C. Other Lawful Action as Necessary: Nothing herein contained shall prevent the Zoning Administrator or anyone else from taking such other lawful action as is necessary to

prevent or remedy any violation. The Town may enforce this Ordinance by civil action for declaratory judgment and/or injunction, in addition or as an alternative to citing the violator for a municipal infraction. In the case of a civil action for declaratory judgment and/or injunction, the Town may seek to recover its court costs from the violator.

ARTICLE 3: DEVELOPMENT PLAN APPROVALS

§ 3.1 SITE PLAN REVIEW AND APPROVAL

§ 3.1.1 USES REQUIRING SITE PLANS

- A. Purpose: Site plans are required to assure good arrangement and appearance of new development; ensure harmony with existing structures; assure consistency with the Town's building and site design standards, and the Comprehensive Plan; provide an understanding of the impact of development on public facilities and services and ensure the availability and adequacy of the same; and otherwise meet the purposes of this Ordinance.
- B. Category 1 Site Plans: Site plans for the following major uses, including new construction or the relocation of a building, shall be subject to review by the Planning & Zoning Commission and shall be called Category 1 Site Plans:
1. All commercial or industrial buildings, complexes, and uses.
 2. All institutional buildings and uses including educational, governmental, recreational and religious.
 3. All new construction or external alterations of buildings in an officially designated historic district.
 4. All multiple-family dwellings, buildings, complexes and townhouse projects.
 5. All mixed-use buildings and sites and all applications for development in the MXV-1 and MXV-2 Districts.
 6. All Wireless Telecommunication Facilities.
- C. Category 2 Site Plans: Site plans for the following uses, which have a minor impact, shall be subject to review and approval of the Zoning Administrator shall be called Category 2 Site Plans:
1. Single-family detached dwellings, bed and breakfast facilities, accessory uses, and building rehabilitation projects.
 2. Additions to buildings.
 3. Where an existing use is changing to another permitted use in any zoning district.
 4. Decks, porches, sheds, fences and other similar structures.

§ 3.1.2 SITE PLAN PROCESSING PROCEDURES

- A. Procedures by Type of Plan
 - 1. Site plan processing procedures for Category 1 site plans are set forth in §3.1.3 through §3.1.6.
 - 2. Site plan processing procedures for Category 2 site plans and other plans shall be by administrative review and are set forth in §3.1.7 and §3.1.8.

- B. Planning & Zoning Commission to Establish Its Procedures
 - 1. The Planning & Zoning Commission shall establish its written procedures, checklists and application forms necessary to ensure the timely and proper review and processing of site plans and other plans consistent with this Ordinance. The Commission shall establish the number and acceptable format for the various types of plans submitted for review under this Ordinance.
 - 2. Procedures and application forms shall be made available at the offices of the Zoning Administrator.
 - 3. The Planning & Zoning Commission may modify such procedures, checklists, and application forms from time to time.
 - 4. The Planning & Zoning Commission may prescribe specific conditions on its approval determined necessary to minimize effects of a use on neighboring properties and the environment given identification of concerns specific to a particular site.

§ 3.1.3 CATEGORY 1 SITE PLAN PROCESSING PROCEDURES

There are three stages in the Category 1 site plan process: concept, preliminary, and final.

- A. Concept Stage: The purpose of the concept stage is to provide the Planning & Zoning Commission with the opportunity to informally review a development proposal prior to the substantial commitment of time and expense on the part of the applicant in preparing a site plan.
 - 1. No application for Category 1 site plan approval shall be accepted by the Town until:
 - a. A concept site plan package as provided for in §3.1.4 is submitted for review by the Zoning Administrator.
 - b. Any required concept plan review fees have been paid.
 - c. The steps for concept site plan review as established by the Planning & Zoning Commission are completed.

2. The Zoning Administrator shall review the concept site plan package for completeness and may refer it to the appropriate individuals or agencies for review and comment, prior to submitting it to the Planning & Zoning Commission.
 3. The applicant for site plan approval shall attend a meeting with the Zoning Administrator prior to submitting the concept plan to the Planning & Zoning Commission. The purpose of the meeting shall be to provide the Zoning Administrator with an opportunity to address issues or concerns with the concept plan, identify any impact studies that may be required, and provide direction to the applicant on the scope of such studies.
 4. The Planning & Zoning Commission shall hold at least one public meeting on the concept plan to receive an informational briefing on the plan and the anticipated issues and impacts related thereto. The Planning & Zoning Commission shall take no action to approve or disapprove a concept plan. The Planning & Zoning Commission may, at its discretion, hold more than one meeting on the concept plan.
 5. The Planning & Zoning Commission may choose to conduct one or more site visits, after reasonable notice, during its review of a concept plan. The date and time of such site visits will be publicly announced at least seven days in advance of the site visit in the same manner as the notice of hearing is provided.
 6. For all Category 1 Site Plans submitted for review, the Zoning Administrator shall:
 - a. Notify the applicant by certified mail at least seven days before the day of each meeting to discuss the concept site plan, and
 - b. Notify by certified mail all owners of property adjoining and immediately across the street from the subject property. This written notice shall state the date, time, place, and subject matter of each meeting to discuss the concept site plan, and the name of the applicant. Such notice shall be sent not less than seven days before the day of the meeting.
- B. Preliminary Stage: The purpose of the preliminary stage is to provide the Planning & Zoning Commission with the information necessary for it to review and act to approve or disapprove all Category 1 preliminary site plans.
1. Preliminary site plans meeting the submittal requirements of §3.1.5 shall be submitted to the Zoning Administrator who shall review the plans for compliance with these regulations and the requirements for preliminary site plans and shall transmit said plans to the Planning & Zoning Commission with his or her comments for review.
 2. The Planning & Zoning Commission shall act to approve, approve with conditions, disapprove, or table pending further investigation and/or receipt of certain additional information, but shall take no action until the following has occurred:

- a. The Zoning Administrator has reviewed the site plan and determined that it is complete and submitted their findings in writing to the Planning & Zoning Commission.
 - b. The Applicant has submitted any impact studies that may be required by this Ordinance or County regulations and has obtained Town approval of such required studies.
 - c. Comments on the site plan from appropriate agencies and individuals have been requested and sufficient time has been provided for such agencies and individuals to provide comments.
 - d. The applicant has paid all appropriate preliminary site plan review and application fees to the Town.
 - e. At least one public meeting has been held at which the Planning & Zoning Commission considers the preliminary site plan.
 - f. One or more public meetings shall be held, after reasonable notice, at which the Planning & Zoning Commission considers the preliminary site plan and acts to approve or deny the preliminary site plan. The Planning & Zoning Commission may hold more than one meeting to consider the preliminary site plan.
3. The Planning & Zoning Commission may choose to conduct one or more site visits, after reasonable notice, during its review of a preliminary site plan. The date and time of such site visits will be publicly announced at least seven days in advance of the site visit in the same manner as the notice of hearing is provided.
 4. In taking action on the preliminary site plan, the Planning & Zoning Commission shall examine the proposed development with respect to the traffic and circulation patterns and safety (internal and external), utilities, drainage, community facilities (existing or proposed), surrounding development (existing or future), the preservation of trees and historic buildings or sites, protection of natural environmental features and processes, provision for open space, street lighting, recreational needs, safety of residents and neighbors, landscaping, architecture, compatibility with building, site and design standards, and, in general, with the objective of ensuring a durable, harmonious, and appropriate use of the land.
- C. Final Stage: The purpose of the final stage is to ensure that all submittal requirements of preliminary and final site plans are complete, that any required design and construction standards are specifically and accurately addressed, to ensure that all conditions of the Planning & Zoning Commission's approval are specifically and accurately met, and to finalize any and all necessary formal agreements related to the project which may include public works agreements and easement agreements, among others.
1. No commencement of development activity shall occur prior to final approval and issuance of a zoning certificate.
 2. When all review and approvals have been completed and documentation of such approvals provided to the Zoning Administrator, he/she and the Chairperson of the Planning & Zoning Commission shall each, within 30 days of receipt, sign the final site plan to certify completion of review and approval by the Town and to

certify that conditions, if any, of site plan approval have been met. The applicant shall submit all local, county, state and/or federal approvals as may be required.

3. Upon certification of the site plan by the Planning & Zoning Commission Chairperson and the Zoning Administrator, the Zoning Administrator shall issue a Zoning Certificate.
4. If a public works agreement is required, final approval shall not be certified and a zoning certificate shall not be issued until the applicant and the Town execute the public works agreement.

D. Project Built to Plan for Occupancy Permit

1. The Zoning Administrator shall assure that the project is completed in conformance with the approved site plan before certifying the same. Upon such certification, the Zoning Administrator will issue a use and occupancy permit.
2. Before issuance of an occupancy permit, either all the work must be completed or in the Town's discretion, all remaining work must be bonded.
3. The Zoning Administrator shall require the submittal of as-built plans and documentation to satisfy the requirements of this Section and the requirements and conditions of all Category 1 site plans.

§ 3.1.4 CONTENTS OF CONCEPT PLAN SUBMITTALS

The concept site plan package shall meet the requirements as to content and organization as may be established by the Planning & Zoning Commission and at minimum shall include the following:

- A. Project Concept Plan: A scaled drawing showing the proposed development on a survey of the project boundaries. It shall show the project layout, proposed and existing land uses, open spaces, circulation routes, and points of access to the adjacent street network, and main design features. If phasing is proposed, a master plan for entire project shall be shown. Drawings shall be 24 inches × 36 inches. Scale shall be no less detailed than 1 inch = 100 feet and shall show adjacent streets and adjacent property owners. A vicinity map at a scale no less detailed than 1 inch = 1,000 feet shall be included which shows the location with respect to neighborhood streets. Proposed typical architectural elevations shall be included.
- B. Project Area Schematic: A scaled drawing or GIS aerial photograph showing the main features of the project in relationship within the neighborhood. Included in the drawing shall be existing topographic mapping and infrastructure within at least 1,000 feet, including streets, intersections, water, sanitary sewer, and storm drains. Scale shall be no less detailed than 1 foot = 400 feet for large projects and 1 inch = 200 feet for small projects. Drawings shall be no larger than 24 inches x 36 inches.
- C. Site Investigation Report: A report providing information and data on the physical and environmental characteristics of the site, the proposed uses and utility demands, anticipated impacts of the proposed development on neighboring properties, area infrastructure and services, recreational resources and other public facilities, compliance with the Town Comprehensive Plan, and the proposed architectural and design character. The Site

Investigation Report shall follow the format established by the Planning & Zoning Commission as may be amended from time to time and shall address each of the following.

1. Site Data Summary Chart: Tax map and parcel number, Planning & Zoning Commission case numbers and prior approvals, Board of Appeals case numbers and prior approvals, zoning classification, proposed zoning, allowable density, proposed density, total site area, flood zone, wetlands (State and Federal), soil types present and boundaries thereof within 100 feet of the property boundary, number of proposed lots, number of proposed units and types, availability of utilities, zoning set back requirements, zoning lot size requirements, maximum building height allowed by zoning, open space required by zoning, and proposed open space, use of open space, parking required by zoning and proposed parking. Provide breakdown for each phase or land use as appropriate.
2. Land Use Overview: Provide a narrative of existing site conditions and provide legible copy of soils map with outline of property sketched on it. Describe existing context and highlight any issues regarding marginal site conditions including topography, hydric soils, existing drainage patterns, standing water, culverts, ditches, wetlands or sensitive areas.
3. Traffic Access Overview: Provide a narrative of existing roads, lanes, width, material, condition, curb, sidewalk, and offsite improvements needed to accommodate the project. If project is known to require a traffic study, provide summary information and study schedule.
4. Utility Demands and Services Overview: Provide a narrative on conditions and capacity of public sanitary sewer, public water, gas, and electric, and describe any offsite improvements believed to be needed.
5. Storm Water Management Overview: Provide a narrative on types of best management practices to be used, proposed conveyance and management techniques and a summary of any offsite improvements needed.
6. Construction Phasing Overview: Provide a narrative of time of construction and estimate the number of anticipated building permits per year if applicable.
7. Provide a narrative of recreational needs and opportunities if the project contains a residential use.

§ 3.1.5 CONTENTS OF PRELIMINARY SITE PLAN

The applicant is responsible for preparing a preliminary site plan. As directed by Planning & Zoning Commission guidance, the preliminary site plan shall be submitted as a multiple sheet document with drawings on sheets no larger than 24 inches by 36 inches and at scales no less detailed than 1 inch equal to 100 feet.

- A. Order of Plan Sheets: Preliminary site plans submittals shall adhere to the order of plan sheets established by the Planning & Zoning Commission with any additional required details and plan drawings inserted into the order prescribed by the Town.

- B. Contents: The preliminary site plan shall show the North point, scale, date, and the following:
1. The seal and signature of a Registered Maryland Land Surveyor and/or the seal and signature of licensed Engineer or Landscape Architect as appropriate.
 2. A revision block on each sheet to accurately disclose any drawing revisions made after the first submittal for preliminary plan review.
 3. A key and overview plan for multi-stage projects.
 4. A Geographical location, showing existing zoning district boundaries.
 5. Existing zoning classification on the site and adjacent sites.
 6. Topographic contours at a minimum of one-half-foot intervals unless waived by the Zoning Administrator as clearly unnecessary to review the project or proposal.
 7. The location and nature of all proposed construction, excavation or grading, including but not limited to building, streets and utilities.
 8. A grading plan (horizontal) conforming to the requirements of Frederick County law.
 9. A Utility Plan (horizontal). It shall show all existing and proposed water and sanitary sewer facilities, indicating all pipe sizes, types and grades, and the location of all connections to the utility system.
 10. As deemed appropriate and necessary by the County Department of Public Works, provisions for the management and treatment of natural and storm water.
 11. As deemed appropriate and necessary by the County Department of Public Works, provisions for the control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading, and construction.
 12. A landscape plan.
 13. All proposed signage, including the location, sizes, and cut sheets showing the proposed design, area, and height of all building mounted and freestanding signs.
 14. A lighting plan.
 15. A parking plan, showing all off-street parking, related driveways, loading spaces and walkways, indicating type of surfacing, size, angle of stalls, width of aisles and a specific schedule showing the number of parking spaces provided and the number required by this Ordinance.
 16. Architectural renderings including elevations, of each building side visible from a public right-of-way, in color including at least one presentation board of no smaller than 24 inches by 36 inches.

17. Preliminary street profiles and cross sections for streets and curbing. All existing and proposed streets and easements including widths.
18. Approximate location of point of ingress and egress to existing public streets and highways; if ingress or egress is onto a state maintained roadway, an accompanying letter from the Maryland State Highway Administration, indicating preliminary approval, shall be required.
19. All existing easements of any kind. If easements are to be granted, a separate and preliminary easement plat with a physical description shall be provided.
20. The number of construction phases proposed, if applicable, with the site plan showing the approximate boundaries of each phase, and the proposed completion time frame of each phase.
21. A tabulation of total number of acres in the project and the percentage thereof proposed to be devoted to the several dwelling types, commercial uses, other nonresidential uses, off-street parking, streets, parks, schools and other reservations.
22. Number of dwelling units to be included by type of housing and the overall project density in dwelling units per acre.
23. Proposed buildings and structures with dimensions, setbacks and heights designated including floor areas of all non-residential buildings and the proposed use of each.
24. Approximate location and size of nonresidential areas, if any (parking areas, loading areas or other).
25. Approximate location and size of recreational areas and other open spaces.
26. Existing vegetation proposed removal of vegetation, and proposed replacement of and addition to vegetation.
27. Location, type, size and height of fencing, retaining walls, and screen planting.
28. Location, orientation, design, and size of signs, if any.
29. The Planning & Zoning Commission may establish additional requirements for preliminary site plans, and may waive a particular requirement if, in its opinion, the inclusion of that requirement is not essential to a proper decision on the project.
30. Should there be located on the property, or within 100 feet of the property boundary, soils defined as "wet soils", the applicant shall submit a soils delineation report prepared by a licensed soils scientist or professional engineer registered in the State of Maryland. The applicant shall submit the report to the Frederick County Permits Inspections Department for review by the Soils Conservation District.

§ 3.1.6 CONTENTS OF FINAL SITE PLAN

The applicant is responsible for preparing the final site plan. The final site plan shall comply with all existing laws, regulations, and ordinances governing the approval of site plans and provide sufficiently accurate dimensions and construction specifications to provide the data necessary for the issuance of building permits.

- A. Final Plan Shall be as Required: In addition to meeting the submittal requirements of a preliminary site plan, final site plan shall meet all specific plan submittal requirements of the Town, as appropriate.
- B. Final Plan Shall Comply with Conditions of Approval: Submittals shall demonstrate compliance with any conditions of preliminary site plan approval and shall include all necessary approvals from any local, county, state, and federal agency.
- C. Adding or Waiving Submittal Requirements: As a condition of site plan approval, the Planning & Zoning Commission may establish additional submittal requirements for a final site plan, and may waive a particular requirement if, in its opinion, the inclusion of that requirement is not essential to a proper decision on the project.
- D. Order of Plan Sheets: Final site plans submittals shall adhere to the order of plan sheets established by the Planning & Zoning Commission with any additional required details and plan drawings inserted into the order prescribed by the Town.

§ 3.1.7 ADMINISTRATIVE PLAN REVIEW PROCEDURES

Administrative plan review is for projects with relatively minor impact, which require less information and can be reviewed and approved in a shorter time. In administrative plan review, the Zoning Administrator is the approving authority. Administrative plan review is for Category 2 site plans as provided in Section 3.1.1C.

- A. Acceptance of Plan for Administrative Review: The Town shall accept no application for administrative review until:
 - 1. A plan in compliance with in §3.1.8 is submitted for review to the Zoning Administrator.
 - 2. Any required plan review fees have been paid.
- B. Action by Zoning Administrator: Plans requiring administrative review shall be submitted to the Zoning Administrator who shall review the plans for compliance with these regulations.
 - 1. If the Zoning Administrator finds that such plans meet the intent and standards of this Ordinance and are consistent with the Comprehensive Plan, then he/she shall affix his/her signature on the plan(s) certifying approval.
 - 2. If the Zoning Administrator finds that the plan does not meet the intent and standards of this Ordinance and/or is inconsistent with the Comprehensive Plan,

then he/she shall deny approval and transmit that decision in writing to the applicant.

3. The Zoning Administrator shall not act to approve or deny a plan requiring administrative review until the following has occurred:
 - a. The Zoning Administrator has reviewed the plan and determined that it is complete.
 - b. Comments on the plan from appropriate agencies and individuals have been requested and sufficient time has been provided for such agencies and individuals to provide comments.
 - c. The applicant has submitted all local, county, state and/or federal approvals as may be required.
 - d. The Zoning Administrator may not approve a site plan for construction of a residential structure with a basement if the structure is located on or the property boundary is located with 100 feet of “wet soils” unless the requirements of Article 6 Section 6.2 are met.
 - e. Upon approval of a site plan, the Zoning Administrator shall issue a zoning certification as provided by Article 2 of this Ordinance.
- C. Appeals: Any person aggrieved by an administrative plan review decision made by the Zoning Administrator and desiring to appeal such decision must appeal to the Board of Appeals within 30 days of the date of the written decision, as provided for in §2.3.2.

§ 3.1.8 CONTENTS OF PLANS FOR ADMINISTRATIVE REVIEW

Plans for administrative review shall comply with all existing laws, regulations, and ordinances governing development approval and provide sufficiently accurate dimensions and construction specifications to provide the data necessary for the issuance of a building permit.

- A. Professional Seal May be Required
 1. Unless decided by the Zoning Administrator, the seal and signature of a Registered Maryland Land Surveyor and/or the seal and signature of licensed Engineer or Landscape Architect shall be included on the plan.
 2. If the application concerns the alteration of an existing building or structure or the construction of any building or structure accessory to an existing principal building and the Zoning Administrator finds that a site plan prepared by a registered and/or licensed professional is not needed to establish compliance with applicable regulations, ordinances or laws, the plan need not be professionally prepared and sealed.
- B. Contents: The plan shall show the north point, a scale not to exceed 1 inch = 40 feet, the date and the following:
 1. All existing property lines with dimensions.

2. If converting an existing deeded lot to a new parcel, old lot lines with dimensions and numbers shall be shown.
 3. If site plan includes a proposed minor subdivision or lot line adjustment, proposed lot lines with dimensions shall be shown.
 4. All setbacks lines.
 5. All existing structures (dimensions, total square footage, distance from property lines).
 6. Zoning classification (property and adjoining properties).
 7. Proposed signs, if applicable.
 8. Proposed building elevations of all sides visible from the public right-of-way, if applicable.
 9. Proposed landscaping, if applicable.
 10. All existing and proposed driveway/parking spaces/interior roadway areas and dimensions, if applicable.
 11. For a change of use and/or addition, interior layout with dimensions to include existing and proposed uses.
 12. Sanitary sewer, public water, and storm drain locations, including the location of all lines and ties-ins.
 13. All existing and proposed easements, rights-of-way, and streams drawn to scale.
 14. Soil type information with the appropriate boundaries shown.
 15. Other information as may be required by the Zoning Administrator to adequately review the plan.
- C. Waiver of Submittal Requirements: The Zoning Administrator may waive any of the submittal requirements he/she may determine is not applicable or useful to the review of the project.

§ 3.1.9 AMENDMENT OF APPROVED SITE PLAN

Amendments to an approved site plan shall be submitted to the Zoning Administrator with an appropriate application. The Zoning Administrator shall determine at that time the appropriate fee amount and payment schedule, if any, which shall apply.

- A. Major or Minor Amendment: The Zoning Administrator shall determine if the proposed amendment is major or minor as defined below or if it instead constitutes a substantive change. Upon a finding that a proposed amendment constitutes a substantive change rather than an amendment as provided below, the Zoning Administrator shall return the application to the applicant.
- B. A minor amendment is a modification that does not change the intensity of the use or alter the traffic pattern.
- C. A major amendment is a modification that modestly changes the intensity of the use or alters the traffic pattern or the demand on area infrastructure or materially, but not substantively, changes the open space, building location, and building and/or site design.
- D. Major Amendment to Category 1 Site Plan: If the site plan to be amended is a Category 1 Site Plan and the amendment is determined to be major, the applicant shall submit new drawings to the Zoning Administrator, who shall distribute the drawings to the appropriate agencies or individuals for comment. Obtaining agency approvals other than the Town shall be the responsibility of the applicant. The proposed amendment shall be approved or denied by the Planning & Zoning Commission at its next public meeting, after reasonable public notice, and additional notice to the property owner and adjoining property owners.
- E. Minor Amendment to Category 1 Site Plan: If the site plan to be amended is a Category 1 Site Plan and the amendment is determined to be minor, the applicant shall indicate the change on the previously approved plan and submit the amended plan to the Zoning Administrator who may distribute the plan to the appropriate agencies or individuals for comment. The Zoning Administrator may approve or reject the amendment or, at his/her discretion, transmit the amended plan to the Planning & Zoning Commission for its review and decision at its next public meeting, after reasonable public notice.
- F. Amendment to Category 2 Site Plan: The Zoning Administrator shall act to approve or reject any amendment to a Category 2 site plan unless it is found to be a substantive change under §3.1.9G.
- G. Substantive changes to an approved site plan are not amendments under the terms of this Section and shall not be processed as such. An applicant who wishes to move forward with a substantive change to an approved site plan shall be required to prepare and submit a new site plan for review and approval. Substantive changes to an approved site plan include but are not limited to the following:
 - 1. Proposals for a different type of housing or commercial development or use than contemplated in the originally approved site plan or any comparable change, which would materially impact the estimated public service costs or tax revenues associated with the approved development to the detriment of the Town.
 - 2. Substantive changes to the pattern and location of buildings or layout of streets, access points, or utilities and infrastructure.
 - 3. Any change which would materially detract from the quality of the natural environment, materially change the character of the neighborhood, materially intensify the impact to area infrastructure, or materially detract from the economies of providing public services or facilities to the contemplated development.

4. The Planning & Zoning Commission or Zoning Administrator is under no obligation to approve an amendment to an approved site plan. In reviewing said request, the Planning & Zoning Commission or Zoning Administrator shall take into consideration changes to and the status of area land use development, infrastructure, and the Town's Comprehensive Plan which may have occurred between the time the site plan was approved and the request for an amendment.

§ 3.1.10 EXPIRATION OF APPROVED SITE PLAN

- A. Expiration: A site plan approval shall become null and void unless a building permit has been issued for the proposed development within two years from the date of the approval.
- B. Extension: The Planning & Zoning Commission may, for good cause, grant a one-year extension for a Category 1 site plan upon consideration of the criteria set forth in Section C below. The Zoning Administrator may for good cause grant a one-year extension for a Category 2 site plan upon consideration of the criteria set forth in Section C below. Upon the grant of such extension either by the Planning & Zoning Commission or the Zoning Administrator, as applicable, the site plan shall conform to all zoning regulations in effect at that time. The applicant must request an extension at least 30 days prior to the expiration date.
- C. Criteria to be Considered Prior to Decision on Grant of Extension: In connection with a request for extension, the Planning & Zoning Commission or Zoning Administrator, as applicable, shall consider the following and based on the following may deny the extension or require changes to the site plan as a condition for the extension:
 1. Whether a lawful change in the neighborhood of the property has made the site plan, as originally approved, incompatible with neighboring properties or presented impacts to neighboring properties and infrastructure not foreseen before such land use change occurred; and
 2. Whether a change in the street and highway plan or the plan for any public facilities and/or services, or the projected impact of development on streets, highways, water and sewer and other facilities has made the site plan, as originally proposed, problematic; and
 3. Any change in zoning and/or subdivision regulations; and
 4. Any changes in the Town Comprehensive Plan.
 5. The Planning & Zoning Commission may require that an impact study as provided in §3.2 of this Ordinance be completed in connection with a request for an extension.

§ 3.2 IMPACT STUDIES

- A. Impact Studies: To assist in the determination of the extent of off-site effects associated with a proposed development, the Planning & Zoning Commission may require applicants for site plan or preliminary plat approval or for extensions of approved plans or plats, to prepare studies of the impact of proposed development on such factors including

infrastructure, the fiscal condition of the Town, environmental conditions including but not limited to considerations related to light, air, view sheds, and the flow and quality of water.

- B. Reasonable Standards: The Planning & Zoning Commission shall find that such studies meet reasonable professional and technical standards before accepting them for review. The Commission may establish written standards and specifications for the scope and detail necessary for any required studies.
- C. Studies Submitted Prior to Approval: If impact studies are determined to be required, no preliminary site plan or subdivision plat shall be approved nor shall an approved plan be extended, prior to such studies being completed to the satisfaction of the Planning & Zoning Commission or other approving authority or appropriate official.

§3.3 ANNEXATION PLAN REVIEW

§ 3.3.1 ANNEXATION REVIEW

- A. Applicability: No annexation resolution may be acted on by the Mayor and Board of Commissioners until the Planning & Zoning Commission shall have had the opportunity to review the proposed annexation and a conceptual development plan for the area to be annexed, if applicable, and provide a recommendation to the Mayor and Board of Commissioners. The Planning & Zoning Commission has the right to be heard at the hearing on the proposed annexation.
- B. Planning & Zoning Commission Review: The Planning & Zoning Commission may consider the resolution at a public meeting, make findings of fact with respect to the each of the following, and forward such findings along with its recommendation to the Mayor and Commissioners for its consideration.
 - 1. The degree of conformance of the proposed annexation to the Thurmont Comprehensive Plan in general and the Plan's adopted Municipal Growth Element.
 - 2. The existing and future availability of public facilities and services to meet the demands of development that would be allowed under the recommended zoning of the annexation property.
 - 3. The viability and practicality of public and/or private plans to extend, enlarge, or otherwise make existing public facilities and services, and other utilities and services available to the annexation property.
- C. The Planning & Zoning Commission's written recommendation to the Mayor and Commissioners on each annexation shall address the following:
 - 1. Whether the annexation should be approved or denied and what, if any, conditions the Planning Commission believes the Mayor and Commissioners should place on the approval of the annexation to ensure the annexation conforms to the recommendations and policies of the Comprehensive Plan.
 - 2. If applicable, whether the concept development plan is favorable and what changes if any should be made thereto prior to approval of the annexation.

3. The impact of the annexation on the planning and timing of infrastructure.
 4. The Planning & Zoning Commission shall recommend a zoning classification for the property.
- D. Without first obtaining express approval of the County Council for Frederick County, for five (5) years after an annexation by the Town, the Mayor and Board of Commissioners may not allow development on annexed land for uses substantially different than the authorized use, or at a substantially higher density, not exceeding 50%, than could be granted for the proposed development, in accordance with the Frederick County zoning classification applicable at the time of annexation.

§ 3.3.2 ANNEXATION CONCEPT DEVELOPMENT PLAN

A. Concept Plan Required

1. The Petitioner shall prepare a concept development plan, to standards established by the Planning & Zoning Commission, to assist the Town in the review of any proposed annexation wherein the Town is not the initiating party.
2. Where applicable, a concept development plan shall be officially introduced by the Mayor and Board of Commissioners, along with the annexation resolution, it shall be made part of the official record of the public hearing on the annexation and it shall be recorded in the land records of the County by the applicant upon annexation.
3. Exceptions to Required Concept Development Plan: The following two conditions must be found by the Mayor and Board of Commissioners to be met if an annexation is to proceed without a concept development plan:
 - a. The eventual use of the property and its impact on its neighborhood is constrained by its relatively small size and the proposed zoning is fully consistent and compatible with the surrounding land use pattern; and
 - b. Adequate safeguards can be set forth in the text of an annexation agreement to ensure that the public interest is protected and advanced.

B. Future Development to Conform to Concept Development Plan

1. When a site plan or subdivision plat is proposed for a property that was the subject of an annexation concept development plan, the plan or plat shall substantively conform to the annexation concept development plan.
2. The Zoning Administrator or Planning & Zoning Commission shall not accept a site plan or subdivision plat for review that does not substantively conform to its concept development plan as set forth in Subsection C, except as provided in Subsection below (c).
3. The Planning & Zoning Commission may accept a site plan or subdivision plat for review that does not substantively conform with a required annexation concept plan if each of the following conditions is met:
 - a. The Planning & Zoning Commission first holds a public hearing wherein the applicant shall be asked to explain the proposed deviations; and

- b. The Planning & Zoning Commission finds that the proposed deviations are consistent with the Town's Comprehensive Plan; and
 - c. The proposed deviations would not materially impact the ability of the Town to provide public water and sanitary sewer services or other public services and facilities, and
 - d. The proposed deviations would not require a change in the zoning classification to implement.
4. The Planning & Zoning Commission is under no obligation to approve a plan or plat that deviates from an annexation concept development plan but, provided the conditions in Subsection above are met, it shall review the plan or plat under the standard processing procedures provided for in this Ordinance.
- C. Standards for Substantial Conformance: The Planning & Zoning Commission shall apply the standards in this paragraph below in determining if a site plan or subdivision plat is in substantial conformance with its annexation concept plan, if applicable. To be found in substantial conformance, a development plan shall not:
- 1. Propose a land use, a pattern of residential densities, or an arrangement of land uses other than that shown on the concept development plan.
 - 2. Propose a different type of housing or commercial development which would in the judgment of the Planning & Zoning Commission (1) materially increase the impact to area infrastructure and public services or (2) not serve the same public need contemplated by the concept development plan (e.g., need for affordable housing, senior housing, etc.).
 - 3. Result in the reduction of more than three percent or one-half (½) acre (whichever is the lesser) of the land area collectively planned to be set aside for natural area preservation, buffering, forest conservation, common open space, and/or recreation.
 - 4. Increase the number of dwelling units by more than ten percent for any residential project of 100 units or less, or more than five percent for any residential project of more than 100 dwelling units.
 - 5. Increase the square footage of non-residential building space in a manner which would in the judgment of the Planning & Zoning Commission materially increase the impact to the natural environment or materially intensify the impact to area infrastructure and/or public services or affect the ability of public service providers to adequately serve the proposed development.
 - 6. Increase the amount of impervious surface area by more than ten percent for any project less than 40 acres in size or by more than five percent for any project larger than 40 acres.
 - 7. Materially change the arrangement of streets, sidewalks, and trails, the general location of intersection(s), and the proposed access /circulation plan for the site.
 - 8. Change in any material way the extent, scale, provision, or timing of any off-site infrastructure project required or contemplated by the concept development plan or annexation agreement if applicable.

ARTICLE 4: ZONING DISTRICTS AND ALLOWABLE USES

§ 4.1 ZONING DISTRICTS

§ 4.1.1 ZONING MAP

This Article establishes the zoning districts applied to property within the Town and adopts the Official Zoning Map, which shall be kept on file in the office of the Zoning Administrator and is hereby incorporated by reference into this Ordinance as if it were included here. It shall be identified by the signature of the Mayor and shall bear the seal of the Town.

§ 4.1.2 RULES FOR INTERPRETATION OF BOUNDARIES

Where uncertainty exists as to the boundaries of zones shown on the Official Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following Town limits shall be construed following Town limits.
- D. Boundaries indicated as parallel to or extensions of features indicated in subsections A through C above shall be so construed. The scale of the map shall determine distances not specifically indicated on the Official Zoning Map.
- E. Where a lot is divided by one or more zone boundary lines, each said divisions of the lot shall be subject to the regulations of the district in which it is located.
- F. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections A through E above, the Board of Appeals shall interpret the zone boundaries in such a way as to carry out the intent and purpose of this Ordinance.

§ 4.1.3 PUBLIC LAND INTO PRIVATE OWNERSHIP

If all or any portion of any public street, alley, right-of-way, easement, or land which is not included in any district shall ever revert to or come into private ownership or shall ever be used for any purpose other than a public purpose, at such time the land and any buildings or other structures, which are included within such area or portion thereof, shall be subject to all of these regulations which apply within the district immediately adjacent thereto or within the most restricted of the immediately adjacent districts, if there be more than one.

§ 4.1.4 ZONING OF ANNEXED LANDS

When lands are proposed for annexation to the Town, the Planning & Zoning Commission, concurrently with the annexation proceedings, shall propose district boundaries for the new lands. Subject to the restrictions imposed by §3.3.1.D. of this Ordinance, upon adoption of an annexation resolution, the Mayor and Board of Commissioners shall amend the official Zoning Map to zone the new lands with the effective date of amendment to be that of annexation.

§ 4.1.5 REPLACEMENT OF OFFICIAL ZONING MAP

- A. If the Official Zoning Map becomes damaged, destroyed, lost or becomes difficult to interpret because of the nature of number of changes and additions, the Mayor and Board of Commissioners may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map.
- B. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map and may incorporate validly enacted amendments to the Map, but no such correction shall itself have the effect of amending the original zoning ordinance or any subsequent amendment thereof.
- C. The Planning & Zoning Commission shall certify as to the accuracy of the new Official Zoning Map prior to its adoption by the Mayor and Board of Commissioners.

§ 4.2 GENERAL ZONING DISTRICTS AND ALLOWABLE USES

§ 4.2.1 TOWN DIVIDED INTO DISTRICTS

- A. For this Ordinance, all land within the Town of Thurmont is hereby designated on the Zoning Map as being in one of the districts set forth in this section.
- B. Purposes of Zoning Districts: The purposes of the individual zoning districts and the way they are to be applied are as follows:
 - 1. Open Space District: The Open Space (OS) District is intended to provide permanent open space for its natural beauty and recreational value. It is also intended to preserve natural resources, prevent erosion, pollution, silting, and safeguard the health, safety, and welfare of persons and property by limiting development 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.
 - 2. Agricultural/Preserve (ARP) District: The Agricultural/Preserve District is intended to provide for the preservation of productive farming lands and operations. To preserve open space for its natural beauty and recreational and

environmental values and allow space for a limited amount of residential development clustered within preserved open spaces.

3. Residential Districts

- a. The R-1 District is intended to encourage and promote the development of large lot, single family residential neighborhoods free from congestions and conflicting land uses.
- b. The R-2 District is intended to provide for single family residential development on small lots where community sewer and water facilities are constructed or programmed.
- c. The R-3 District is intended to provide for a greater mix of residential dwelling types on small lots.
- d. The R-5 District is intended to provide for attached single family dwellings on small lots, multi-family dwelling structures, and generally, a variety of residential building types and open spaces to create attractive planned communities.

4. Mixed-Use Village Districts

- a. The Mixed-Use Village-1 (MXV-1) District is established to foster a greater opportunity for creative development or redevelopment of vacant and underused lands for a variety of uses traditionally compatible with the small-town character of Thurmont. The District seeks to encourage the following characteristics:
 - 1. Retail shops, offices, residences, and civic space located within walking distance of the TB District and commercial activities.
 - 2. Traditional site and building design.
 - 3. Residential uses developed as accessory to commercial uses and new residential in conjunction with non-residential development.
- b. The Mixed-Use Village-2 (MXV-2) District is established to foster a greater opportunity for creative development or redevelopment of existing structures for uses traditionally compatible with the small-town character of Thurmont's Main Street corridor. The MXV-2 District seeks to encourage the following characteristics:
 - 1. Small retail shops, office personal services and residences along or near the Main Street corridor and within comfortable walking distance of the TB District and nearby commercial and civic activities.
 - 2. Traditional site design and building design.

3. Residential uses maintained or established as accessory to commercial activities in the district.
 4. The compact development or redevelopment of lands near Thurmont's primary economic development areas (current and planned).
 5. Physical development characteristics of 1¹/₂ to 2¹/₂ story structures with commercial uses on the ground floor and residential uses above.
5. Business Districts
- a. The Town Business (TB) District is intended to serve residential neighborhoods with necessary retail facilities as well as service establishments, professional offices, social, and religious properties. It is also intended for the central business area of the town. Stores and other facilities should be grouped together in small areas and in an attractive, convenient manner with attention paid to the safety of pedestrian travel. Physician
 - b. The General Business (GB) District is intended to provide the retail, service, and professional activities covered in the TB Zone as well as other, more intensive commercial uses.
6. Industrial Districts
- a. The Industrial (I) District is intended for the location of commercial and industrial uses of a warehousing, research, and manufacturing nature. The appropriateness of an industry in this district is to be governed by performance standards to maintain high standards of water, air, noise, odor, and aesthetic quality.
 - b. The Office/ Industrial (OI) District is intended primarily for office and industrial uses which can intrinsically operate, outside of the town's legacy (I) Industrial Zoning District, harmoniously with surrounding non-industrial uses, being characterized by attractive building architecture, landscaped sites and streetscapes, and the absence of adverse external impacts to adjoining properties, and to encourage the development in Thurmont of enterprises in professional, scientific, technical, engineering, computing, and both advanced and artisan manufacturing.
7. Institutional district:
- a. The institutional (INST) district is intended to provide for the preservation of land for uses that provide for the good and welfare of the community and address the community's needs for centers and operations for government, culture, education, religion, civic engagement, public health, public safety, and similar.

§ 4.2.2 LAND USES BY DISTRICT

- A. The Use Table (Table 1) in the Appendix to this Ordinance lists the different uses and zoning districts in which they are permitted. If a use is not listed or does not fall within any of the general use categories, it is not a permitted use in any district. If a use is specifically listed in the Use Table, it takes precedence over general use listings. The letters in the Use Table correspond to the following:
- “P” Permitted Use: Uses designated by the letter “P” shall be permitted subject to all applicable regulations.
 - “PC” Permitted Use Subject to Conditions: Uses designated by the letters “PC” shall be permitted as of right, subject to certain conditions that must exist on the property. The conditions are listed in §4.2.4.
 - “SE” Special Exception: The Board of Appeals in accordance with §2.3.3 of this Ordinance may authorize the establishment of uses requiring a special exception designated by the letters “SE”.
 - “SC” Special Exception with Conditions: Uses requiring a special exception designated with the letters “SC” may be authorized by the Board of Appeals in accordance with §2.3.3, subject to certain conditions listed in §4.2.4.
- B. A blank in the Use Table indicates that the use is not permitted in the district. The uses set forth in §4.2.3 are prohibited in every district.

TABLE 1: §4.2.2 – USE TABLE BY ZONING DISTRICT	P-PERMITTED, PC-PERMITTED, SUBJECT TO CONDITIONS, SE: SPECIAL EXCEPTION														
	Land Use	R-1	R-2	R-3	R-5	MXV-I	MXV-II	TB	GB	I	OI	OS	INST	ARP	Use Reg.
RESIDENTIAL															
Single Family Dwelling															
Single Family - Detached	P	P	P	P	P	P								P	
Single Family – attached (townhouses)			P	P	PC	PC									§4.2.4A
Two – Family Dwelling							P								
Two – Family Dwelling Unit			P	P											
Two – Family, Duplex			P	P	P	P									
Two – Family Conversions from Single-Family Unit		P	P	P											
Multi-Family Dwelling				P	PC	PC									§4.2.4B
Apartment Unit attached to Commercial Structure					PC	PC	PC	PC							§4.2.4C
Boarding or Tourist Home	SE						P	P						SE	
Bed and Breakfast	SE	SE	SE	SE		P									
Live/Work Units					PC	PC									§4.2.4D
Home Occupations	P	P	P	P			P	P						P	
COMMERCIAL, OFFICE, AND SERVICE															
Retail Shops, including service/repair such as clock, jewelry, phone					PC	PC	P	P							§4.2.4E
Artists’ Studios, Art Galleries, Studios for Dance and Music, similar					P	PC	P	P							§4.2.4F
Antique and/or Craft Shop				SC			P	P							§4.2.4G
Food Store							P	P							
Convenience, Grocery, Department, Variety, Hardware, Dry Goods Stores							P	P							
Pet Shops							P	P							
Retail Nursery for Plants, Greenhouses							P	P	P		P				
Tree and Landscape Services								P	P		P				
Banks and Financial Institutions					P		P	P							
Barber Shops, Beauty Salons, Tailor					P		P	P							
Office of Professionals				SC	P	PC	P	P	P	P					§4.2.4H
Corporate Offices, Headquarters									P	P					
Business Offices including Finance, Insurance, Real Estate					P	PC	P	P	P	P					§4.2.4F

TABLE 1: §4.2.2 – USE TABLE BY ZONING DISTRICT	P – PERMITTED, PC- PERMITTED, SUBJECT TO CONDITIONS, SE; SPECIAL EXEPTION													
Land Use	R-1	R-2	R-3	R-5	MXV-I	MXV-II	TB	GB	I	OI	OS	INST	ARP	Use Reg.
Offices of Physicians and Related Licensed Professionals providing patient care					P	PC	P	P		P				§4.2.4F
Dry Cleaning drop off shops, tailoring and Laundromats					P		P	P						
Business Services, Plumbing Shops, Contractor Shops								P	P					
Small-Scale Manufacturing and Assembly such as Cabinet making and Furniture Upholstery and similar uses								P	P	P				
Small Appliance Repair Shops such as Television and Computer, similar							P	P	P					
Boat Sales and Service								P	P					
Farm Implements and heavy equipment Storage, Sales, rental and Service								P	P					
Lumber Yard, (excluding home improvement retail stores)								P	P					
Animal Hospital, Veterinarian Clinic							P	P	P	P				
Kennel, Cattery									P					
Funeral Parlor/Home						PC								§4.2.4F
Automobile (and other motor vehicle) Sales or Rental								P	P					
Automobile Parts Sales							P	P						
Automobile Filling Stations, Service Stations								P						
Truck Stops								PC	P	C				§4.2.4I
Automotive Body Shop, glass sales and installation								P	P					
Carwash								P	P					
Restaurants: Café, Deli, Standard					P	PC	P	P						§4.2.4F
Restaurants: Fast Food, Drive-in, Drive-thru								P						
Hotels, Motels					SC		P	PC						§4.2.4J
Pubs, Bars, Tavern (dance halls, nightclubs, cocktail lounges)							P	P						

TABLE 1: §4.2.2 – USE TABLE BY ZONING DISTRICT	P – PERMITTED, PC-PERMITTED, SUBJECT TO CONDITIONS, SE; SPECIAL EXPTION													
Land Use	R-1	R-2	R-3	R-5	MXV-I	MXV-II	TB	GB	I	OI	OS	INST	ARP	Use Reg.
INDUSTRIAL USES														
Research and Development, Lab Research, Testing								P	P	P				
Data Center									P	P				
Trade Schools, Business and Occupational Training									P	P				
Agricultural Processing, General								P	P					
Agricultural Processing, Light									P	P				
Aquaculture									P	P				
Micro-brewery and Micro-distillery							P	P	P	P				
Stone and Monument Processing and sales								P	P	P				
Recycling Pickup and Distribution Center								P	P					
Wholesaling, Warehousing, Cold Storage, Freezer Plant								P	P					
Prefabricated Structure Sales/ Storage Lot									P					
Self Storage, Outdoor Storage of Vehicles, Boats, and materials									P					
Contractor Storage Yard									P					
Manufacturing, Light									P	PC				4.2.4K
Machine Shop and Related Activities, Commercial and Industrial Painting									P					
Dry Cleaning Facility, Laundry Facility, Carpet Cleaning									P					
Bio-Manufacturing									P	P				
Motor Freight Terminal									P					
Printing									P	PC				4.2.4L
Pest Control									P					
INSTITUTIONAL														
Primary and Secondary Schools and associated buildings	SE	SE	SE	SE	P	P						P		
University, College; Institute (philanthropic, scholarly, managerial, similar)									P	P		P		
Churches and Other Buildings for Religious Worship	P	P	P	P	P	P	P	P				P	P	

TABLE 1: §4.2.2 – USE TABLE BY ZONING DISTRICT		P-PERMITTED, PC-PERMITTED, SUBJECT TO CONDITIONS, SE: SPECIAL EXEPTION													
Land Use	R-1	R-2	R-3	R-5	MXV-I	MXV-II	TB	GB	I	OI	OS	INST	AG	Use Reg.	
Social and Fraternal Clubs and Lodges					P		P	P							
Public Buildings for Libraries, Museums, Visual and Performing Arts, and Similar Uses					P	P	P	P		P	P	P	P		
Civic Meeting Places				P	P		P	P			P	P	P		
Day Care Centers	PC	PC	PC	PC			PC	PC		PC		P	PC	§4.2.4M	
Nursing Homes, Convalescent Homes, Assisted Living Center	SE	SE	SE	P						P		P			
Hospitals, Clinics, Other Medical treatment Facilities								P		P					
RECREATION, AMUSEMENTS AND ENTERTAINMENT															
Activity conducted entirely within building or substantial structure					SE	SC	P	P						§4.2.4F	
Bowling, Arcade							P	P							
Theaters					P		P	P							
Recreational and Fitness Clubs and Facilities	SE	SE	SE	P				P							
Parks, Playgrounds, Golf Course, Public and Private Recreational Uses					P						P				
Game, Wildlife, and Nature Study Preserves and Reservations											P				
EMERGENCY SERVICES															
Fire and Rescue Squad, Ambulance Service					P		P	P		P		P			
Civil Defense Operation					P					P					
MISCELLANOUS USES															
Agricultural Uses (including usual agricultural buildings), Farm Offices, Commercial Nurseries and Greenhouse; but not buildings and structures used for agricultural processing													P		
Nursery/Farm for Trees and Plants, Greenhouses									P	P	P		P		
Cemeteries											P	P	P		
Utilities											P				
Neighborhood Service															
Public Utility Facility, Building and Structures	SE	SE	SE	SE			P	P	P	P	P		SE		
Flood Control, Water Protection Works, Sewerage Treatment Plants, Other Municipal Public Works										P	P		P		

TABLE 1: §4.2.2 – USE TABLE BY ZONING DISTRICT	P-PERMITTED, PC-PERMITTED, SUBJECT TO CONDITIONS, SE: SPECIAL EXEPTION													
Land Use	R-1	R-2	R-3	R-5	MXV-I	MXV-II	TB	GB	I	OI	OS	INST	ARP	Use Reg.
Wireless Telecommunication Facilities, Towers									P		P			
Co-location of Wireless Telecommunication Facilities on Existing Towers							P	P			P		P	
Temporary Structures Incidental to Construction (non-residential)								P	P	P	P		P	
Circus, Carnival and other Temporary Amusement Facilities (festivals, events of public interest, special events, occasional, outdoor)				P									P	
Cemeteries	P										P		P	

§ 4.2.3 PROHIBITED USES IN ALL DISTRICTS

The following uses are prohibited in the Town of Thurmont:

- A. Private or public firearms shooting ranges.
- B. Junkyards including those for storage of wrecked, dismantled motor vehicles, and/or for the abandonment of such vehicles, and the parts thereof and for the storage and sale of similar scrap materials.
- C. Salvage yards for any waste materials.
- D. Uses not specifically listed in the Use Tables or not substantially like such uses.

§ 4.2.4 SPECIAL REQUIREMENTS PERTAINING TO PERMITTED CONDITIONAL AND CERTAIN SPECIAL EXCEPTION USES

- A. Single-Family Attached (townhouses) is a permitted use in MXV-1 and MXV-2 Districts with the condition that they are developed in combination with permitted non-residential uses in a mixed-use development.
- B. Multi-family residences limited to five or fewer units are permitted uses in the MXV-1 and MXV-2 Districts with the condition that they are developed in combination with permitted non-residential uses in a mixed-use development.
- C. Apartment unit attached to a commercial structure is a permitted use in the TB and GB District and in the MXV-1 and MXV-2 District with the condition that no more than one dwelling unit per 500 square feet of commercial floor area shall be provided and within the TB and GB Districts any such dwelling unit shall be located on the upper floors.
- D. Live/Work unit is permitted use in the MXV-1 and MXV-2 Districts with the condition that they are developed in combination with permitted non-residential uses in a mixed-use development.
- E. Retail Shops is a permitted use in the MXV-1 and MXV-2 Districts with the condition that within the MXV-1 District retail operations over 20,000 square feet in size are not permitted except in structures existing prior to May 1, 2008 and within the MXV-2 District retail operations over 3,000 square feet in size are not permitted except in structures existing prior to May 1, 2008 and no such operation is permitted except in conjunction with an accessory permitted residential use.
- F. Other non-residential uses: the non-residential uses designated in Table 1 as permitted with conditions (PC) in the MXV-2 District are permitted with the condition that they are in conjunction with an accessory permitted residential use and only in structures existing prior to May 1, 2008.
- G. Antique or Craft Shop is a special exception with conditions use (SC) in the R-5 District provided that the use is to be in a single-family detached residence existing as of September 30, 1999.

- H. Offices of Professionals is a special exception with conditions use (SC) in the R-5 District with the condition that the use is proposed to be in a single-family detached residence existing as of December 31, 1995 and it is a permitted conditional use in the MXV-2 District with the condition it is conjunction with an accessory permitted residential use and only in structures existing prior to May 1, 2008.
- I. Trucks Stop is a permitted conditional use in the TB and GB Districts but only to the extent that such use currently exists.
- J. Hotels/motels is a permitted use in the GB District with the condition that the lot has 1,000 square feet of area per bedroom and at least a 10-foot-wide strip of open space around the entire perimeter of the lot; and a special exception with conditions use (SC) in the MXV-1 District with the condition that the lodging be limited to 12 bedroom units.
- K. Manufacturing, light is a permitted use (PC) in the OI District with the condition that all manufacturing activities occur within a building and no activities create or produce dust, noise, vibration, air pollution, fire hazard, odors, or noxious emissions of any kind detectable off-site.
- L. Printing is a permitted use (PC) in the OI District with the condition that the use is either accessory to a permitted use or is a print shop that operates on a custom order basis for individuals and businesses rather than as a high-volume facility such as a printer of newspapers, magazines and packaging; the facility shall be no greater than 20,000 square feet in size.
- M. Day Care Center is a permitted use with conditions (PC) in the R-1, R-2, R-3, R-4, R-5, TB, OI, and AG Districts with the condition that such use is licensed by the State of Maryland and, for those operated as an accessory to a religious, educational, or public building use in a residential district, occupancy shall be limited to 1 child per 1,000 square feet of lot area.

§ 4.2.5 SPECIAL USE REQUIREMENTS FOR THE R-3 DISTRICT

- A. At least 50% of the gross land area of a subdivision in an R-3 District must be developed in single-family dwellings.
- B. No more than 25% of the gross land area of a subdivision in an R-3 District shall be developed in two-family or duplex dwellings.
- C. No more than 25% of the gross land area of a subdivision in an R-3 District shall be developed in townhouses.
- D. New duplex units, two-family lots or townhouses in new subdivision shall not abut single-family lots in pre-existing subdivisions.

§ 4.2.6 SPECIAL USE REQUIREMENTS FOR THE MIXED-USE VILLAGE DISTRICTS

- A. Any combination of uses allowed by right or by special exception may be located within a building, within inter-connected buildings, or on the same lot.
- B. Any proposed use in a mixed-use development that requires a special exception must obtain approval from the Board of Appeals prior to submittal of a site plan to the Planning & Zoning Commission for the mixed-use development.
- C. Residential uses are permitted only as part of a mixed-use development.
- D. In the MXV-2 District, in any structure with both residential and commercial uses, commercial uses must occur on the ground level and face the public street.
- E. The following site design standards are in addition to those required elsewhere in this Ordinance.
 - 1. Existing trees on a site shall be maintained where feasible. One tree shall be planted in the front or rear yard for each 25 feet of street frontage. Applicants shall use native plant species (see List of Preferred Plant Species).
 - 2. All off-street parking shall be in rear yards.

§ 4.2.7 PERFORMANCE STANDARDS FOR USES IN THE INDUSTRIAL DISTRICT

All industrial uses shall operate in conformance with the limitations set forth in each subsection below:

- A. Areas of Measurement
 - 1. Vibration: No vibration shall 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 shall any vibration produced exceed 0.002g peak measured at or beyond the lot line using either seismic or electronic vibration measuring equipment.
 - 2. Noise: All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness. In no event shall the sound pressure level of noise radiated continuously from a facility at any time exceed at the lot line the values given in the Table of Noise Measurement (in §4.2.7G) in any octave band of frequency. The sound-pressure level shall be measured with a sound level meter and an octave band analyzer that conform to specifications published by the American Standards Association (American Standard Sound Level Meters for Measurements of Noise and Other Sounds, z24.3-1944, American Standards Association, Inc. New York, N.Y., and American Standard Specifications for an Octave Band Filter Set for the Analysis of Noise and Other Sounds, z24.10-1953, American Standards, Inc., New York, N.Y. shall be used).

3. Odors: Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interferes unreasonably with the comfort of the public shall be remedied to remove the odor.
 4. Water Pollution: Regulations of the Maryland Department of Environment and Department of Natural Resources shall apply to industries in the Town of Thurmont.
 5. Air Pollution, Smoke, Dust, Fumes, Particulate Matter:
 - a. No smoke, dust, fumes or particulate matter shall be perceptible at the lot line. (Not to include water vapor.)
 - b. Further, the regulations and standards governing the control of air pollution shall be the same as those adopted for Area II, by the Maryland State Department of Health on March 29, 1968, and any subsequent amendments as long as such amendments are not less severe than those in force in the control of air pollution.
 - c. If the paragraph 2 above shall be of a lower standard than that of paragraph 1, the more stringent standard shall apply.
- B. Radiated Electro-Magnetic Interference: For determining the level of radiated electromagnetic interference, standard field strength measuring techniques shall be employed. The maximum value of the tabulation shall be considered as having been exceeded if at any frequency in the section of the spectrum being measured, the measured peak voltage exceeds the maximum value tabulated for this spectrum section. For purposes of determining the level of electromagnetic interference transmitted or conducted by power or telephone lines, a suitable, tunable peak reading radio frequency voltmeter shall be used. This instrument shall by means of appropriate isolation coupling, be alternately connected from line to line and from line to ground during the measurement. The maximum value of the tabulation shall be considered as having been exceeded if at any frequency in the section of the spectrum being measured, the measured peak voltage exceeds the maximum value tabulated for this spectrum section.
- C. Fire and Explosions: All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety and firefighting devices.
- D. Radioactive Materials: The handling of radioactive materials, the discharge of such materials into the air and water and the disposal of radioactive wastes, shall be in conformance with the regulations of the Nuclear Regulatory Commission as set forth in Title 10, Chapter 1, Part 20 – Standards for Protection Against Radiation, as amended; and all applicable regulations of the State.
- E. Glare and Heat: No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding or otherwise, to be visible at the lot line shall be permitted. These regulations shall not apply to signs or floodlighting of parking areas otherwise permitted by this chapter. There shall be no emission or transmission of heat or heated air to be discernible at the lot line.
- F. Nonradioactive Liquid or Solid Wastes: There shall be no discharge at any point into any public or private sewage disposal system or stream, or into the ground, of any liquid or solid materials, except in accordance with the regulations of the Frederick County Health

Department, and the Maryland Department of Environment, and the Maryland Department of Health as applicable.

G. Table for Noise Measurement

Maximum permissible sound-pressure levels at a lot line for noise radiated from a facility where the lot line adjoins or lies within twenty-five feet of the boundary of a residential district.

<u>Frequency Band Cycles Per Second</u>	<u>Sound Pressure Level Decibels re 0.0002 dyne/cm</u>
20 – 75	65
75 - 150	50
150 - 300	43
300 – 600	38
600 – 1,200	33
1,200 – 2,400	30
2,400 – 4,800	28
4,800 – 10,000	26

If the noise is not smooth and continuous, one or more of the corrections in the below shall be subtracted from each of the decibel levels given in the table above.

<u>Character of Noise</u>	<u>Correction in Decibels</u>
Noise of impulsive character (hum, speech, etc.)	Minus 5
Noise of periodic character (hum, speech, etc.)	Minus 5

§ 4.2.8 PLANNED UNIT DEVELOPMENT (PUD) OPTIONAL METHOD OF DEVELOPMENT IN R-2, R-3, AND R-5 DISTRICTS

A. Purpose.

These regulations provide for an optional method of development called a planned unit development (“PUD”) for qualifying properties within qualifying zoning districts. The PUD regulations provide additional flexibility for the design of exceptionally well-planned residential developments to create enduring and sustainable neighborhoods. The following specific purposes are to be achieved:

1. To allow flexibility to encourage more creative design for land development and housing types than is generally possible under the Town’s R-2, R-3, and R-5 zoning districts.
2. To encourage the optimal planning and use of open spaces including connecting open spaces to other existing and planned open areas, enhancing the aesthetic values of the community, and incorporating natural resources, open spaces, and scenic vistas into community design.
3. To encourage variety in the design of physical development patterns and responsiveness to the unique natural conditions of sites.

4. To encourage innovations in the development of land for environmentally sustainable patterns of development and protection of environmentally sensitive areas including forests, wetlands, and stream buffers.
5. To promote the harmonious arrangement of buildings and a mix of compatible land uses including small-scale commercial uses that can primarily and conveniently serve the needs of the development's residential through walking and biking.
6. To promote intergenerational housing, a mix of housing types at varying affordability levels, and the development of supporting limited commercial and institutional uses within residential neighborhoods.
7. To implement the Thurmont Master Plan and to promote harmonious and unified town development patterns that are consistent with it.
8. The intent of these regulations is also to promote orderly and thorough development plan review procedures.

B. Applicability.

A PUD may be established on tracts of land within the R-2, R-3, and R-5 zoning districts that otherwise meet the requirements of this Ordinance:

1. The minimum size for a PUD shall be 10 acres in a residential zoning district.
 - a. Properties less than 10 acres in size may be combined only with qualifying adjacent tracts zoned R-2, R-3, or R-5 to meet the 10-acre minimum size standard in the residential zoning district. The zoning designation of the property shall govern the maximum allowable density of dwelling units in the PUD.
2. A PUD may be established for residential developments on all tracts of land 10 acres in size or larger that are within the Municipal Growth Area designated in the adopted Thurmont Master Plan, subject to the Planning & zoning Commission approval.

C. Permitted uses.

Except within R-5 districts, a PUD is intended to bring about neighborhoods with primarily single family detached houses on lots. However, the following other uses shall be permitted by right in all PUDs, in combination with single family detached housing as qualified below:

1. All uses permitted by right in the underlying zoning district are permitted by right with the use limitations that may otherwise be prescribed in this section.
2. Multi-family dwellings, duplexes, two-family dwellings, single-family attached dwellings (townhouses), accessory dwelling units, and residential units on the floor(s) over permitted ground floor commercial uses are permitted by right.

3. Small-scale office, retail, and service uses are permitted upon a finding by the Planning & Zoning Commission that each of the following is established:
 - a. Each use is to be situated and developed as an integral part of the physical plan for the PUD, which shall mean, at minimum, each is readily and conveniently accessible to all proposed housing units by walking and biking.
 - b. Each use is sized, positioned, and operated to serve the needs of the proposed residents of the PUD.
 - c. The office, retail, and service uses allowed in a PUD shall only be those "Commercial, Office and Service" uses which are designated as "P" Permitted Use" in the TB District within Table 1, Section 4.2.2 of this Ordinance except that the following are not permitted in a PUD: Department, Variety, Hardware, Pet Shops, Retail Nursey for Plants, Greenhouses, Animal Hospital and Veterinarian Clinic, Automobile Parts Sales, Hotels and Motels, Pubs, Bars, and Tavern (dance halls, nightclubs cocktail lounges).
 - d. The total aggregate area of all commercial uses and their parking areas shall not occupy more than 10% of the gross developable area of the PUD, exclusive of open space.
4. All designated Institutional uses in Table 1, Section 4.2.2 of this Ordinance permitted by right or special exception in any district shall be permitted by right in a PUD, excluding Social and Fraternal Clubs and Lodges.
5. A temporary office belonging to the developer and clearly incidental to the sales operations of the residential portions of the PUD is permitted by right and shall terminate upon the sale of the final residential lot in the PUD.

D. Minimum Development Standards

1. Approval of a PUD is subject to the Planning & Zoning Commission finding that the following specific development standards have been satisfied:
 - a. Open space and parkland shall be provided in the manner set forth in the Thurmont Subdivision Regulations, but in no case shall a tract 25 acres or larger have less than 20% of its land area devoted to open space.
 - b. Building height requirements shall be as set forth in Section 5.1C of this Ordinance, applicable to the underlying zone with the exception that the maximum height in an R-5 PUD shall be 50 feet with a maximum of four stories.
 - c. Minimum lot sizes shall be those set forth for the R-5 zoning district in Section 5.1C of this Ordinance, except that the minimum lot size for single family detached lots may be

reduced to 5,600 square feet where parkland is provided in an amount at least 15% greater than that required by the Thurmont Subdivision Regulations.

- d. The parking and loading requirements of Section 6.5 of this Ordinance shall be met.
 - e. The PUD shall contain multiple different housing types.
- 2. The Planning & Zoning Commission shall require dedication of land for places of public assembly, recreational buildings, and public buildings, if the Commission finds they would be advantageous or necessary to serve the residents of the PUD or local community.
 - 3. The maximum allowable density in a PUD shall be either 5 units per acre or the density permitted within the underlying zoning district, whichever is greater

E. Application Procedures.

A proposal for a PUD shall be submitted and reviewed in accordance with the procedures of this section.

- 1. An application shall be made to the Town Zoning Administrator and referred to the Planning & Zoning Commission for consideration of the PUD. The application shall include a plan for development (a “PUD Development Plan”) meeting the criteria set forth in Section 3.1.4 of this Ordinance and the following:
 - a. Proposed housing types, the total number of housing units, the overall density expressed in dwellings per acre, general location of each type of housing unit and building, elevations of each building type.
 - b. Proposed lot and bulk standards for all lots to be created including lot sizes, widths and depths, yard dimensions (setbacks), building height.
 - c. Proposed non-residential areas and uses, location, types of uses, size of lots and floor areas, parking areas and circulation routes, and elevations of each building type.
 - d. Proposed open spaces, their size, location, uses, and proposed ownership.
 - e. A complete statement contrasting the tract’s proposed development as a PUD with its development as a residential community in accordance solely with the requirements of the underlying zoning district. The statement shall include a table of any modifications to the Zoning Ordinance standards pertaining to the underlying zone that are being proposed.

- f. A proposed phasing schedule for the construction of infrastructure, including streets, water, sewer, electric, other utilities, stormwater management, parks and open space, schools, and community amenities.
 - g. A design booklet of the building forms, massing, and architecture.
2. The applicant shall furnish to the Planning & Zoning Commission any additional materials or information the Zoning Administrator reasonably determines is necessary to conduct the review.

F. Review Criteria.

1. In reviewing the application and PUD Development Plan, the Planning & Zoning Commission shall consider, among other things, the consequences of the plan on traffic flow, the economic provision of public services, maintenance of open space and preservation of sensitive natural areas, the extent to which the development is planned as a unit, the relationship of activities within the development, and particularly the compatibility of the planned neighborhood with properties not a part of such development.
2. In exercising its discretion as to the approval or disapproval of a PUD, the Planning & Zoning Commission shall be guided by consideration of suitability and desirability of such development in relation to its location and surroundings and shall evaluate the PUD against the statements of purpose in Section 4.2.8.A. No such development shall be approved unless the Commission finds that it will constitute a primarily residential development of continuing desirability and stability, in reasonable harmony with the character of the surrounding neighborhood and ensuring a higher standard of development than that which occurs pursuant to the base zoning district in which the PUD standards are being applied.
3. For property annexed into the Town subject to an Annexation Concept Plan, the Planning & Zoning Commission shall determine, in accordance with Section 3.3.2.C of this Ordinance, that the PUD Development Plan substantially conforms to the Annexation Concept Plan.
4. The Planning & Zoning Commission shall conduct a public hearing to consider the PUD Application, including the PUD Development Plan. The Commission shall establish findings of fact with respect to the PUD's compliance with the purposes set forth in Section 4.2.8.A. and development standards set forth in Section 4.2.8.D. above.
5. In the act of approving a PUD, the Planning & Zoning Commission may grant modifications to the development standards that would otherwise apply in the underlying zone. To modify a development standard, the Commission must determine that the requested modifications are:
 - a. compatible with the surrounding neighborhood;
 - b. compatible with the overall development of the Town;

- c. will not be detrimental to the public health, welfare, and safety or to the delivery of public services, including police, fire protection, emergency services, utilities, solid waste collection, and schools;
 - d. subject to mitigation measures that may be necessary to resolve issues created by the proposed modification and otherwise address the purpose of the regulations that are subject to modification; and
 - e. is necessary to meet the purposes of this chapter set forth in Section 4.2.8.A.
- 6. The Planning & Zoning Commission may grant conditional approval of a PUD Development Plan based on higher design standards than required under the underlying zoning district upon a finding that in each case they are necessary to meet the purposes of this chapter set forth in Section 4.2.8.A.
 - 7. The Planning & Zoning Commission shall approve a phasing schedule as part of the PUD Development Plan, and once approved, no land may be used, and no buildings may be occupied except in accordance with the schedule approved as part of the PUD Development Plan. No phasing schedule shall authorize construction of any commercial use until at least 25% of the total planned residential units are completed and occupied unless such use is otherwise permitted in the underlying zone. The Commission may, through its approval of an amended PUD as authorized hereinbelow, approve a percentage that is lower than 25%, upon its finding that:
 - a. A change in market demand and economic conditions since the PUD's approval necessitate the change,
 - b. The commercial use would materially benefit the PUD's existing and planned residential component, and
 - c. The change would be consistent with purposes of this chapter.
 - 8. No PUD shall be approved unless the Planning & Zoning Commission determines that public facilities, including but not limited to public electric, water and sewer disposal and treatment systems, are adequate to serve the development in accord with the Town of Thurmont Adequate Public Facilities Ordinance.

G. Approval Period.

An approved PUD Development Plan shall be null, and void and a new PUD application shall be required unless the Applicant obtains approval of a preliminary plan of subdivision or final site plan for the PUD within three (3) years of the date of PUD approval. The Planning and Zoning Commission may, for good cause, grant a single, one (1) year extension of an approved PUD Development Plan. The Applicant must request an extension at least 30 days prior to the expiration date. In deliberation of any extension of an approved PUD Development Plan the Planning and Zoning Commission shall consider the following:

1. Whether a lawful change in the neighborhood of the property has made the PUD, as approved, incompatible with the neighboring properties or infrastructure not foreseen before such change occurred.
2. Whether a change in the street and highway plan or the plan for any public facilities and/ or services, trails or pathways, or the projected impact of development on streets, highways, water, sewer, electric and other facilities has made the PUD, as approved, a detriment to orderly development of the Plan.
3. Any changes in the Master Plan that has made the PUD, as approved, a detriment to the orderly development of the Plan.
4. Whether an extension is necessary due to events beyond the Applicant's control.

H. Amendments.

1. A property owner subject to an approved PUD Development Plan may request an amendment to the terms and conditions of the approved PUD. Any request for an amendment shall be in writing.
2. In each case, if the Zoning Administrator determines that the proposed amendment (1) does not involve a material change; (2) otherwise complies with the terms of this chapter, and (3) is in the interest of promoting health, safety, and welfare of the community, he/she shall approve the request. Any other amendment shall be subject to review by the Planning & Zoning Commission according to the PUD approval procedures set forth herein.
 - a. Material changes shall include the following:
 - i. Any proposed increase in residential density.
 - ii. Proposed increase of non-residential floor area (less than 5% increase above existing total approved for the building in question, as specified in the approved PUD, may be considered non-material).
 - iii. Changes of use that are determined to be more intense.
 - iv. Elimination of an approved project amenity or open space.
 - v. Any proposed change which alters a condition of the PUD Development Plan as approved.
 - vi. Substitution of an amenity with a non-comparable amenity.
 - vii. Other changes of a similar scope or magnitude.
 - viii. Substitution of one commercial use for a different commercial use permitted in the PUD.
 - ix. Proposed change in architectural style or type from that which was indicated on approved PUD plans, subject to Planning & Zoning Commission approval of said change (unless the PUD approval

specifies a condition(s) concerning such architectural style or feature, in which case such a revision would constitute a non-material change).

- b. Non-material changes may include the following:
 - i. Minor relocation of residential units provided there are no environmental, traffic, etc., impacts because of such action.
 - ii. Relocation of site infrastructure (e.g., utilities, stormwater management) provided said relocation creates no adverse impact.
 - iii. Addition or expansion of a park, open space, or recreational amenity.
 - iv. Substitution of one project amenity with a comparable amenity.
 - v. Other changes of a similar scope or magnitude.
- c. Even if the Zoning Administrator determines that a proposed amendment is a non-material change, he/she shall retain the right to have the proposed amendment reviewed and approved/denied by the Planning & Zoning Commission.

§ 4.3 WIRELESS TELECOMMUNICATION FACILITIES

§4.3.1 PURPOSE AND APPLICABILITY

- A. Purpose: In recognition of the requirements of the Federal Telecommunications Act of 1996, this section is designed and intended to balance the interests of the residents of Thurmont, telecommunications providers, and telecommunications customers in the siting of telecommunications facilities within the Town of Thurmont, to ensure coordinated development of communications infrastructure while preserving the health, safety, and welfare of the town and its residents. This ordinance establishes standards for the siting of wireless telecommunications towers and antennas to achieve this purpose.
- B. Applicability
 - 1. Public Property: The terms of this Section shall apply to all wireless telecommunications facilities proposed to be located within the Town of Thurmont whether on property owned by the Town or on privately owned property.
 - 2. Amateur Radio, Receive-Only Antennas: This Section shall not govern any tower or the installation of any antenna that is under thirty-five (35) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive-only antennas. Wireless communication devices for personal use are permitted in any zoning district.
 - 3. Minor Utility Installation: Wireless telecommunications facilities are not to be considered as a minor utility installation as defined and used elsewhere in this Ordinance.

4. Existing Facilities: Wireless telecommunication facilities in existence on the effective date of this ordinance shall not be required to comply with these provisions, except in the event they propose an increase in height or substantial modifications.

§4.3.2 DEFINITIONS PERTAINING TO WIRELESS TELECOMMUNICATIONS FACILITIES

- A. Alternative Antenna Support Structure: Innovative siting techniques utilizing existing structures such as, clock towers, bell towers, steeples, utility poles, water tanks, and similar design mounting structures that camouflage or conceal the presence of antennas or minimize the aesthetic impact of the antennas.
- B. Antenna: Any exterior apparatus designed for telephone, radio, television, personal communications service (PCS), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.
- C. Camouflaged: A wireless telecommunications facility that is sited in a wooded area or a disguised or hidden part of an existing or proposed building or structure, or a facility placed within an existing or proposed building or structure, or constructed as an alternative antenna support structure.
- D. Guy Wire: A cable used to secure and steady a tower.
- E. Tower Height: The distance measured from ground level to the highest point on the tower or other structure, including antennas, whichever is greater.
- F. Monopole: Any tower consisting of a single freestanding pole structure, constructed without guy wires.
- G. Pre-existing Towers and Antennas: Any tower or antenna lawfully constructed or permitted prior to the adoption of the section of the Zoning Ordinance as well as the replacement in kind of any such towers and antennas.
- H. Stealth Technology: Any wireless telecommunication facility designed to look like a structure or tree that may commonly be found in the area surrounding such proposed facilities.
- I. Tower: A structure that is designed and constructed primarily for the purpose of supporting on or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular carrier towers, cellular telephone towers, and wireless telecommunication facility towers.
- J. Wireless Telecommunication facilities: Any structure, antenna, tower, or other device that provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communication (SMR) and personal communications services (PCS), and common carrier wireless exchange access services.

§4.3.3 DISTRICTS WHERE PERMITTED

- A. Alternative Antenna Support Structure Including Co-location on Alternative Antenna Support Structures: Permitted in the TB, GB, I, OI & OS Districts
- B. Co-location on existing Towers: Permitted in all districts.
- C. New Towers: Permitted in the I, OI, and OS Districts.

§4.3.4 APPLICATION REQUIREMENTS AND PROCESS

- A. Site plan approval by the Planning & Zoning Commission for the wireless telecommunication facility including access, equipment, and structures shall be in accordance with the site plan regulations specified within this zoning ordinance.
- B. All applications for approval of wireless telecommunications facilities shall include:
 - 1. A description of the need for the wireless telecommunication facility including propagation studies showing service area and system coverage in the Town and surrounding area.
 - 2. Sufficient information to indicate that construction, installation, and maintenance of the wireless telecommunication facility will not create a safety hazard or damage to the property of other persons.
 - 3. Documentation of the area to be served including a search area for the antenna location. A narrative describing a search area (with not less than a 1 ½ mile radius) clearly explaining why the site was selected including documentation that all potentially suitable existing or approved towers, structures or buildings within the search area were considered for the communications equipment, and if rejected, the basis for these conclusions.
 - 4. A copy of all reports including the environmental assessment, National Environmental Policy Act review, etc. as required by or provided to the Federal Communications Commission.
 - 5. Photographs of the existing conditions of the site and photo simulations of the proposed wireless telecommunication facility installation from at least four directions and from no more than ¼ mile, including from residential properties within that distance from which the facility would be visible.
 - 6. For applications for new towers, photo documentation of the balloon test that was conducted at the proposed site location, sufficient to show the visibility of the tower from affected residential areas. This test will be conducted by raising upon a temporary mast, a 3-foot diameter minimum, brightly colored balloon at the precise location and maximum height of the proposed tower.
- C. For all applications for construction of a new tower, the applicant must publicize the proposal using a block advertisement of a size acceptable to staff, which includes a map showing the site and a one-mile radius, the timing and duration of the required balloon test, and date of the Planning and Zoning meeting at which the application will be considered. The applicant must hold an informational meeting in the area of the tower within two weeks after submitting the application. Written notice of such meeting shall be provided to all homeowners within ¼ mile of the site.

- D. No zoning certificate will be issued until the monetary guarantee or bond for facility dismantlement is posted with the Town.
- E. Prior to receiving a zoning certificate, the applicant shall certify in writing submitted to the Town that the wireless telecommunication facility complies with all current FCC regulations for non-ionizing electromagnetic radiation (NIER).

§4.3.5 SITE LOCATION AND DESIGN CRITERIA

- A. The Planning & Zoning Commission shall consider the following standards and factors in determining whether to approve or disapprove a proposed plan for construction of a wireless telecommunication facility:
 - 1. Whether the proposed wireless telecommunication facility is needed to be located at the proposed site for the provision of wireless communication services.
 - 2. Whether a preferred site is available for wireless telecommunication facilities. The Town's preferred sites are in order of preference as follows:
 - a. Co-located on or a new alternative antenna support structure;
 - b. Co-located on pre-existing tower;
 - c. New tower on public lands where it would not interfere with activities or aesthetics on or adjacent to the site;
 - d. New tower on private lands where it would not interfere with activities or aesthetics on or adjacent to the site;
 - 3. Whether the proposed wireless telecommunication facility would endanger the health and safety of people and animals, including, but not limited to, the likelihood of the failure or collapse of such structure, or the potential of falling ice.
 - 4. Whether the design and siting of the facility would minimize adverse impacts on property values, aesthetics, view sheds, environmentally sensitive areas, and historically significant locations.
 - 5. Such other factors as the Planning & Zoning Commission deem relevant to the application.
- B. Antennas and towers may be considered either principle or accessory uses/structures. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lots.
- C. For purposes of determining whether the installation of a tower or antenna complies with district development standards, the dimensions of the entire lot shall control, even though the antennas and towers may be located on leased areas within such lots.
- D. The applicant shall be responsible for maintaining the wireless telecommunication facility in a safe condition.

- E. The wireless telecommunication facility shall be utilized continuously for wireless communications. The Town shall be notified within 30 days of any interruption in the operation of the facility including identification of the applicant's plans for resumption or termination of operation. In the event, it ceases to be used for wireless communications for a period of six (6) months, the approval will terminate. The applicant shall remove the tower within ninety (90) days after termination. The applicant shall insure the wireless telecommunication facility removal by posting an acceptable monetary guarantee with the Town on forms provided by the office of the zoning administrator. The guarantee shall be for an amount equal to a cost estimate approved by the zoning administrator for the removal of the facility, plus a twenty-five (25) percent contingency.
- F. All towers shall be designed for co-location which shall mean the ability of the structure to allow for the placement of antennae for two (2) or more carriers. This provision may be waived by the approving body if it is determined that co-location will have an adverse impact on the surrounding area.
- G. The tower height may exceed the maximum height permitted within the zoning districts, provided the required setbacks are met after a determination by the approving body that its visual profile and appearance would make no substantial change in character of the area. In no event, will the tower exceed 199 feet in height.
- H. As part of the site plan review, screening and fencing may be required around the base of the tower structure and any equipment buildings. In some cases, a tree preservation easement may be required.
- I. The appearance of the wireless telecommunication facility shall be minimized by the reasonable use of commercially available technology to reduce visual impact, with specific reference to size, color and silhouette properties and the possible utilization of stealth technology.
- J. No lighting is to be placed on a wireless telecommunication facility unless specifically required by the Federal Aviation Administration.
- K. Monopoles shall be the preferred tower structure type within the Town.
- L. Wireless telecommunication facility sites shall be identified by means of a sign no larger than six (6) square feet affixed to the equipment building or fence enclosure. Said sign shall identify the facility owner and each locating provider and shall provide the telephone number for a person to contact in the event of an emergency. In addition, safety and warning signage of an appropriate size shall be provided as needed.
- M. Antennas mounted on alternative antenna support structures including water tanks, public structures or on the roofs of existing public buildings shall not exceed twenty (20) feet above the principal structure and, where possible will utilize enclosures which blend with the existing structure for screening the antennas.
- N. New towers should be sited within or adjacent to areas of mature vegetation and should be located down slope from ridge lines, and towards the interior of a parcel whenever possible and only should be considered elsewhere on the property when technical data or aesthetic reasons indicate there is no other preferable location.
- O. Setbacks for wireless telecommunication facilities shall be as follows:

1. Towers shall be setback from all property zoned residential a minimum of three hundred (300) feet. The Town's approving body may modify setback distance.
 2. Setbacks of towers from all properties zoned other than residential shall be determined by the approving body but shall not be less than fall zone of the tower as defined by the engineering specifications.
 3. Setbacks for supporting equipment and for alternative antenna support structures shall be as specified in the zoning regulations for the district in which the wireless telecommunication facility is located.
- P. Communication towers shall be constructed to the EIA/TIA 222-F Standards, as published by the Electronic Industries Association, which may be amended from time to time, and all applicable Town building codes. Communication towers shall be designed and constructed to ensure that the structural failure or collapse of the tower will not create a safety hazard to adjoining properties, per EIA/TIA 222-F Standards. Further, any improvements and/or additions (I.e., antenna, satellite dishes, etc.) to existing communication towers which exceed the design of the structure or which are not routine maintenance shall require submission of site plans in accordance with the Zoning Code and which demonstrate compliance with the EIA/TIA 222-F Standards in effect at the time of said improvements or additions.

ARTICLE 5: DIMENSION REQUIREMENTS

§ 5.1 LOT AND BULK REQUIREMENTS

- A. General: This Article establishes the size of lots, the density of land use and the location, dimensional and bulk requirements of both principal and accessory buildings.
- B. Purpose: The purposes are to ensure:
1. That the use of property does not infringe on the rights or enjoyment of adjacent property owners.
 2. That new development is compatible in aesthetic character with the existing patterns of development and that it is compact and pedestrian-scaled.
 3. That there is adequate light and air for the health and safety of residents, business operators, and patrons.
 4. That the environmental quality of the land and waterways are protected and that impervious surfaces are minimized in all new construction.
 5. That fire and rescue personnel and equipment will have sufficient access to the side and rear of structures.
 6. The density and intensity of new development is in keeping with the planning and development of essential municipal facilities and services.

7. Within the Town Business (TB) district property owners have the flexibility needed to develop and/or redevelop properties in ways that are compatible with the historic patterns of building.
- C. Requirements: The lot dimensional, density, and bulk requirements set forth in Tables 3 through 6 shall apply to all new construction. Standards for the Residential and Institutional districts are provided in Table 3, the Commercial and Industrial districts in Table 4, the Open Space and Agricultural/Residential Preserve districts in Table 5, and the Mixed-Use districts in Table 6.

Table 3: DIMENSIONAL, DENSITY, AND BULK REQUIREMENTS; RESIDENTIAL DISTRICTS

Uses by Zoning District ¹	Minimum Lot Requirements			Minimum Yard Requirements (ft)			Maximum Building Height ²
	Min. Lot Area	Min. Lot Area Per Unit	Min. Lot Width	Front Yard	Side Yard	Rear Yard	
R-1 Residential							
Residential, single-family detached	12,000 sf	12,000 sf	80 ft	25 ft	10 ft	40 ft	30 ft
Churches, religious	1 acre	n/a	100 ft	50 ft	20 ft	30 ft	30 ft
Day care center	12,000 sf	n/a	100 ft	25 ft	10 ft	30 ft	30 ft
Nursing homes, assisted living, similar	1 acre	n/a	150 ft	50 ft	20 ft	30 ft	30 ft
Recreational (excluding public parks)	1 acre	n/a	150 ft	50 ft	20 ft	30 ft	30 ft
R-2 Residential							
Residential, single-family detached	8,000 sf	8,000 sf	70 ft	20 ft	10 ft	30 ft	30 ft
Residential, two-family (conversions only)	16,000 sf	8,000 sf	70 ft	20 ft	10 ft	30 ft	30 ft
Churches, religious	1 acre	n/a	100 ft	25 ft	20 ft	30 ft	30 ft
Day care center	12,000 sf	n/a	100 ft	25 ft	10 ft	30 ft	30 ft
Nursing homes, assisted living, similar	1 acre	n/a	150 ft	50 ft	20 ft	30 ft	30 ft
Recreational (excluding public parks)	1 acre	n/a	150 ft	50 ft	20 ft	30 ft	30 ft
R-3 Residential							
Residential, single-family detached	8,000 sf	8,000 sf	70 ft	20 ft	10 ft	30 ft	30 ft
Residential, single-family detached (i.e. townhouses – see § 6.6)	1,800 sf	4,000 sf	20 ft	20 ft	15 ft	20 ft	30 ft
Residential, two-family (new and conversion)	12,000 sf	6,000 sf	60 ft	20 ft	10 ft	30 ft	30 ft
Residential, duplex	6,000 sf	6,000 sf	80 ft	20 ft	12 ft	30 ft	30 ft
Churches, religious	1 acre	n/a	100 ft	25 ft	20 ft	30 ft	30 ft
Day care center	12,000 sf	n/a	100 ft	25 ft	10 ft	30 ft	30 ft
Nursing homes, assisted living, similar	1 acre	n/a	150 ft	50 ft	20 ft	30 ft	30 ft
Recreational (excluding public parks)	1 acre	n/a	150 ft	50 ft	20 ft	30 ft	30 ft
R-5 Residential							
Residential, single-family detached	8,000 sf	8,000 sf	70 ft	20 ft	10 ft	30 ft	30 ft
Residential, single-family attached (i.e. townhouses – see §6.6)	1,800 sf	4,000 sf	20 ft	20 ft	15 ft	20 ft	30 ft
Residential, two-family (new and conversion)	10,000 sf	5,000 sf	60 ft	20 ft	10 ft	30 ft	30 ft
Residential, duplex	5,000 sf	5,000 sf	80 ft	20 ft	12 ft	30 ft	30 ft
Multi-family	12,000 sf	4,000 sf	100 ft	30 ft	20 ft	30 ft	40 ft
Churches, religious	1 acre	n/a	100 ft	25 ft	20 ft	30 ft	40 ft
Day care center	12,000 sf	n/a	100 ft	25 ft	10 ft	30 ft	40 ft
Nursing homes, assisted living, similar	1 acre	n/a	150 ft	50 ft	20 ft	30 ft	40 ft
Recreational (excluding public parks)	1 acre	n/a	150 ft	50 ft	20 ft	30 ft	40 ft

¹ For uses which may be permitted by right or special exception but are not listed in the table under the district in which they would be located, the dimensional and bulk requirements shall be as established by the Planning Commission as part of the review and approval of a site plan except that such requirements shall not be less than the minimum or greater than the maximum allowed in the district.

² Churches, schools, institutional and official public utility buildings and structures in any district, may be permitted to exceed the maximum building height provided each required yard is increased by 1 foot for every 3 feet above the otherwise required maximum height.

Table 4: DIMENSIONAL, DENSITY, AND BULK REQUIREMENTS: COMMERCIAL AND INDUSTRIAL DISTRICTS						
Zoning District	Minimum Lot		Minimum Yard Requirements (ft)			Maximum Building Height ⁴
	Min. Lot Area	Min. Lot Width	Front Yard	Side Yard	Rear Yard	
TB Town Business						
Residential, single-family detached	8,000 sf	60 ft	15 ft	10 ft	30 ft	45 ft
Residential, two-family	6,000 sf	60 ft	15 ft	10 ft	30 ft	45 ft
Hotels, motels	1 acre	200 ft	30 ft	20 ft	40 ft	30 ft
All commercial and other uses	none	none	none	none ³	none	45 ft
GB General Business						
All uses ¹	20,000 sf	60 ft	0 ft ²	10 ft	40 ft	45 ft
I1 Industrial						
All uses	20,000 sf	60 ft	25 ft	10 ft ⁵	50 ft	50 ft
Institutional						
All uses	1 acre	100 ft	25ft	20 ft	30ft	30 ft
OI Office Industrial						
All uses	20,000	100 ft	25 ft	10 ft ⁵	50 ft	50 ft

¹ Existing residential dwellings are permitted use in the GB District, subject to the standards of the R-5 District.
² The Planning Commission shall have the discretion to increase the front yard setback at the time of subdivision or site plan review upon finding that such an increase is necessary to achieve the purposes of the Zoning Ordinance.
³ Except when adjoining a lot in any “R” District, then the side yard shall be the same as required in that “R” District.
⁵ Except when a lot adjoins any “R” District, the side yard setback shall be a minimum of 25 feet.

Table 5: DIMENSIONAL, DENSITY, AND BULK REQUIREMENTS: OPEN SPACE AND AGRICULTURAL RESIDENTIAL PRESERVE DISTRICTS						
Zoning District	Minimum Lot		Minimum Yard Requirements (ft)			Maximum Building Height ²
	Min. Lot Area	Min. Lot Width	Front Yard	Side Yard	Rear Yard	
OS Open Space						
All Uses	none	none	50 ft ¹	15 ft ¹	50 ft ¹	None
ARP						
Residential, single-family detached	30,000 sf ³	140 ft	40 ft	20 ft	60 ft	30 ft
Churches, religious	4 acres	140 ft	40 ft	20 ft	60 ft	35 ft
Public utility uses	40,000 sf	140 ft	40 ft	20 ft	60 ft	30 ft
All other uses	40,000 sf	140 ft	40 ft	20 ft	60 ft	30 ft

¹ Except that for structures exceeding 25 feet in height, the minimum yard requirements for all yards shall be 2.5 times the height of the structures.
² Churches, schools, institutional and official public utility buildings, and structures in any district may be permitted to exceed the maximum building height provided each required yard is increased by 1 foot for each 3 foot of height.
³ The minimum lot area without municipal water and sewer is 40,000 square feet.

Table 6: DIMENSIONAL, DENSITY, AND BULK REQUIREMENTS: MIXED USE DISTRICTS								
Zoning District	Yard Requirements (ft)				Maximum Building Height	Maximum Building Coverage	Maximum Lot Coverage	Minimum Building Frontage
	Front Yard		Side Yard	Rear Yard				
	Min	Max	Min	Max				
MXV-1, Mixed Use Village 1								
Institutional	10 ft	30 ft	15 ft	15 ft	45 ft	70%	n/a	80 ft
Commercial	0 ft	10 ft	5 ft	15 ft	45 ft	70%	90%	25 ft
Mixed-Use	0 ft	10 ft	5 ft ¹	30 ft	45 ft	70%	90%	25 ft
Residential	5 ft	20 ft	12 ft	30 ft	42 ft	60%	75%	See note ²
MXV-2, Mixed Use Village 2								
Institutional	10 ft	30 ft	15 ft	15 ft	35 ft	70%	n/a	80 ft
Commercial	0 ft	10 ft	5 ft	15 ft	35 ft	70%	90%	25 ft
Mixed-Use	0 ft	10 ft	5 ft	15 ft	35 ft	70%	90%	25 ft
Residential	10 ft	20 ft	12 ft	25 ft	35 ft	60%	75%	See note ²
¹ For buildings or portions of buildings with residential uses on the ground floor, the front yard shall be a minimum of 5 feet. ² For multi-family buildings the minimum building frontage is 70 feet. For townhouse buildings the minimum frontage is 20 feet.								

§5.2 EXCEPTIONS AND MODIFICATIONS

A. Exceptions to Yard Requirements

1. In any district, on any lot, which fronts on a road having a right-of-way of less than fifty (50) feet, a building shall be located at a distance from the center line of such road not less than the depth of the required front yard in the district plus twenty-five (25) feet.
2. Side Yards: Side yard width may be varied where the sidewall of a building is not parallel with the side lot line or is broken or otherwise irregular. In such case, the average width of the side yard shall not be less than the required side yard; provided however that such side yard shall not be narrower at any point than one-half the required side yard width.
3. Side yard setbacks for unattached, non-enclosed carports and accessory structures in all zoning district, except the TB district, shall be a minimum of five (5) feet from the side property lines, which is zero.
4. Accessory structures exceeding 15 feet in height shall be subject to the setback requirements for the district in which they are located.
5. Notwithstanding the modifications allowed in this section, no building or structure shall have a front setback less than the minimum setback required in the district where located.

B. The following features may project from the structure into yards or courts as herein provided:

1. Cornices, canopies, eaves or other architectural features may project no more than 2 feet.

2. Fire escapes may project not more than 4 feet, 6 inches.
3. Any uncovered stair or landing may project not more than 3 feet.
4. Bay windows, balconies and chimneys may project not more than 3 feet.
5. Provided the following conditions are met, one-story additions and the enclosing and roofing of an attached deck which is no greater than 48 inches above grade may be constructed within the required 30' foot rear yard in the R-5 district:
 - a. The construction shall encroach no further than 10 feet into the required rear yard,
 - b. The interior space added or the deck space enclosed shall be no greater than 400 square feet,
 - c. The principal structure on the lot must be either a detached single-family house or a duplex, and
 - d. On duplex lots, the construction shall be on the side of the unit opposite the adjoining unit.

C. Fences and walls may be in required yards as herein provided:

1. Fences not exceeding 4 feet in height may be in any front yard provided they are not opaque.
2. No fence higher than 4 feet may be in a front yard except as provided in paragraph "4" below.
3. Fences and walls not exceeding 6 feet may be in any side or rear yard. No fence or wall exceeding six feet is permitted except in the Industrial District.
4. Fences and walls greater than four feet and up to six feet in height may be permitted in one front yard of a corner lot only provided the fence or wall is set back at least 9 feet from the road right-of-way.

D. Modification to Height Requirements

1. The building height requirements shall not apply to: Penthouses or roof structures for housing stairways, tanks, ventilating fans or similar equipment required to maintain and operate the building; fire or parapet walls, towers, steeples, flag poles, silos, tanks, monuments or other similar structures that projects into the air. When such structures extend beyond the maximum height otherwise permitted in the district they shall not occupy more than 25 percent of the lot area and shall be no less than 50 feet from all lot lines and rights-of-way.
2. An exception to the height limitations may be approved for any churches or building for religious worship, schools, institutional and public utility buildings and structures and any building or structure in the Industrial District provided that in each case for every 3 feet above the maximum height limit, the yard shall be increased by 1 foot over that otherwise required in the district.

3. In the General Business District, the side yard adjoining a residentially zoned lot shall be increased by 1 foot for every 3 feet of building height above 30.

§5.3 ACCESSORY STRUCTURES

- A. All accessory structures must be located behind the front building line in side or rear yards only. No more than four accessory structures shall be located on a single lot.
- B. In any district, except the TB and OI district, an accessory structure may be erected in a rear yard provided such structure is at least 10 feet from any street or alley right-of-way and 5 feet from any utility easement; at least 6 feet from any other accessory structure; at least 10 feet from the principal structure on the lot; and at least 5 feet from any rear lot line. In the OI district, accessory structures shall meet the minimum setbacks that apply to the use in the district and shall not be located forward of the principal building line.
- C. Accessory structures exceeding 149 square feet of coverage area require a building permit and shall meet the following:
 1. In the Residential Districts, the Mixed-Use Districts and in the TB District, accessory structures must be constructed of the same exterior building material of the principal building on the lot or an acceptable substitute consistent with the character of the dwelling or principal structure and the neighborhood. Structures commonly used in industrial applications are not permitted.
 2. In Residential zoning districts, accessory structure may not exceed a height of 25 feet, or an area of 600 square feet or 50 percent of the dwelling unit footprint, whichever is larger.

§5.4 EXCEPTION FOR REDEVELOPMENT OF PROPERTIES IN THE TOWN BUSINESS DISTRICT

Notwithstanding any provision in this Ordinance to the contrary, for properties in the TB District only, the Planning & Zoning Commission may require, upon receipt of an application for site plan review, that the dimension and bulk requirements, including front and side yard setbacks and building height, of any new or expanded structure be the same or substantially similar to those parameters which are present on the properties which adjoin it or are located within the immediate vicinity, provided that minimum requirements of this Ordinance are met.

ARTICLE 6: SITE AND BUILDING DESIGN STANDARDS

§ 6.1 STREAM BUFFERS REQUIRED

A minimum building setback of 25 feet shall be provided from all FEMA 100-Year floodplain boundaries or 50 feet whichever is greater from the bank of any of the following named streams: High Run Hunting Creek, Rouzer Run, and from any of the unnamed streams shown on the USGS Quadrangle Maps. This buffer shall be maintained or planted with natural vegetation. The Planning

& Zoning Commission may require this minimum buffer be increased in recognition of the presence of wet soils, steep slopes, the presence of natural drainage patterns, or other environmental factors.

§ 6.2 SURFACE WATER CONTROL

§ 6.2.1 APPLICABILITY OF REGULATIONS

- A. The requirements of this section apply to any commercial entity responsible for erecting new structures, including but not limited to commercial structures, industrial structures, and residential dwelling unit(s), or for making modifications to existing structures and/or lots, which cause a change in the flow of surface-water in the Town of Thurmont. These entities are referred to hereafter in this section as the “contractor.”
- B. It is the intent of the Town that the requirements set forth by the Frederick County Stormwater Management laws and regulations, Frederick County Code, Chapter 1-15.2, shall govern all contractors. In the event, any provision of this Section conflicts with the Frederick County Code with respect to Stormwater Management, the County law will control.
- C. The requirements shall apply to new structures and modifications to existing structures and/or lots for a period of two (2) years following issuance of an occupancy permit or in the case of modifications, completion of the construction activities.
- D. All requirements concerning damage to adjacent lots also apply to non-commercial entities erecting new structures or making modifications to existing structures and/or lots which cause a change in the flow of surface-water and will apply for a period of two (2) years following issuance of the occupancy permit for new structures or following completion of modifications to existing structures and/or lots. These entities are referred to hereafter in this section as the “owner”.
- E. Any change to a lot causing a substantive change in the flow of surface-water made by the purchaser shall result in the voiding of the contractor’s responsibilities under this section for that property.

§ 6.2.2 SURFACE-WATER CONTROL TECHNICAL REQUIREMENTS

- A. Requirements for mitigating the impacts of precipitation in amounts up to and including the “1-year, 24-hour storm event.”
 - 1. There shall be no standing water anywhere on a residential lot 24 hours after the precipitation has ended.
 - 2. Water flow on the lot during and immediately after the precipitation event shall occur primarily on the perimeter of the lot and have a depth or no more than 3 inches, shall not cause erosion on a yard that has been stabilized with vegetation, and shall not result in the deposit of silt or other debris on the lot.

3. Those portions of the structure at or below grade level shall suffer no leakage of water or seepage into the habitable part of the structure from surface-water.
 4. If active components such as sump pumps are utilized to prevent such leakage, they should be sized such that they operate no more than 50% of the time at any time during or after the precipitation.
 5. Any grading performed and surface-water control devices installed on the lot shall not result in damage to adjacent lots and structures and shall not cause requirements 1 through 3 above to be violated on the adjacent lots due to actions by the contractor, or the owner.
- B. Requirements for mitigating the impacts of precipitation in amounts up to and including the "10-year, 24-hour storm event"
1. There shall be no standing water anywhere on a residential lot 48 hours after the precipitation has ended.
 2. Water flow on the lot during and immediately after the precipitation event shall occur primarily on the perimeter of the lot and have a depth of no more than 5 inches, shall not cause erosion on a yard that has been stabilized with vegetation and shall not result in the deposit of silt or other debris on the lot.
 3. Those portions of the dwelling unit at or below grade level shall suffer no leakage of water or seepage into the habitable part of the structure from surface-water.
 4. If active components such as sump pumps are utilized to prevent such leakage, they should be sized such that they can fully discharge the necessary quantities of water to prevent leakage of water into the habitable part of the structure.
 5. Any grading performed and surface-water control devices installed on the lot shall not result in damage to adjacent lots and structures and shall not cause requirements A through C above to be violated on the adjacent lots due to actions by the contractor or the owner.
- C. Requirements for mitigating the impacts of precipitation in amounts up to and including the "100-year, 24-hour storm event."
1. Those portions of the dwelling unit at or below grade level shall suffer no leakage of water or seepage into the habitable part of the structure from surface-water.
 2. If active components such as sump pumps are utilized to prevent such leakage, they should be sized such that they can fully discharge the necessary quantities of water to prevent in leakage of water into the habitable part of the structure.
 3. Any grading performed and surface-water control devices installed on the lot shall not result in damage to adjacent lots and structures.
 4. All features required for storm-water control for a lot including grading, swales, channels/ditches, subsurface piping, pumps, etc. must be complete and in place prior to the issuance of an occupancy permit for the dwelling unit(s) on that property and the contractor must provide a certification to the Town to that effect.
 5. Nothing in these requirements relieves the contractor or owner from complying with all other applicable requirements identified in Town, County, State, and Federal laws, regulations, and design manuals.

§6.2.3 DISCLOSURE REQUIREMENTS

- A. For a commercial entity, responsible for erecting a new dwelling unit(s), the seller or its authorized agent shall disclose in writing to the buyer of a dwelling unit before a purchase is consummated, the information described below:
1. A copy of Section 6.2 of the Town's Zoning Ordinance.
 2. A description of all grading and surface-water control devices to be utilized to meet the above requirements on the property being sold including, but not limited to, the use of swales, rip-rapped ditches, subsurface drainage devices, pumps, etc. (No surface-water control devices shall be connected to, or in any way direct water to, the Town's sanitary sewer system).
 3. A description of the expected performance of the above devices during a 1, 10, and 100-year storm event.
 4. Any special conditions or restrictions required to be maintained to meet the above requirements such as the location of down-spout and sump pump discharges, limitations on vegetation in certain locations, periodic maintenance requirements for storm-water control devices, etc.
 5. A statement to the effect that the contractor shall be responsible for rectifying any deficiencies in meeting the above surface-water control technical requirements and that an irrevocable surety has been posted with the Town for a period of two (2) years from the date of the Occupancy Permit to assure compliance.
 6. A statement to the effect that any change to a lot causing a substantive change in the flow of surface-water made by the owner shall result in voiding of the contractor's surface-water control responsibilities for the property.
- B. The buyer shall sign the disclosure, prior to the purchase, indicating that they have read the disclosure in full and agree.
- C. A copy of the signed disclosure must be provided to the Town before an occupancy permit will be issued.

§6.2.4 SURETY REQUIREMENTS

At the time of applying for a zoning certificate for each new residential dwelling unit, the contractor or owner responsible for constructing the unit shall be required to provide to the Town either a cash deposit or an irrevocable letter or credit in the amount of \$0.50 per square foot of lot area per permit to assure compliance with the above requirements. The Town will hold any cash deposit in an interest-bearing account, and both the deposit and letter of credit are required to remain in place for a period of two (2) years following the date of the Occupancy Permit. Any deficiencies in meeting the above requirements and any resulting damage to an affected property as identified by the property owner and verified by the Town, require correction by the contractor or owner responsible for constructing the dwelling unit at their expense and in a timely manner (generally within one month). Failure to correct such deficiencies and damage in a timely manner will result in utilization of these funds by the Town for these corrections. If the cost of correcting the deficiencies and damage exceeds the funds in the cash deposit or letter of credit for the dwelling in violation of the

requirements of the section, the contractor or owner responsible for constructing the unit shall be responsible for providing the additional funds necessary for completion of the work.

§ 6.3 STRUCTURES WITH A BASEMENT NEAR WET SOILS

No zoning certificate or building permit shall be issued for construction of a residential structure with a basement if proposed on or within one hundred (100) feet of “wet soils” as defined in Section 7.3 of this Ordinance.

§ 6.4 MINIMUM LANDSCAPING REQUIREMENTS

- A. Landscape Plan: A landscaping plan shall be submitted for approval by the Planning & Zoning Commission as part of every Category 1 site plan and may be required by the Zoning Administrator for review of a Category 2 site plan.
- B. Content of Landscape Plan: A landscaping plan shall include dimensions and distances and clearly delineate all buildings and existing and proposed parking spaces or other vehicle areas, access aisles, driveways, and the location, size, species, planting method description, and number of all landscaping materials to be used.
- C. Minimum Screening Requirements
 - 1. All developments shall be fully screened on each side that adjoins a residential use up to the minimum height of four feet. Required screening shall consist of either a masonry wall or wooden fence not greater than six feet in height, an evergreen hedge, or a fully planted landscape area of at least ten feet in width.
 - 2. All service structures, which include dumpsters, propane tanks, air conditioning units, and related equipment or elements providing service to a building or site, shall be fully screened with landscaping and/or a fence or wall.
 - 3. Landscaping for all uses in the OI district shall be employed to create and foster a park like environment using materials, colors, and plant species that provide continuity with the overall character of the neighborhood including open spaces.
 - a. Trees and shrubs shall be used to both frame and partially screen so as to provide filtered views of the front face of the building as seen from the street.
 - b. Parking, if provided in the front yard, shall be limited to visitor parking.
 - c. Vegetation, decorative walls, or berms shall be employed to buffer the view of all parking areas, other non-vegetative surfaces, and outdoor storage from adjacent streets and all property lines.
 - d. Any security fence that may be required in the front yard or along any side yard bordering an “R” district shall be set behind a screen of vegetation.
 - e. Sidewalks shall be provided to connect the building and the site to the existing or planned network of sidewalks or trails, to minimize conflicts between pedestrians and car and truck traffic generated by the site and to compatibly integrate the site into the neighborhood.

- f. Any access driveway shall be fully screened with vegetation from any adjoining lot in an “R” district and setback from the such lot line to the greatest extent practicable.

D. Perimeter Parking Lot and Perimeter Site Landscaping: All off-street parking lots, whether or not located on the same lot as the use to which it is accessory, containing ten or more parking spaces and development sites generally shall meet the following perimeter landscaping requirements:

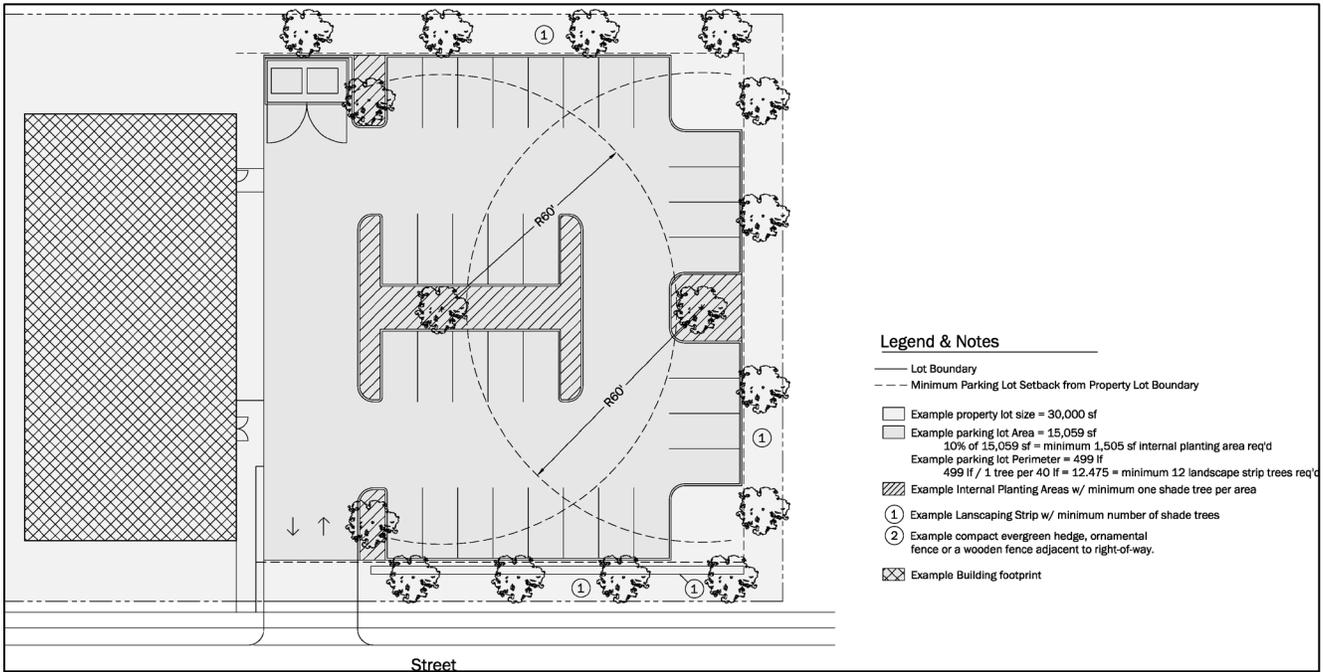
1. A landscaping strip with a minimum width of ten feet shall be located between the parking lot and adjoining lot lines but shall allow for any inter-parcel connections which the Planning & Zoning Commission may require for pedestrian, bike, or auto/truck movements.
2. A minimum of one shade tree for every 40 feet of lot perimeter shall be planted in the landscaping strip. Deciduous shade trees with ground cover or with low shrubs shall be used as the primary landscape materials.
3. Except at certain locations, such at intersections where site distance consideration dictate a lower profile landscaping approach, along any right-of-way, a landscaping strip shall be established of at least 7 feet in width and it shall be minimally provided with a compact evergreen hedge, an ornamental wall, or a wooden fence of not less than four feet or greater than six feet in height is required. Street trees shall be planted in this strip to the extent possible at a distance such that the sidewalk and street are shaded upon full maturity of the trees.
4. Within the TB District the Planning & Zoning Commission may modify the perimeter parking requirements upon finding that the historic quality of the streetscape and the objective of promoting compatibility with the overall streetscape dictate that alternative means for buffering and screening parking areas are required.
5. An existing naturalized area may be used to meet the standards of this section upon approval of the Planning & Zoning Commission.
6. The required landscape plan for a use in the I or OI District shall provide that a minimum forested buffer of 35 feet wide is established along the property lines that adjoin any residential zoning district.
 - a. The buffer shall be comprised of a variety of tree species that are native to the Thurmont area.
 - b. Deciduous trees shall be at least 2”inch caliper at time of planting and coniferous trees shall be at least 6 feet tall at time of planting.
 - c. The buffer shall be planted to secure complete year-round screening and buffering of all buildings, parking areas, and site operations, including outside storage and loading and unloading.
 - d. Preservation of existing wooded areas shall be the first priority in securing the required buffer.
 - e. Where the presence of existing buildings or structures prevent the establishment of required buffer, the buffer shall be planted to the fullest

extent possible to achieve the screening purpose of this section which may require, if present, the removal of existing hard ground surfaces to accommodate planting.

7. All front yards and side yards of the site not landscaped with plant material nor paved for pedestrian and vehicle uses shall be sodded and maintained as turf. Sod shall be installed to the curb or paved shoulder of the road. Swales, ditches and embankments shall be sodded or planted fully in vegetation in compliance with stormwater management regulations. The balance of the site, excluding areas approved for building expansion or maintained in a natural forested condition, shall be planted in turf with trees.

- E. Internal Landscaping of Parking Lots: Any parking lot of 25 or more spaces shall be internally landscaped with shade trees. Shade trees shall be planted in planting areas, which shall comprise at least ten percent of the internal area of the parking lot. Shade trees shall be installed such that no parking space is located more than 60 feet from a parking lot shade tree. Planting areas should be wide enough to allow for the mature growth of the trees chosen and no paving shall be located within 12.5 feet of the tree trunk. Illustration 1 shows the appropriate application of these standards.

Illustration 1



- F. Landscaping for Stormwater Management

1. Landscaping in relation to parking lots may be used for stormwater management provided the requirements of this section are met.

2. Bio-retention swales are allowed in perimeter and internal parking lot landscaping areas and planting areas provided they are located behind (on the non-street side of) the vegetative or structural screening.
- G. **Building Wall Yard Planting:** For all projects requiring a Category 1 site plan, a planting area shall be established along any building wall facing an adjacent parking lot or right-of-way. Shade trees, ornamental trees, and shrubs shall be planted in this planting area to aesthetically enhance the appearance of buildings and provide shade per the following minimum standard: one shade tree for every 50 feet of wall length and one ornamental tree for every 30 feet of wall length.
- H. **Required Planting Material:** In meeting the requirements of this Ordinance, only those plants listed on the Town's Recommended Plant and Landscape Guidelines, which shall be maintained by the Zoning Administrator, shall be used. Plants used should be native species.
- I. **Maintenance**
1. All plant material shall be tended to and maintained in a healthy growing condition, replaced when necessary and kept free of refuse and debris. Fences and walls shall be maintained in good repair.
 2. The owner shall be responsible for the maintenance, repair and replacement of all landscaping and screening materials as may be required by the provisions of this Section.
 3. Failure to maintain required landscaping, or to adhere to an approved landscaping plan, shall constitute a zoning violation subject to the remedies set forth in this Ordinance.
 4. Landscaping must be installed per the approved Plan, prior to issuance of a Certificate of Use and Occupancy. Owner or the owner shall secure the plantings through financial assurances or acceptable instruments acceptable to the Zoning Administrator in a sufficient amount as evidenced by a written estimate by a licensed landscaped architect or contractor to complete 110% of the landscaping project. The Town shall hold 50% of the surety amount for a period of two years following installation to ensure survivability.
 5. The owner shall undertake replacement of dead trees within 180 days of discovery or within the next planting season, whichever comes first.
- J. **Waiver or Modification**
1. If the Planning & Zoning Commission finds that a modification will not have any deleterious effect on existing or planned development of adjacent properties and finds that the purposes of this section and the Comprehensive Plan will be met, it may approve a waiver or modification of the requirements of this Section.
 2. Such waiver or modification may be approved in the following three instances: for an interim use of a duration of less than two years; where deemed appropriate due to the location, size, configuration or topographic condition of the lot; or where the project is in the TB District and strict application of the landscaping requirements would interfere with the purposes of the zoning district.

§ 6.5 PARKING AND LOADING

§ 6.5.1 PURPOSE OF REGULATIONS ON PARKING AND LOADING

- A. Intent: This section establishes requirements for motor vehicle and bicycle parking, including the minimum number of spaces required by land use, and minimum loading area requirements.
- B. Purposes
1. To ensure that adequate parking spaces are provided in relation to development sites at time of development so that parking does not overflow onto adjoining streets that may not be designed to handle it.
 2. To ensure that safe and convenient accommodations are made for bicycle parking.
 3. To ensure that safe and convenient spaces are reserved for loading where applicable to minimize interference with traffic and the circulation of vehicles and pedestrians on a site.

§ 6.5.2 OFF-STREET PARKING REQUIRED

- A. Schedule of Required Parking
1. Except as provided in §6.5.3, in all districts, space for parking vehicles shall be provided in accordance with the Schedule of Minimum Off-Street Parking Requirements by Land Use (Table 7).

Table 7

Single-family detached, duplex, two-family	2 per dwelling unit
Single-family attached, multi-family	2 per dwelling unit, plus overflow of 2 per five dwelling units
Elderly housing	1 per unit
Boarding house	1 per sleeping room
Bed and breakfast	1 per sleeping room
Churches and other buildings for religious assembly	1 per five seats
Hospitals	1 per bed
Nursing homes, convalescent homes, assisted living	1 per two beds
Medical and dental clinics and offices	1 per 150 sf of examination, office, treatment and waiting area
Daycare centers and similar uses	1.5 per 10 students
Elementary and middle schools	2 per classroom
High schools	1 per 10 students, plus 1 per employee
Theaters, auditoriums and similar	1 per four seats
Social, fraternal clubs and lodges	1 per 300 sf of floor area
Libraries, museums, art galleries	1 per 400 sf of floor area
General retail	4 per 1,000 sf of gross leasable area
Banks, financial institutions, and similar	1 per 300 sf of floor area
Automotive repair or service	3 per bay
Automotive and other motor vehicle sales	1 per 600 sf of floor area
Hotels, motels	1 per room, plus 5 spaces
Shopping centers	4 per 1,000 sf gross leasable area

Other commercial uses of a personal or business service nature not specified elsewhere	1 per 400 sf of floor area
Restaurants	1 per 50 sf floor area devoted to customer service, excluding preparation and storage, or 1 per four seats, whichever is greater
All industrial uses	1 per two employees for largest shift, with at least 1 per 600 sf of floor area

2. Subject to approval by Planning & Zoning Commission, off-street parking requirements may be varied or modified within any officially designated Historic District and for designated historic properties.
3. In the review and approval of site plans and subdivision plats, to minimize the amount of impervious surface coverage and implement the purposes of this Ordinance, the Planning & Zoning Commission, may require that all or some portion of parking surface area and on-site driveway surfaces be constructed of a pervious surface approved by Frederick County SWM.

B. Minimum Parking Space Area

1. An off-street parking space shall have the standard minimum dimension of 18 feet of length and 9 feet of width and include any necessary additional maneuvering area.
2. Space for maneuvering incidental to parking or un-parking shall not encroach upon any public right-of-way.
3. When the computation of required parking spaces results in a fractional number, only the fraction of ½ or more shall be counted as one.
4. Compact parking spaces: Subject to the approval of the Planning & Zoning Commission, if more than 20 spaces are required, the applicant may designate up to 20 percent of the spaces as compact spaces with a minimum width of eight feet and length of 17 feet provided such spaces are marked or signed for compact use only.
5. Handicapped Parking Spaces. The minimum dimension shall be 9 feet wide by 18 feet long with an adjoining access aisle of at least 5 feet wide and 18 feet long. Two such spaces may share a common aisle. Each space shall be marked on the pavement in addition to a sign mounted a minimum of 7 feet above grade reading “Handicapped Parking Only”. All parking facilities and site amenities shall comply with the Americans With Disability Act of 1990 (“ADA”), as amended, regarding facilities for the handicapped.
6. No part of any parking space shall be closer than seven feet to any public road right-of-way or to any property line, excluding driveways and aisles at the intersection of said right-of-way.
7. No parking for non-residential uses is permitted in a front yard of any Residential district.
8. Off-street parking areas for more than 5 vehicles shall be constructed and surfaced in accordance with Town specification and shall be graded as needed to properly manage stormwater.

9. Parking in Front Yards: The use of the area in any required front yard between the house and the street for parking is prohibited.

§ 6.5.3 MODIFICATION OF PARKING REQUIREMENT

- A. Due to Site Conditions: Should the configuration of the lot, the placement of existing conforming structures, or a change of use to a conforming and more intensive use, preclude strict adherence to §6.5.2, the Planning & Zoning Commission, in relation to a Category 1 Site Plan, or the Zoning Administrator in relation to a Category 2 site plan, may modify the parking requirements provided there are findings of facts that:
 1. Adequate public off-street parking is available within reasonable walking distance, or;
 2. On-street parking is available and adequate and the parking required by the contemplated use will not materially impede the flow of traffic or preempt existing residential parking; or
 3. A written agreement is established and made part of any site plan approval, allowing parking required by the use to be located on an off-street parking lot within a reasonable walking distance.
- B. Due to Joint Use of Parking: Where joint use of parking by one or more uses is possible, the Planning & Zoning Commission, in relation to a Category 1 Site Plan, or the Zoning Administrator in relation to a Category 2 site plan, may modify the parking requirements provided there are findings of facts that:
 1. Joint use of parking spaces will not reduce the availability of parking spaces below the minimum required number of spaces required by each use during its peak demand.
 2. A written agreement is established and made part of any site plan approval providing for the joint use of spaces.
- C. Due to Lack of Demand: Should the applicant demonstrate and the Planning & Zoning Commission, in relation to a Category 1 Site Plan, or the Zoning Administrator, in relation to a Category 2 site plan, find that a sizeable share of site-related traffic would access the site by bicycle and/or walking, then the minimum parking requirements may be reduced accordingly.

§ 6.5.4 MINIMUM BICYCLE PARKING REQUIREMENTS BY LAND USE

A. Schedule of Required Parking:

Bicycle parking shall be provided in accordance with the following schedule. In all districts, either space for parking and/or storage of bicycles shall be provided or the applicant shall demonstrate that adequate bicycle parking is provided for.

bed and breakfast, hotels, motels	the greater of 2, or 1 per 25 employees,
retail sales, service operations	the greater of 2, or 1 per 5,000 s.f. gfa
offices and office buildings	the greater of 4, or 1 per 5,000 s.f. gfa
museums, libraries, similar	the greater of 4, or 1 per 2,000 s.f. gfa
churches, similar	1 per 50 seats
community centers	1 per 250 s.f. gfa
schools	
a) elementary	1 per 10 students
b) middle and high	1 per 6 students
indoor amusement	4, or 1 per 50 seats
restaurants	4, or 1 per 50 seats
other commercial, industrial	2, or 1 per 50 employees

B. Waiver or Modification

The Planning & Zoning Commission may waive or modify the bike-parking requirement in the TB District upon finding that there is an adequate supply of publicly accessible bike parking already provided within a 300-foot walking distance.

C. Design of Bicycle Parking Spaces

1. Each bicycle parking space shall be sufficient to accommodate a bicycle at least six (6) feet in length and two feet wide, and shall be provided with some form of stable frame permanently anchored to a foundation to which a bicycle frame and both wheels may be conveniently secured using a chain and padlock, locker, or other storage facilities which are convenient for storage and are reasonably secure from theft and vandalism. The separation of the bicycle parking spaces and the amount of corridor space shall be adequate for convenient access to every space when the parking facility is full.
2. When automobile parking spaces are provided in a structure, at least 70 percent of required bicycle spaces shall be located inside that structure or shall be in other areas protected from the weather. Bicycle parking spaces in parking structures shall be clearly marked as such and shall be separated from auto parking by some form of barrier to minimize the possibility of a parked bicycle being hit by a car.
3. Bicycle parking spaces shall be located near the entrance of use being served and within view of pedestrian traffic if possible, and shall be sufficiently secure to reasonably reduce the likelihood of bicycle theft.
4. Bicycle parking facilities shall not impede pedestrian or vehicular circulation.
5. Racks must not be placed close enough to a wall or other obstruction so as to make use difficult. There must be sufficient space (at least 24 inches) beside each parked bike that allows access. Adjacent bicycles may share this access. An aisle or other space shall be provided to bicycles to enter and leave the facility. This aisle shall have a width of at least six feet to the front or rear of a bike parked in the facility.

6. The outside ground surface of bicycle parking areas shall be a paved or other hard surface. Bike parking facilities within automobile parking lots shall be separated by a physical barrier to protect bicycles from damage by cars, such as curbs, wheel stops, poles or other similar features.

§ 6.5.5 OFF-STREET LOADING SPACES REQUIRED

In any district, in connection with every building or part thereof, having a gross floor area of 4,000 square feet or more, whenever the normal operation of the use requires that goods, merchandise, or equipment be routinely delivered to or shipped from that use, sufficient loading and unloading space shall be provided for and the Planning & Zoning Commission may require that adequate off-street loading areas be provided and maintained on the same lot as the building or use. Loading space shall be not less than ten feet in width, 45 feet in length, and 14 feet in height.

§ 6.6 TOWNHOUSE DEVELOPMENT

- A. The gross density shall be based on allowing one unit per 4,000 square feet of gross land area. When recorded as individual lots, each townhouse lot shall have a minimum of 1,800 square feet. The lots shall not include any part of the parking area or driveway.
- B. Minimum width for a townhouse shall be 20 feet.
- C. There shall be no less than three and no more than six (6) townhouses in an attached row.
- D. The minimum distance between any blocks of units shall be 45 feet, except that a break between the side of one block and the side of another block may be reduced to a minimum distance of 30 feet.
- E. Maintenance: If the townhouse development provides for common area, property for facilities, they shall be conveyed to an incorporated non-profit homeowners' association created under recorded land agreements through which each lot owner is automatically a member and through which each is automatically subject to a change for a proportionate share of common property maintenance.
- F. Open Space: There shall be 750 square feet of open space within the development for each dwelling unit; At least 50 percent of the open space shall be suitable as usable recreational space and for any townhouse development of six or more units, any recreational space held in common shall be at least 50 feet in the least dimension with a minimum area of 5,000 square feet.
- G. Garage. A garage physically attached to or built within a townhouse unit shall not be counted toward meeting the minimum parking requirement for that unit.

§ 6.7 GENERAL BUILDING DESIGN STANDARDS

§ 6.7.1 PURPOSE AND APPLICABILITY

- A. Purpose: This section is intended to establish the general requirements for the appearance of buildings that are subject to site plan review and approval and through the application of these standards to promote and protect a cohesive architectural and aesthetic character within the town.
- B. Applicability: These provisions shall apply to all developments where site plan review is required and shall be enforced through the site plan approval process.
- C. Required Submittals
 - 1. All Category 1 site plans shall include proposed street front elevations prepared by a licensed architect for all buildings.
 - 2. The Zoning Administrator may require that Category 2 site plan submittals contain street front building elevations prepared by a licensed architect.

§ 6.7.2 KEY TERMS: PROPORTION/RHYTHM/SCALE

- A. Terms
 - 1. Proportion refers to the relationship between width and height of building facades.
 - 2. Rhythm refers to the repetition and space of opening (windows and doors) on individual buildings as compared with adjacent structures. Rhythm also refers to the space of repetitive building masses along a street.
 - 3. Scale: refers to the size (height/width) relationship between adjacent structures. Human scale refers to the comfortable size relationship between buildings and people.
- B. Standards: The appropriate application of the basic design standards are set forth below:
 - 1. The proportional relationship of individual facades shall emphasize the vertical rather than the horizontal.
 - 2. Large disparities between the height, width, and length of a building shall be avoided.
 - 3. Large blank walls shall be avoided. Buildings shall be designed to support a human-scale environment. One of the windows on each floor may be substituted with another architectural element such as a chimney, door, garage, deck, or other element that creates visual interest and eliminates blank walls.
 - 4. Buildings and accessory structures shall be compatible with neighboring buildings and structures in terms of height, proportion, rhythm, and scale.

5. All of the design elements of a building shall maintain the same architectural style in terms of proportion, rhythm, and scale as the overall style of the building.
6. Buildings shall be designed to promote a pattern of closely spaced buildings with multiple entrances.
7. Rooftop and exposed mechanical electrical equipment shall be screened from view. Screening shall be architecturally integrated with buildings.
8. Building Orientation: buildings and their main entrances shall face the front yard on the lot.
9. In new construction, the roof of buildings should conform to the predominant orientation of roofs on the street.

§6.8 SIGNS

§6.8.1 PURPOSE

This section is intended to regulate the placement, type, size, and number of signs allowed within the Town and to require the proper maintenance of signs. The purpose is to:

- A. Ensure that signs safely attract and direct persons to various destinations;
- B. Protect public and private property values and public safety;
- C. Protect motorists and pedestrians from hazards which may result from excessive, confusing, and distracting signs, and
- D. Preserve the aesthetic, scenic, and historic qualities of the Town including the historic town center.

§6.8.2 DEFINITIONS

The following terms in this Chapter shall have the meaning here set forth. Any word or term not defined in this section shall have the ordinarily accepted definition set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged.

- A. Sign: is any structure, or device, in whole or in part, which uses symbolic representations to direct attention, to identify or communicate content about any activity, person, group of people or thing.
 1. Awning Sign: is a sign that is either affixed to, attached, painted on, or otherwise applied to an awning.
 2. Banner Sign: is a temporary sign which is constructed of material which can be easily folded or rolled (such as canvas, fabric, or other light-weight material) but not including paper or cardboard, that is mounted with no enclosing framework.
 3. Billboard Sign: is a sign intended for display in public places such as along roadsides or on buildings situated on that portion of a property used for the purpose communicating to passersby content generally unaffiliated with the use of the property itself.

4. Feather Flag Sign: A freestanding temporary sign typically constructed of a single shaft or pole driven into the ground with an attached pennant set vertically.
5. Freestanding Sign: is a self-supporting sign resting on or supported by two or more supporting elements or any other type of base on the ground.
6. Ground Mount Sign: is a freestanding sign suspended by or supported by two or more uprights or braces anchored in the ground with no more than 30 inches' clearance from the bottom of the sign face to the ground below.
7. Hanging sign: a sign parallel to the building facade that hangs from the underside of the roof of a porch or covered walkway.
8. Illegal sign: is any of the following: (1) a sign placed in public view without first obtaining a permit and complying with all regulations in effect at time of its placement, construction or use; (2) a sign legally placed or constructed on a property the specific use of which has ceased or a sign that is not being used by the sign owner for a period of 90 days; (3) a nonconforming sign, the amortization period if any, provided by ordinance, for rendering the sign conforming has expired without conformance being accomplished; (4) a sign that was legally placed or constructed which later became nonconforming and then was damaged for any reason to the extent of 50 percent or more of its current replacement value; (5) a sign which is a danger to the public or is unsafe; or (6) a sign which is a traffic hazard not created by the relocation of streets or by acts of the Town; or (7) a sign that pertains to a specific event and five days have elapsed since the occurrence of the event.
9. Monument Sign: is freestanding sign with a continuous solid base on the ground that is at least as wide as the horizontal width of the sign face it supports and is designed as an architecturally integrated element of the sign.
10. Pole Sign: is a freestanding sign that is mounted on a pole or poles or like support with clearance from the bottom edge of the sign face to grade exceeding 30 inches.
11. Portable Sign: is an unlit sign that is not permanently affixed to a structure or to the ground, or permanently attached to any fixed location being primarily intended to be moved by carrying or by mechanical towing or hauling regardless of modifications that may limit its movability.
12. Projecting Sign: is a sign attached to a building and projecting out from the wall or part of the building generally at right angles to the building.
13. Temporary Sign: is a display constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood or that like material that appears to be intended to be or is determined by the Zoning Administrator to be displayed for a limited period of time. A banner sign is a temporary sign unless enclosed completely in a solid frame.
14. Wall-mounted Sign: is a sign affixed to (including painted or engraved) and mounted parallel to the building facade or wall in such a manner than the facade or wall becomes the supporting structure for the sign.
15. Sign Area: is the amount of signage computed in square feet as provided for in §6.8.8 A1(a).
16. Sign Face: is the display surface of a sign. The frame or structural members may be considered part of the sign face if designed to look like the sign face or to be used for display. Calculation of the area of a sign face shall be as provided for in §6.8.7A1(a).

17. Sign Owner: is the permittee with respect to any sign for which a sign permit has been issued, or with respect to a sign for which no permit is required or has been obtained, "sign owner" means that person entitled to possession of such sign or the owner, occupant, or agent of the property where the sign is located

§6.8.3 APPLICABILITY

- A. Any sign erected, placed, attached, altered, reconstructed, or modified shall conform to this Chapter.
- B. Existing signs shall not be altered or moved unless in compliance with this Chapter.

§6.8.4 ADMINISTRATION

- A. Unless a sign is expressly allowed without permit by this Chapter, no sign shall be installed, constructed, or altered unless a sign permit, or where applicable, a sign program approval, is first obtained.
- B. After approval of a sign permit and/or sign program, each sign installed and maintained on the subject site shall comply with the permit and program.
- C. Sign Permit Application: An application for a sign permit shall be filed with the Zoning Administrator.
 1. For any development projects requiring Category 1 site plan review, the approval authority shall rest with the Planning and Zoning Commission and the Zoning Administrator shall issue a sign permit if approved by the Planning Commission. Where Category 1 site plan review is not indicated, the approval authority shall rest with the Zoning Administrator. Either approval authority may place conditions on its approval that are reasonably necessary to achieve the purposes of this Chapter.
 2. Application Contents: The application shall include required application fees, architectural elevations and plans of all proposed signs drawn to scale, with all dimensions noted, and include illustrations of copy, colors, materials, and samples of the proposed colors and materials. The plans submitted shall also show the location of each sign on buildings and the site.
- D. Sign Programs. A sign program shall be submitted with a Category 1 site plan for any multiple occupancy commercial, professional, industrial, residential, or institutional site; or separately identifiable building group, such as a medical complex or shopping center; or any individual site of at least one acre in size or with a proposed development exceeding 10,000 square feet in total building floor area.
 1. Purpose of Sign Program. The purpose shall be to establish unified signing for all

tenants and users of a complex, center or development site and facilitate compliance with and administration of this Chapter.

2. An approved sign program shall prescribe the standards for all signs within the area covered by the program including the size, number and types of signs.
 3. Sign Program Review Authority. A sign program will be reviewed and approved by the Planning Commission concurrent with site plan approval.
 4. Program Conformance with Chapter. A sign program shall comply with all Provisions of this Chapter and is not intended to provide special or additional signing.
- E. Findings for Approval. The approval of a sign permit or sign program shall require that the approving authority first make the following findings:
1. The proposed sign(s) do not exceed the standards of this Chapter and as applicable, are of the minimum size and height necessary to enable motorists and pedestrians to readily identify the facility or site from a sufficient distance to safely and conveniently access the facility or site; and
 2. The proposed signs are in substantial conformance with any design criteria that may be adopted and maintained by the Zoning Administrator provided for in paragraph "G" of this section.
- F. Expiration of Sign Permits and Sign Program: A sign permit shall expire one year from the date of its issuance unless it is approved as part of a Category 1 site plan in which case the expiration would coincide with the expiration of the site plan. An approved sign program would expire on the date the site plan, to which it belongs, should expire.
- G. Sign Design Guidelines: The Zoning Administrator is authorized to prepare and maintain guidelines for applicants regarding the placement, appearance, design, and construction materials for signs within the various districts of the Town and the Administrator should use such guidelines to assist applicants in complying with the purpose and provisions of this Chapter.
- H. The dimension requirements provided in this Chapter represent the maximum size or area or distance allowed. Nothing in this Chapter shall be deemed to imply that these regulations confer a right to the maximum.
- I. References to "residential districts" means the R-1, R-2, R-3, R-5 and ARP districts; to "mixed-use districts" means MXV-1 and MXV-2; and to "non-residential districts" means the TB, GB, I, and OI districts.

§6.8.5 PROHIBITED SIGNS AND SIGNING

- A. No signs shall be attached to utility poles, traffic signal poles, traffic control posts/signs, rocks, fences, or trees visible from the public right-of-way whether on public or private property.
- B. No sign shall be painted directly on a wall or roof of a building or fence.
- C. Except as provided in Sections §6.8.6C and §6.8.10F and for official governmental signs, no sign shall be placed within or overhang any public right-of-way or publicly held access easement within the Town.
- D. Except for official traffic signs, no sign shall be displayed, visible from the public right-of-way, which uses the words “stop” or “danger” or that implies a need for or requirement of stopping or the existence of danger.
- E. Except as provided in §6.8.8C no sign shall project intermittent or flashing illumination excluding official public road or street signs intended to promote traffic safety. No sign shall be erected or maintained which by use of lights or illumination creates a distracting or hazardous condition to a motorist, pedestrian, or the public.
- F. No signs shall be attached to or project above any element of a roof structure including the eaves, soffit, or fascia or the entablature of colonnaded structure or interfere with architectural expression of such elements or the roofline.
- G. Except as provided in section 6.8.7D, moving, flashing, windblown and all other fluttering, spinning, or similar type signs which includes sign balloons or other inflated objects are prohibited except that pennants, banners, feather signs, and streamers are permitted for bona fide public interest festivals and events, outdoor public markets, carnival or outdoor temporary amusements that are subject to regulation by the town, and public and private grand openings where the display is limited to one 7-day period. For these types of signs, the Zoning Administrator is authorized to impose on a case-by-case basis, restrictions on time, manner and place to further the purposes of this chapter.
- H. No flashing or rotating sign shall be permitted.
- I. No sign shall be located which will interfere with vehicular and pedestrian visibility along a public right-of-way or along any private driveway existing or entering a site or on any slope or drainage easement of a street.
- J. Signs that are obscene, illegal, hazardous to traffic, imitative of official government signs (i.e., Stop, Danger, Caution, etc.) or obstructive to public visibility so as to create a hazard to the public are prohibited.
- K. When a sign structure does not include a legal sign for a period of 90 consecutive days, such sign structure shall be deemed a violation and shall be removed.
- L. No sign shall be permitted which becomes unsafe or endangers the safety of a building, premise, or person. The Zoning Inspector is authorized to order such sign to be made safe or be removed and such order shall be complied with within seven days of the receipt of such order.

- M. No sign shall be permitted which through damage, disrepair or lack of maintenance has become impaired in its functionality or blighted in its appearance.
1. The Zoning Inspector is authorized to order such sign to be repaired, replaced, or removed and such order shall be complied with within 45-days of the receipt of such order.
 2. Failure to comply with the Zoning Inspector's order shall result in the loss of any legal non-conforming status that may exist for the sign and require the sign to be removed and/or to come into compliance with this Chapter.

§6.8.6 SIGNS PERMITTED WITHOUT ZONING PERMIT

The following signs only are permitted without obtaining a Sign Permit or Sign Program approval subject to conditions set forth below:

- A. Official traffic, parking, way finding, and public notification signs and Town ornamental or decorative signs provided they are erected by a governmental agency.
- B. Temporary signs as defined in §6.8.2, provided the following conditions are adhered to:
 1. A property owner may place one temporary sign on the property without restriction one time if the sign is no greater than 4 square feet in area and 5 feet in height. These dimension standards shall apply to any temporary sign allowed by this section.
 2. In addition to one sign allowed without restriction one time by §6.8.6B1, one temporary sign may be located on the property when that property is being offered for sale or lease for a period ending 15 days following the date on which a contract of sale or lease has been executed by a person purchasing or leasing the property. If the sign face is attached to a post, the top of post shall be no more than 72 inches above grade.
 3. In any calendar year, for up to 60 days in a residential district and 30 days in non-residential district, a property owner may display temporary signs in excess of the two signs expressly allowed by this section.
 4. No temporary sign shall be attached or secured to a building, fence, porch, railing, tree, or any other object or structure.
 5. No temporary sign shall be located within 10 feet of a public road right-of-way.
 6. Nor shall any such sign be located in a required side yard setback or within 2 feet of a side property line in the TB district.
- C. Within mixed-use and non-residential districts one A-frame sign (easel-type and sandwich-board signs) provided the following conditions are met:
 - a. The sign shall not exceed 6 square feet or 4.5 feet in height and 2 feet in

width.

- b. The sign shall not impede pedestrian traffic or motor vehicle visibility, be located such that no less than 5 feet of clearance is reserved for pedestrians on a public sidewalk and shall be removed before nightfall.
- D. Signs accessory to parking lots and parking garages provided the following conditions are adhered to:
1. Signs designating entrances and exits shall be limited to one sign per entrance and one per exit and neither sign shall exceed 2 square feet.
 2. One additional sign limited to a maximum area of 9 square feet is permitted which may be used to set forth conditions of use or identify the ownership of the parking area.
 3. No such sign shall exceed 7 feet in height.
- E. Commemorative plaques. Signs commemorating an historical building name register and/or erection date, when cut into or affixed to a permanent surface and not exceeding 4 square feet per building.
- F. Interior signs. Signs located more than 5 feet inside of exterior window walls or doors of any building when such signing is intended for interior viewing.
- G. Street number, address, and/or name. Two such signs for each principal building, not exceeding 1 square foot each in residential and mixed use districts, and 3 square feet each in all other zoning districts.
- H. In non-residential districts, on-site directional signs and notices and other types of incidental signs showing for example the location of entrances or hazards and the public facilities on a site such as restrooms and underground utilities. Such signs are not counted against the maximum allowable sign area permitted on a site.
- I. In non-residential districts, umbrella signs and content applied through the manufacturing process (such as letters or logos applied on fabrics) to incidental and portable site furniture including umbrellas and outdoor seating. Such signs are not counted against the maximum allowable sign area permitted on a site.
- J. Within non-residential districts window displays and signs erected or suspended in the interior of a structure to be viewed from the outside provided the following conditions are adhered to:
1. No more than 33 percent of the window area is covered in signing.
 2. The area of window signing shall be included in the count of maximum allowable sign area for the site.

§6.8.7 PERMITS FOR CERTAIN TEMPORARY SIGNS

- A. A single temporary sign that exceeds the quantitative standards set in §6.8.6B1 may be allowed only by permit under the following conditions:
1. It complies with all other sign standards and requirements of this Chapter for the district where located and the land use as regulated.
 2. A temporary sign permit will allow the property owner to display a sign only at the specific location(s) on the site and/or building noted.
 3. The temporary permit will entitle the owner to interchange one temporary sign with any other temporary sign with the same dimensions.
 4. Under the permit, the display of the temporary sign(s) shall be limited to 90 days during the 365-day period the permit is valid.
 5. Failure to obtain a permit for any temporary sign not otherwise expressly allowed without permit by §6.8.6B, or to comply with the conditions of this section, subjects the sign and/or property owner to the enforcement provisions of this Chapter.
- B. A temporary sign permit shall automatically expire one year after its issuance or after the 90th day of the display of the sign except as provide in subsection C below.
- C. One temporary sign associated with the opening of a development or subdivision may be allowed by permit provided the following requirements are met:
1. It is no greater than 32 square feet in size for development tracts less than ½ acre or 50 square feet for tracts larger than ½ acre.
 2. It is not greater than 8 feet in height.
 3. It is removed within 90 days of its installation except that for developments involving the dedication of public streets, the sign may remain in place until the dedication of associated public streets and/or utilities or for a complete and uninterrupted one-year period.
- D. Notwithstanding the limitations in this ordinance pertaining to temporary signs, feather flag signs are permitted in the General Business District but only as accessory to those establishments in a shopping center that do not directly front or face a public right-of-way, provided the following conditions are maintained:
1. No more than 1 such sign per 50 linear feet of the shopping center's total public street frontage or 4 such signs, whichever is less, is allowed.
 2. No such sign shall remain displayed beyond the daily close of business of the sign owner.
 3. No such sign shall exceed the dimensions of 8 feet by 2 feet nor be mounted at a height greater than 10 feet from the ground.

§6.8.8 GENERAL STANDARDS

A. Computations of Area and Height.

1. Area.

- a. The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or wall when such wall otherwise meets the zoning regulations in this title and is clearly incidental to the display itself.
- b. Only one face of a double-faced sign shall be computed for sign area provided the two faces are no more than two feet apart.

2. Height. The height of a sign shall be computed as the distance from the base of the sign structure at normal grade to the top of the highest attached component of the sign or sign structure. Normal grade shall be construed to be the lower of:

- a. existing grade prior to construction or
- b. the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zoning lot, whichever is lower.

B. Sight Visibility

1. No sign shall obstruct a clear view to and from traffic along any street right-of-way, or block visibility of a site entrance or exit or a building entrance or exit.
2. At roadway intersections, a sight visibility triangle shall be kept free of obstructions to vision between the heights of two and one-half feet and twelve feet above the street.

C. Where Electronic/Digital Message Board Signs are allowed by this chapter, they shall meet the following minimum standards:

1. The sign displays only static messages that remain constant in illumination intensity and does not have movements or the appearance or an optical illusion of movement.
2. The sign does not operate at an intensity level of more than **0.3** foot-candles over ambient light as measured 150 feet away.

3. The sign is equipped with a fully operational light sensor that automatically adjusts the intensity of the screen in accordance to the amount of ambient light.
4. The sign does not change from one message to another more frequently than once every 12 seconds and the actual change process is accomplished in 2 seconds or less.
5. The sign shall be designed to either freeze the display in one static position, display a full black screen or turn off in the event of a malfunction.
6. Except in the GB district, the sign may only be a freestanding monument type of sign. However, in no district shall a sign be hung in a window or attached to a building.

§6.8.9 STANDARDS SPECIFIC TO THE RESIDENTIAL AND MIXED-USE DISTRICTS

Except for signs allowed without permit, signs permitted in the residential districts shall be limited to the following as here qualified:

- A. For any open space, park or multi-family use and all mixed use districts any legally non-conforming commercial use, and the permitted uses in the residential districts enumerated in Table 1 (§4.2.4 of this Ordinance) under the Institutional and Miscellaneous headings:
 1. One freestanding sign is permitted meeting the following standards:
 - a. Maximum sign area shall be 24 square feet for lots one acre in size or larger or 12 feet for lots smaller than one acre.
 - b. Maximum sign height shall be 6 feet.
 - c. Maximum distance from any lot line shall be 8 feet except that any lighted sign shall be set back 20 feet from any side lot line.
 - d. The sign shall not be in a parking lot.
 - e. On lots with an institutional and governmental use permitted by right or special exception on a lot of at least two acres in size and on a collector street, one electronic/digital message board sign is permitted provided it is set back from its front lot line(s) at least 10 feet.
 - f. An approved sign program may provide for an additional freestanding sign of up to 12 square feet in size when a lot exceeds one acre or has two public street frontages provided the added sign is placed on the second frontage.
 2. One wall-mounted sign is permitted meeting the following standards:
 - a. If illuminated it shall be lit only by fixture(s) external to the sign face.
 - b. It shall be located no higher than the second-floor windowsills.

- c. Maximum sign area shall be 24 square feet.
 - d. Maximum letter / content height shall be 18 inches.
- B. For bed and breakfasts and home occupations, (§4.2.4 of this Ordinance), one sign is permitted meeting the following standards:
- 1. If a freestanding sign, the sign shall meet the following standards:
 - a) Maximum sign area shall be 3 square feet
 - b) Maximum sign height shall be 4 feet
 - c) Minimum distance from a front lot line shall be 8 feet
 - d) Minimum distance from a side lot shall be 4 feet
 - e) If illuminated, it shall be lit by indirect means only.
 - 2. If a hanging sign, the sign shall meet the following standards:
 - a) Its area shall not exceed 3 square feet
 - b) If illuminated, it shall be lit by indirect means only, unless by indirect means.
- C. Subdivision or Community Entrance Signs: One freestanding sign not exceeding 12 square feet in area and 6 feet in height may be located at each street entrance. If illuminated the sign shall be lit only by fixture(s) external to the sign face and be set back at least 8 feet from the front lot line.

§6.8.10 STANDARDS SPECIFIC TO NON-RESIDENTIAL DISTRICTS

This section sets forth the standards and requirements on the placement of signs including the allowable location, type, area, number, and size of signs specific to the Town Business, General Business, Industrial, and Office Industrial zoning districts, except as may be qualified under

- A. Freestanding Signs
- 1. One freestanding sign is permitted per site. An approved Sign Program may provide for an additional freestanding sign when a lot exceeds two acres in size or has two public street frontages.
 - 2. Freestanding signs shall not be located within parking lots.
 - 3. The area of a freestanding sign shall not exceed 32 square feet.
 - 4. Freestanding signs shall not exceed a maximum height of 6 feet in the TB district and 10 feet elsewhere.
 - 5. There shall be a distance of at least 10 feet from any part of a freestanding sign to a public right-of-way.

6. A freestanding sign shall be either a monument or a ground-mounted sign, except as may be required under the provisions of §6.8.11 .
- B. Projecting signs. Projecting signs shall not project more than 30 inches from the face of a building or structure and any such sign projecting over a public sidewalk or other walkway, or a building entrance or exit shall have a minimum clearance of eight feet above the ground.
 - C. Windows Signs. Window signs are permitted provided no more than 33 percent of any single window is covered in sign area. Window sign area shall be included in the count of maximum allowable sign area for the site.
 - D. Banner signs. Unless a banner sign is structurally framed, enclosed in framework, and such framework is affixed to a wall in a permanent fashion its display on a building wall shall be limited to 30 days in the sign owner's legal occupancy of the building or site.
 - E. Marquee. A marquee sign shall require site plan review by the Planning Commission and may be permitted provided the sign area for the site with the marquee does not exceed the maximum allowable sign area in that district.
 - F. Wall Mounted Signs
 1. The area of a wall mounted sign shall be limited as follows:
 - a. In the TB district, no single wall mounted sign shall exceed 30 square feet in area.
 - b. In the GB district, no single wall mounted signs shall exceed 50 square feet in area unless approved as part of a Sign Program where the proportion and scale of the sign will be evaluated.
 - c. Notwithstanding the above standards, in no district shall one wall-mounted sign exceed 7 percent of the total area of the face of the building to which it is attached inclusive of windows and door openings.
 2. Wall mounted signs, shall be no higher than the second-floor windowsill on a building or 15 feet from the ground for buildings or structures where the second story is not articulated with windows.
 - G. Vehicle Mounted Signs. Signs mounted to a parked motor vehicle or trailer, visible from a public right-of-way, used for signage exceeding 12 square feet in area or six feet in height are not permitted. One such sign, 12 square feet or less in area and 6 feet or less in height, is allowed with a permit under the following conditions:
 1. The vehicle is a registered, tagged, and operable vehicle and is parked in an approved designated parking space associated with the physical address of the sign owner provided the parking spaces available on the site meet the minimum requirements for the current use.

2. The area of the sign attached to a motor vehicle shall count against the allowable sign area and/or total number of signs for the site on which the vehicle is legally parked.
3. No such sign shall be displayed more than 60 days in a year.

H. Awning signs

1. Any portion of an awning containing copy or communicative content shall be included in the overall calculation for allowable sign area for the site.
2. Signs attached to an awning shall not project above the awning.
3. One awning sign is permitted, the size of which shall not exceed 25 percent of the area of the awning.

I. Maximum Sign Area:

1. The maximum allowable sign area for all signs on a site shall be 1.5 square feet per foot of linear building frontage on the public street. On lots, where a building fronts a second public street, additional sign area is allowed at 0.5 square feet of sign area per linear foot of building frontage. This added sign area may only be used on the second frontage.
2. The following signs are not counted in computing total allowable sign area on a site: temporary signs, on-site directional signs, menu boards, those parts of a fuel service station's signage setting forth fuel prices, incidental signs and other signs which are both specifically allowed without permit and exempted from total allowable sign area by §6.8.6.

§6.8.11 SPECIAL SIGN ALLOWANCE AREA

This section grants extra sign allowances for properties in the General Business district which are in proximity to U.S. Route 15. Under the conditions set forth here the number, height, and area of signs may exceed the standards set forth in §6.8.10.

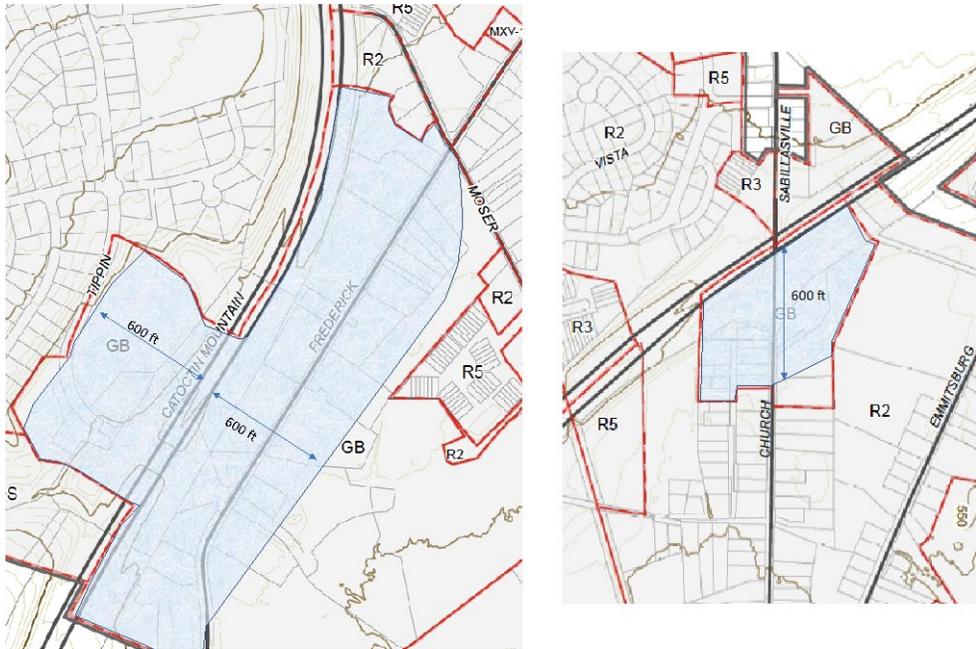
A. Purpose

1. To allow properties zoned General Business located in proximity to U.S. Route 15 to capitalize on their unique proximity to the highway with signage that safely directs the traveling public.
2. To ensure that taller signs and greater sign area are accommodated without causing unnecessary visual clutter, motorist distraction, the interference of views, and light pollution.
3. To ensure that taller signs and greater sign area do not encroach or visually disrupt the streetscape or limit opportunities to enhance the aesthetics and functionality of the street within areas designated as gateway districts in the Thurmont Master Plan.

B. Applicability

These provisions apply only to those portions of the properties zoned GB that are located within 600 feet of U.S. Route 15, shown on the Exhibit below.

Exhibit



C. Approval Procedure:

The allowances provided by this section may only be approved by the Planning Commission as part of a Sign Program accompanying a site plan for site development or redevelopment, provided that at the time of redevelopment, all signs on the site are brought into conformance with this Ordinance.

D. Standards

1. On lots greater than one acre in size, the height of one freestanding sign may exceed 10 feet as follows: The highest portion of a freestanding sign may be as high as 20 feet above the closest point on the top of the finished grade on mainline U.S. Route 15 or a total of 45 feet, whichever is less.
2. The maximum size of one freestanding sign may exceed 32 square feet as follows: on lots greater than one acre in size, the maximum area shall be 64 feet square feet and on lots greater than two acres in size, the maximum area of a freestanding sign shall be 160 square feet.
3. The maximum allowable area for all signs on a site shall be 1.25 square feet per linear foot of lot frontage on the public street. On lots, with building frontage on a second public street, additional sign area is allowed up to 0.5 square feet of sign area per linear foot of building frontage on that side provided the added area is used on that side.

4. On a lot's street frontage facing a residentially zoned property, all signs along and facing that street frontage shall adhere to the standards set forth in §6.8.10.
5. A freestanding sign exceeding 20 feet in height must be located at least 150 feet from the closest residentially zoned property.
6. A freestanding sign exceeding 10 feet in height must be setback at least 10 feet from the front lot line and placed within a planted landscaped area, other than lawn, which shall be greater than the area of the sign face plus 4 square feet for every foot of sign height.
7. A freestanding sign more than 10 feet in height shall not be located within 200 feet of another freestanding sign on the same side of the street sign above 10 feet in height, unless the Planning Commission finds that adherence to his requirement is precluded considering the length of the lot's frontage and the placement of the existing sign. In such a case, the greatest separation practicable should be achieved.
8. No sign shall be closer than 40 feet to the right-of-way of U.S. Route 15.

E. Additional Submittal Requirement

Before a permit shall be granted for any sign over 10 feet in height, the erector of the sign shall submit for building permit review and approval a design and stress diagram or plan containing the necessary information to enable the building official to determine that such sign complies with the regulation of the building code.

§6.8.12 NON-CONFORMING SIGNS

- A. The Zoning Inspector shall order the removal of any sign erected or maintained in violation of the law as it existed prior to the date of the adoption of this Zoning Code.
- B. Signs existing at the time of the adoption this Chapter and not conforming to its provisions, but which did conform to previous laws, shall be regarded as nonconforming and these may be continued if properly maintained and repaired as provided in this Chapter except as provided below.
 1. Modification of nonconforming signs. The structure, sign face, or accessories of a nonconforming sign may be altered, modified, changed, reconstructed, but not moved, without bringing the sign in all respects into conformance with this Chapter. However, except for legal projecting signs in the TB district, any such sign shall lose its protective non-conforming status on the 366th day that the use and/or principal building remains vacant or unoccupied or upon any change in occupancy or use of the site or principal building on which the sign is situated. nothing herein shall prohibit the normal maintenance or repair of any nonconforming sign.
 2. No such alteration or change allowed above shall increase or expand in any way upon its nonconformity with these regulations.
 3. Any nonconforming sign damaged to the extent of 50 percent of its current replacement value shall be brought into conformity with this Chapter to the

extent practical given existing site conditions which may preclude positioning it in a location that conforms to this Chapter.

4. At time of redevelopment. Under this Chapter, a sign is intrinsically a part of the land use and activity of the property on which it is located. Therefore, no site plan for any property shall be approved unless it provides that all nonconforming signs as well as new signs are made to conform to the standards and provisions of this Chapter.

§6.8.13 ADMINISTRATIVE ADJUSTMENTS

- A. As provided for in Section §2.2.4 of this Ordinance, the Zoning Administrator may, upon application, administratively adjust the limitations for signs in specific instances. An adjustment of up to twenty percent (20%) to the limitation set forth in this chapter with respect to the following dimensional criteria is allowed:
 1. Height
 2. Distance of permitted projection
 3. Setback of sign and/or
 4. Distance from other zoning lots
- B. The Zoning Administrator may only approve an administrative adjustment upon establishing the following findings:
 1. The adjustment is needed to resolve a practical difficulty with signing unique to the property.
 2. The adjustment is the smallest necessary to grant relief of the practical difficulty.
 3. The adjustment shall in all other ways comply with the purposes and requirements of this chapter.
- C. Procedures for applying for an administrative adjustment are set forth in §2.2.4 of this Ordinance.

§6.8.14 VIOLATIONS

- A. Illegal signs. Any illegal sign, as defined in this chapter, is subject to the enforcement provisions of this Ordinance. No person shall install, place, or maintain an illegal sign and no person shall allow, or permit the installation, placement, or maintenance of an illegal sign in the Town of Thurmont.
- B. Removal of unlawful, temporary or portable signs.
 1. The Zoning Inspector shall remove or cause the removal of a temporary or portable sign that is constructed, placed, or maintained on publicly owned property in violation of this chapter or other provisions of Town Code
 2. Upon written notification of a property owner that a temporary or portable sign is in violation of this chapter and failure of the owner to remove said sign or signs

within a time specified by the Zoning Inspector, the Zoning Inspector shall remove or cause its removal.

3. A sign removed by the Zoning Inspector in compliance with subsection B.1 or B.2, shall be stored for a period of 15 days from the date written notice of such storage is given. If not claimed within that period, the sign may be destroyed. Prior to the release of any stored sign, the owner shall pay a fee of \$50.00, or other amount as the Mayor and Town Commissioners, by resolution, may authorize, to defray a portion of the expenses of removing, storing, and handling the unlawful sign. More than one instance of infraction in any one year period will subject to the property owner and/or sign owner to penalties allowed by the enforcement provisions of this Ordinance.
4. Notice of the storage of a sign to be given in compliance with Subsection B.3 may be given by first class mail or personal delivery to the apparent owner of the sign as ascertained from the sign itself or from other information obtained by the Zoning Inspector.
 - a. The notice shall briefly describe the sign and what is on its face, and shall state the sign has been stored by the Town and that it will be released to the owner, upon satisfactory proof of ownership and the payment of the fee, during a stated 15-day period.
 - b. The notice shall state where the owner may obtain the release of the sign and contain such other information as the Zoning Inspector deems necessary or helpful.
 - c. Notice is deemed given on the date the notice, addressed to the apparent owner, with first class postage affixed thereto, is placed in a mail depository of the U.S. Postal Service or personally delivered to the owner or to the owner's office or home. If no apparent owner and/or no address of the apparent owner can be ascertained from the sign or other information obtained by the Zoning Inspector, no notice need be given in compliance with this subsection, but the sign shall be stored for at least 15 days from the date it is placed in storage before it may be destroyed.

ARTICLE 7: TERMS AND DEFINITIONS

§ 7.1 DEFINED WORDS HAVE MEANING PROVIDED

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this Ordinance.

§ 7.2 RULES

- A. Words used in the present tense shall include the future tense; words used in the singular number shall include the plural number, and the plural number shall include the singular number, unless the obvious construction of the wording indicates otherwise.
- B. The word “shall” is mandatory and not discretionary.
- C. The word “may” is permissive.
- D. The word “lot” shall include the words “piece”, “parcel” and “plots”; the word “building” includes all other structures of every kind regardless of similarity to buildings; and the phrase “used for” shall include the phrase “arranged for” and “occupied for”.
- E. The word "use" shall include arranged, designed, constructed, altered, converted, tenanted, leased, or intended to be used.
- F. All “measured distances” shall be to the nearest “integral foot”. If a fraction has a value of one-half foot or greater, the “integral foot” next above shall be taken.
- G. If the Town requires compliance with a Frederick County law or regulation as a part of, or condition to, compliance with this Ordinance, the requirements imposed by the Frederick County law shall be met before the affected person may be determined to have complied with this Ordinance. The Town has the discretion to require proof of compliance.
- H. This Zoning Ordinance is intended to supplement and be consistent with any and all State and Federal laws, rules, regulations, procedures, ordinances and codes. This Ordinance is not intended to replace, override, or otherwise preempt a State or Federal law. No decision made pursuant to this Ordinance is intended to constitute a waiver of State or Federal law, and any person subject to this Ordinance is also required to comply with any and all applicable State and Federal laws.
- I. Throughout this Zoning Ordinance, all words, other than the terms specifically defined herein, have the meaning inferred from their context in this chapter or in their ordinarily accepted definitions, as defined in Merriam-Webster’s Collegiate Dictionary (11th Ed., 2003).

§ 7.3 TERMS AND DEFINITIONS

ACCESSORY USE OR STRUCTURE / ACCESSORY BUILDING: A use or structure subordinate to the principal use or building on the same lot and serving a purpose customarily incidental to the use of the principal building or land use.

AGRICULTURE: The use of land for agricultural purposes, including farming, dairying, pasturing, agriculture, horticulture, floriculture, viticulture, fish culture, and animal and poultry husbandry, and the accessory uses for packing, treating, or storing the produce.

AGRICULTURAL PROCESSING, GENERAL: Activities for the after harvest packaging or processing of crops to prepare them for marketing, sales, or further packaging or processing, including, cleaning, milling, pulping, shelling, drying, roasting, hulling, storing, canning, packing, and similar activities such as dairying, processing and packaging of milk, cheese yogurt, preserving, honey production, and production of crop by-products such as cider, soy milk, and spices with potential to adversely impact adjoining properties through both the processing and transport of commodities and finished products. This use excludes breweries, due to high water demand and wastewater generation.

AGRICULTURAL PROCESSING, LIGHT: Same as AGRICULTURAL PROCESSING, GENERAL except that the impacts of site operations will not be detectable off site and the transport of commodities and finished products will not adversely impact adjoining properties.

ALLEY: A public or private way affording a secondary means of access to abutting property

AMEND/AMENDMENT: Any repeal, modification, or addition to a regulation, any new regulation; any change in the number, shape, boundary, or area of a zone; or any repeal of a map, part thereof, or addition thereto.

ANIMAL HOSPITAL: *See* VETERINARY CLINIC.

ANTIQUÉ SHOP: The use of property for the selling of items such as works of art, furniture, or decorative objects that have a value and significance because of factors such as age, rarity, or historical significance.

APARTMENT UNIT: A room or set of rooms fitted with housekeeping facilities and leased or used as a dwelling.

ASSISTED LIVING FACILITY: A facility that provides housing and supportive services, supervision, personalized assistance, health related services, or a combination thereof, to meet the needs of residents who are unable to perform or who need assistance with the activities of daily living.

AUTOMOTIVE BODY SHOP: Any building or lot used for major automobile repair or body work and may have automobile servicing, including the sale of fuels, oils, or parts.

AUTOMOBILE SERVICE STATION: Any area of land, including buildings that are used to dispense motor vehicle fuels, oils, and accessories where repair service is incidental, and not storage or parking space is offered for rent.

AUTOMOBILE PARKING LOT, COMMERCIAL: A lot or portion thereof, other than a sales lot held out or used for the storage or parking of six or more vehicles, where service or repair facilities are not permitted. Such parking lot shall not be considered an accessory use; nor shall it be used for the storage of dismantled or wrecked vehicles.

BAR/TAVERN: An establishment used primarily for the dispensing of beer, wine, liquor or other drinks for on-site consumption and where food, music, dancing or other forms of entertainment may be accessory to the principal use. (Cross-reference: NIGHTCLUB).

BASEMENT: A story where the floor is more than twelve (12) inches, but not more than half of its story height below the average level of the adjoining ground. A basement may be used as a separate dwelling and shall be counted as a story for the purpose of height regulations.

BED AND BREAKFAST: A dwelling in which lodging is provided for transient guests. Meals can be served to guests only. A Bed and Breakfast shall not be deemed a home occupation.

BILLBOARD: A sign for any activity, person, group of people or thing not located on the premises upon which the sign is located.

BIO-MANUFACTURING: Manufacturing, product design and testing through bio-technologies, which involve biological systems or living organisms or derivatives of living organisms, to produce bio-materials and bio-molecules for commercial use (such as medicines, food and beverage processing and industrial applications), pharmaceutical therapies, and diagnostic testing with operations, conducted wholly indoors.

BOARD: The Board of Zoning Appeals of Thurmont.

BOARDING OR LODGING HOUSE: A dwelling or part thereof where meals and/or lodgings are provided, for compensation, for persons not transients.

BUILDING: Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, or chattels including any tent, cabin, or trailer. When such structure is divided by one or more unpierced walls extending from the ground up, it shall be considered one building for the purpose of applying the provisions of this Ordinance.

BUILDING LINE: A line beyond which the foundation wall and/or any enclosed roofed porch, vestibule or other enclosed portion of a building shall not project as determined by the yard requirements.

BUILDING OR STRUCTURE, HEIGHT OF: The vertical distance from the average finished grade to the highest point of the coping of a flat roof, the deck line of a mansard roof, the mean height level between eaves and ridge for gable, hip, and gambrel roofs, or the highest point on other structures.

CELLAR: A story having more than one-half (1/2) of its height below the average level of the adjoining ground. A cellar shall not be used as a separate dwelling and need not be counted as a story for the purpose of height regulations.

CEMETERY: Land used for interment of human or animal remains or cremated remains, including a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments or a combination thereof.

CIVIC MEETING PLACE: The use of property for a building which serves a public function, to be used for cultural, recreational or social activities, including senior centers, and similar community for government facilities.

CLUSTER DEVELOPMENT: A subdivision using varying lot sizes to group houses while maintaining the density of a specific zoning district.

COMPREHENSIVE PLAN OR COMPREHENSIVE DEVELOPMENT PLAN: The policies, statements, goals, and long-range plan for desirable use of land and structures in Thurmont, as officially adopted and amended from time to time by the Town Commissioners in the form of texts and maps, which constitute a guide for the area's future development including zoning determinations. The term shall be also used for Master Plan, Comprehensive Plan, and the like as adopted in accordance with Land Use Article of the Annotated Code of Maryland.

CONSTRUCTION, STARTING OF: The combining of labor and material into any portion of the structure, on the site thereof.

CONVALESCENT HOME: A care home or related institution that provides care to individuals who, because of an advanced age or physical or mental disability, require domiciliary care or personal care in a protective environment.

COUNTY: Unless otherwise specified, the term County shall mean Frederick County.

COURT: An open, unoccupied, unobstructed, and uncovered space enclosed on two (2) sides by buildings on the same lot.

CRAFT SHOP: The use of property for the preparation, display or sale of individually crafted artwork, jewelry, furniture, sculpture, pottery, leather craft, hand-woven articles, and other articles of artistic quality, or effect, or handmade workmanship. Examples include candle making, glass blowing, weaving, pottery making, woodworking, sculpting, painting, and other associated activities.

DATA CENTER: A building, multiple buildings, or space within a building used as a central location for the storage, processing and dissemination of computer and telecommunications data.

DAY CARE CENTER: A day nursery, day camp, child care center or other place for the day to day reception, board, and/or care for compensation of a child or children under sixteen years of age.

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

DISTRICT: A portion of the territory to which this Ordinance applies within which certain uniform regulations and requirements apply under the provisions of this Ordinance.

DRY CLEANING: A building or part of a building used for the mechanical cleaning of garments, articles, or goods of fabric for retail customers.

DWELLING: Any building or portion thereof occupied or intended to be occupied exclusively for residence purposes, but not including a tent or room in a hotel or motel.

- a. Dwelling, Single-Family: A detached building designed for or used by one family or housekeeping unit.
- b. Dwelling, Two-Family: A detached building or two semi-detached buildings designed for or used by not more than two (2) families or housekeeping units.
- c. Dwelling, Duplex: Two (2) 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 lower floor level to the highest point of the roof which lies along the dividing lot line, and such dwelling is separated from any other structure by yards or other green areas on all sides.
- d. Dwelling, Multi-Family: A detached building or a group of semi-detached or attached buildings containing three (3) or more dwelling units.

DWELLING UNIT: A building or portion thereof arranged or designed for occupancy by not more than one family having cooking facilities and sanitary facilities reserved for the occupants thereof.

ELECTRONIC MESSAGE BOARD SIGN: Any sign that is designed so that its displayed content can be changed, altered, or rearranged without manually alerting the permanent physical face or display screen of the sign. The content of an electronic message board sign can only be varied by electrical or electronic means and not manually.

EXTENDED CARE FACILITY: A facility that offers sub-acute care, providing treatment services for patients requiring inpatient care but who do not currently require continuous hospital services. This facility admits patients who require convalescent or restorative services, or rehabilitative services, or patients with terminal disease requiring maximal nursing care.

FAMILY: A person living alone or two or more persons living together as a single housekeeping unit, but not including a group of persons occupying a boarding house, lodging house, hotel, or motel.

FARM: A parcel of land not less than five (5) acres in size used for agricultural purposes as defined herein.

FAST FOOD RESTAURANT: Any place or premises used for dispensing or serving of food or drink at which more than 10% of its customers are served either while sitting in a motor vehicle or through an interior or exterior sales window or counter at which the food or drink served is packaged to facilitate its consumption outside the structure.

FIREARMS SHOOTING RANGE, PUBLIC OR PRIVATE: A permanently located and improved area that is designed and operated for the safe use of rifles, pistols, shotguns, black powder or any other similar sport shooting at targets.

FLOODPLAIN: Those lands defined by soil type as they are designated by the U.S. Soil Conservation Service; such being principally a natural water retention area of generally wet land.

FLOOR AREA: The total number of square feet of floor area in a building excluding cellars. All horizontal measurements shall be made between exterior faces of walls.

FOOD STORE: A retail store with at least 80% of the sales floor devoted to the sale of food products for home preparation. A grocery store.

FREESTANDING SIGNS: A sign supported by a permanent structure, other than a building, that is affixed to the earth.

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

FUNERAL HOME / PARLOR: A facility that holds and transports human remains to and from the premises; embalms and caskets human remains; allows visits to view the remains and conducts such like business within the establishment including funeral and memorial services, and organization of funeral processions.

GARAGE, COMMERCIAL: An enclosed space or structure, other than a private garage, for the storage, sale, hire, care, repair or refinishing of self-propelled vehicles or trailers.

GARAGE, PRIVATE: An enclosed structure intended for the storage of private motor vehicles of the residents upon the premises.

GROSS LEASABLE AREA: The total floor area designated for tenant occupancy and exclusive use, including basements, mezzanines and upper floors.

HOME OCCUPATION: An occupation conducted entirely within a dwelling by a member or members of the immediate family residing therein with the following provisions: a) no stock in trade kept or commodity sold on premises; b) only one employee in addition to member of the immediate family residing on the premises; c) that the living quarter occupy at least 75% of the entire dwelling; d) boarding houses and private education institutions shall not be deemed home occupations; e) that equipment used does not emit uncomfortable or harmful amounts of noise, vibration, heat, glare, smoke, odor, or other obnoxious element.

HOTELS/MOTELS: Any building that contains five or more guest rooms and where lodging or meals are provided for compensation to five or more guests. This definition does not include bed and breakfasts, fraternity or sorority houses, schools, college dormitories or boarding or lodging houses.

JUNK YARD: Any land or building used for the abandonment, storage, keeping, collecting, salvage, sale, exchange, disassembling, wrecking, baling or handling of paper, rag, wood, scrap metals, or other scrap or discarded materials including automobiles or other vehicles and equipment not in running condition, but not including pawn shops and buildings for the sale, purchase or storage of used furniture and household equipment, land or buildings used for the sale of used cars or other machinery in operable conditions, or the processing of used or salvaged materials as part of manufacturing operations.

KENNEL/CATTERY: A facility where nine or more dogs, cats or other domestic animals over three months of age are kept, raised, sold, boarded, bred, shown, treated, or groomed.

LAUNDROMAT: Any building used for self-service laundry by retail customers.

LIVE/WORK UNIT: A building, or space within a building, that combines space for commercial or manufacturing activity that is allowed in the zone with a dwelling unit for the owner of the business, the owner's employee, and that person's household. The residential use may be secondary or accessory to the primary use as a place of work. Prohibited uses in the commercial part include liquor sales, pet stores, kennels/cattery, veterinarian office, animal grooming or boarding, automotive repair and services uses and amusement and recreational uses. Commercial activities to be limited to the primary structure.

LOT: A piece or parcel of land described in a recorded deed, a subdivision plat, a record of survey map, or by metes and bounds, occupied or intended to be occupied by one principal building or use for sale, lease, transfer of ownership or separate lot.

LOT AREA, NET: The total horizontal area included within the rear, side, and front lot or proposed street, including off street automobile parking areas and other accessory uses.

- A. **LOT, CORNER:** A lot abutting upon two (2) or more roads at their intersection or upon two parts of the same road, and in either case forming an interior angle less than one hundred thirty-five (135) degrees. A lot consisting of two (2) front and two (2) side lot lines.
- B. **LOT, DEPTH OF:** The average distance between the front lot line and the rear lot line.
- C. **LOT, DOUBLE FRONTAGE:** A lot having frontage on two (2) non-intersecting roads.
- D. **LOT, FRONT OF:** The side or sides of interior lot which abut a street, a corner lot shall be deemed normally to front upon the street on which it has the least dimension.
- E. **LOT FRONTAGE, Minimum at Building Line:** The least permissible width of a lot measured horizontally along the building line.
- F. **LOT WIDTH:** The width of the lot measured at right angles to its centerline.
- G. **LOT LINES:** The lines bounding a lot as herein defined.

Front: The lot line separating the lot from a road. In cases where a lot abuts upon more than one road either line may be considered the front.

Rear: The lot line or lines generally opposite or parallel to the front lot line, except corner lots where there are two (2) front and two (2) side lot lines.

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

MANUFACTURING, LIGHT: Manufacturing, processing, assembly, or fabrication conducted indoors which does not create or produce dust, noise, vibration, air pollution, fire hazard, odors, or noxious emissions of any kind detectable off-site.

MASTER PLAN: See Comprehensive Plan.

MICRO-BREWERY: A Maryland licensed brewery for the production and distribution of beer with an annual production limit of 15,000 U.S. fluid barrels and which may contain an accessory tasting room.

MICRO-DISTILLERY: A Maryland licensed distillery for the production and distribution of alcoholic spirits with an annual production limit of 15,000 U.S. fluid barrels and which may contain an accessory tasting room.

MINOR UTILITY INSTALLATIONS: Wires, lines, cables, or pipes used for the distribution, collection, supply or disposal of electric, gas, communication, steam, water or sewage, including poles, cross arms, guy wires, towers, repeaters, boosters, switches, transformers, regulators, pumps, mains, drains, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar accessories and equipment used as an integral part of public service and utility systems that are necessary for the furnishing of adequate service by public utilities or government agencies, but not including buildings, yards, stations or facilities used for storage, repair or processing of material or equipment, and not including buildings, areas, stations, substations, or treatment plants for transforming, boosting, switching, pumping or treatment, when such facilities are constructed on the ground. Wireless Telecommunication Facilities as defined in the Ordinance not considered minor utility installations.

MOBILE HOME: A portable dwelling unit designed and built to be towed on its chassis, connected to utilities and designed without a permanent foundation for year-round living. A unit may contain parts that can be combined, folded, collapsed, or telescoped when being towed and expanded later to provide additional cubic capacity. It must be listed by the State of Maryland as a mobile home. This does not include sectional or modular homes.

MOBILE HOME PARK: Any site, lot, or parcel or groups maintained or intended for supplying a location or accommodation for two or more mobile homes as living quarters and all accessory buildings or structures.

MOTEL: An establishment for transients consisting of any number of sleeping rooms in permanent buildings, each room or suite of rooms having complete sanitary facilities and separate entrance, including hotel, motor hotel, motor lodge, tourist park, tourist court, and similar establishments, but not including a tourist home, boarding house, lodging house, or trailer park.

MOTOR FREIGHT TERMINAL: A structure or land where truck transported goods are transferred, or stored pending transfer, and which may include truck dispatching, parking and servicing (but not retail sales of motor fuels, oils or accessories) and temporary accommodations for truck drivers.

MULTI-FAMILY RESIDENCE: A detached building containing three or more dwelling units.

NIGHTCLUB: An establishment in which music, dancing, or other forms of entertainment are conducted and beer, wine, liquor and meals may be dispensed as an accessory use.

NONCONFORMITY/ NON-CONFORMING: A lot, structure, or use lawfully existing on February 7, 1990 or before the effective date of any regulations of this Ordinance which does not conform to the current regulations of the district in which it is located.

NURSERY/FARM FOR TREES AND PLANTS: The use of property for the planting, maintaining, and harvesting of trees, shrubs, plants, grasses and sod for sale to other nurseries, landscape contractors, or retail outlets. This use may include on-site public retail sales related to the planting, maintaining, or harvesting of trees, shrubs, plants, grasses or sod, fertilizers, soils, chemicals, or other nursery goods and related products in small quantity to consumers.

NURSING HOME: Includes rest homes, convalescent homes or homes for the aged and provides domiciliary care which includes room, board, housekeeping, and some supervision and/or comprehensive care which includes a full continuum of medical and nursing facilities. A nursing home is not an institution designed exclusively for the treatment and care of mental patients, drug addicts, or alcoholics.

OPEN SPACE: An area of land associated with and located on the same tract of land as the principal structure or group of structures in relation to which it serves to provide light and air, or scenic, recreational or similar purposes. Open Space may include but not be limited to lawns, decorative plantings, sidewalks, and active and passive recreational areas including playgrounds, fountains, swimming pools, wooded areas, and watercourses; but shall not include loading areas or vehicle surfaces or accessory structures.

PET SHOP: A separate commercial establishment that offers to sell live animals with the intent that they be kept as pets, and without kennel facilities or outside areas, runways, or exercise areas.

PLANNING & ZONING COMMISSION: The Planning Commission of Thurmont.

PROFESSIONAL OFFICE: Rooms or buildings used as the office of a member of a recognized profession such as lawyers, accountants, engineers that do not provide medical and related care of patients; not to be confused with “offices of physicians and related licensed professionals providing patient care”.

PUBLIC BUILDING: Any building or structure used or controlled for public purposes by a State, Federal, County, or Town governmental agency, or by a political subdivision of the state, within the geographic confines of the Town.

PUBLIC UTILITY FACILITY: Any building, structure or property used or controlled by a public utility within the geographic confines of the Town.

RECREATIONAL CLUB / RECREATIONAL FACILITY: A building or property that provides recreation or entertainment activities such as sports facilities, theaters, and dance clubs.

RECYCLING PICK-UP AND DISTRIBUTION CENTER: A facility designed for the collection of recyclable materials and distribution of these items to markets accepting these items for processing.

RESIDENTIAL CLUSTERING SUBDIVISION: A residential development created through the Thurmont Subdivision Regulations in which lots may be smaller than the minimum sizes required by the Zoning Ordinance, provided the area otherwise devoted to lots is preserved as open space and the overall density of the tract is no greater than would otherwise be allowed in the district where the development is located.

RESTAURANT, STANDARD: An establishment used primarily for the sale of food which may include the dispensing of beer, wine, liquor or other drinks for on-site consumption. A restaurant may have music, dancing or other forms of entertainment as an accessory use.

RESUBDIVISION: A further division or modification of an existing parcel of land previously approved and recorded in the Frederick County Courthouse. Re-subdivision of existing lots shall be in conformance with the current zoning of the property, the Comprehensive Development Plan, and fully conform to the Subdivision Regulations.

RETAIL SHOP: Establishment engaged in selling goods or merchandise to the public for personal or household consumption and rendering services incidental to the sale of such goods.

ROAD: A public or private right-of-way fifty (50) feet or more in width which provides a public means of access to abutting property, or any public or private right-of-way not less than thirty (30) feet in width

which existed prior to the enactment of this Ordinance. The term shall include street, avenue, drive, circle, highway or similar term.

ROAD LINE: The existing or proposed right-of-way line of any road as herein defined.

SEASONAL PRODUCE STAND: A structure or building used or designed to be used for display or sale of agricultural products or other goods produced on the premises upon which such stand is located.

SHOPPING CENTER: A group of five (5) or more retail stores, service establishments, and other similar uses that are designed as an integrated unit.

SIGNS: Any structure, or devise, in whole or in part, which uses symbolic representations to direct attention, to identify or advertise any activity, person, group of people or thing.

SINGLE-FAMILY ATTACHED DWELLING: *See* TOWNHOUSE.

SINGLE-FAMILY DETACHED DWELLING: A detached dwelling designed for or used exclusively by one family.

SPECIAL EXCEPTION / CONDITIONAL USE: A land use or activity that due to its unique characteristics and potential impacts on surrounding properties and neighborhood requires approval by the Board of Appeals for a specific location based on the standards established in this Ordinance.

STORAGE SHED: Any container or structure other than a garage, intended for the storage of chattel and larger than 20 square feet in area and 3 feet in height having a roof or covering and at least one enclosed side. Storage sheds are considered as accessory structures independent of whether they utilize permanent or temporary location on the ground.

STORY: That portion of a building other than a cellar as defined herein, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the ceiling next above it.

Story, Ground: The lowest story of any building including a basement as defined herein.

Story, Half: Half-story shall mean a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four (4) feet above the floor of such story; provided, however, that any partial story used as a separate dwelling shall be deemed a full story.

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

STRUCTURE: Anything constructed, the use of which requires a permanent location on the ground, or attached to something having a permanent location on the ground, but not including fences, sidewalks, driveways, curbs, parking lots or spaces, or minor utility installations as defined herein.

SUBDIVISION: The division of any tract or parcel of land into two or more lots, plats, parcels, or sites for the purpose whether immediate or future, of transfer of ownership or building development.

TEMPORARY STRUCTURE: Any structure completely removed within 180 days from the issuance of the permit.

TOWN: The Town of Thurmont, Maryland.

TOWN BOARD: The Board of Town Commissioners of Thurmont, Maryland.

TOWNHOUSE: One of a group of three or more attached single-family dwelling units divided from each other by party walls and each having separate front and rear or front and side entrances from the outside.

TRAILER; TRAVEL TRAILER: See Mobile Home

TRAILER PARK; TRAVEL/TRAILER PARK: See Mobile Home Park

TRANSPORTATION PLAN: That portion of the Master Plan for the improvement and extension of transportation facilities including highways and roads in Thurmont, as officially adopted and as amended from time to time and as supplemented by detailed plans prepared by the State, County, Town and private developers, when said detailed plans are approved by the Planning & Zoning Commission as being consistent with the over-all long-range plan and placed on file in the office of the Planning & Zoning Commission.

TRUCK STOP: A structure or land used or intended to be used primarily for the sale of fuel for trucks and, usually, incidental services or repair of trucks; or a group of facilities consisting of such a use and attendant eating, sleeping, or truck parking.

USE: The principal purpose for which a lot or the main building thereon is designed, arranged, or intended and for which it is or may be used, occupied, or maintained.

VARIANCE: A modification only of density, bulk, or area requirements in the Zoning Ordinance where such modifications will not be contrary to the public interest and where owing to conditions peculiar to the property a literal enforcement of the Ordinance would result in hardship to the owner of the land.

VETERINARY CLINIC: The use of property for the practice of veterinary medicine, dentistry, or surgery for animals (ANIMAL HOSPITAL).

WET SOILS: Soils set forth in the "Soils Interpretation and Water Features Report" as extracted from the Frederick County, Maryland Soils Survey Supplement Text and Tables published by the Frederick Soil Conservation District (issued May 1985 or as amended).

WHOLESALE: The selling of merchandise to retailers; to industrial, commercial, institutional, or professional businesses; to other wholesalers; or acting as agents or brokers and buying merchandise for or selling merchandise to such individuals or companies.

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 road line, and unoccupied and unobstructed from the ground upward, except as provided in this Ordinance.

Yard, Front: Open space extending across the full width of the lot between the front lot line or road line and the nearest permitted 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 road line and the nearest point of the building or any enclosed portion thereof.

Yard, Rear: Open space extending across the full width of the lot between the rear lot line and the required building restriction line which shall run parallel to every part of the rear lot line.

Yard, Side: Open space extending from the front yard to the rear yard and between the side lot line and the nearest permitted line of the building or any enclosed portion thereof. The width of a side yard shall be the shortest horizontal distance between the side lot line and the nearest point of the building or projection.

ZONE: An area within which certain uses of land and buildings are permitted and certain others prohibited.

ZONING ADMINISTRATOR: An officer of the Town who administers the zoning regulations.

ZONING CERTIFICATE: A written statement issued by the Zoning Administrator, authorizing buildings, structures or uses consistent with Ordinance.

ZONING INSPECTOR: The Zoning Inspector (Administrative Officer) or his authorized representative, appointed by the Mayor and Commissioners of Thurmont, Maryland.

ZONING MAP: The Zoning Map of the Town of Thurmont together with all amendments thereto subsequently adopted.

Appendices & Zoning Map