
ZONING ORDINANCE

OF

ACCIDENT, MARYLAND

As Adopted by the Mayor and Town Council
of the Town of Accident on July 7, 1997,
with an effective date of July 27, 1997.

Prepared under the direction of the Mayor,
Town Council and Planning Commission of Accident.

*The preparation of this Ordinance is one component of a project
financed by a grant from the Appalachian Regional
Commission and by Garrett County. This project
was administered by the Maryland Office of Planning.*

Community Planning and Zoning Consultant

Urban Research & Development Corporation
Bethlehem, Pennsylvania

MAYOR AND TOWN COUNCIL
P.O. Box 190
Accident Maryland 21520

**TOWN OF ACCIDENT
ZONING ORDINANCE**

WHEREAS, Article 66B of the Annotated Code of Maryland, as amended, empowers the Town to prepare, enact, reenact, amend, and provide for the administration and enforcement of a zoning ordinance within its territorial limits; and

WHEREAS, the Accident Planning Commission has recommended the adoption of a Comprehensive Development Plan, as amended; and

WHEREAS, the Mayor and Town Council of Accident have formally adopted the Comprehensive Development Plan, as amended; and

WHEREAS, portions of the Comprehensive Development Plan are intended to be implemented through revisions to the Town's Zoning Ordinance; and

WHEREAS, the Mayor and Town Council have given due public notice of a hearing relating to these revisions to the Town's Zoning Ordinance, and have held such a public hearing;

NOW, THEREFORE BE IT RESOLVED, That the Mayor and Town Council of Accident, Maryland, hereby enact "The Town of Accident Zoning Ordinance."

AND BE IT FURTHER ENACTED that this resolution and ordinance shall take effect 20 days from the date of adoption.

Adopted this 7th day of July 1997.
Effective this 27th day of July 1997.

ATTEST:

MAYOR AND TOWN COUNCIL OF
ACCIDENT, MARYLAND

Rebecca Smith

MAYOR, Dale E. Rodeheaver

COUNCIL PRESIDENT, Richard W. Carlson

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ARTICLE 1
TITLE AND GENERAL PROVISIONS

100 **TITLE**

This Ordinance shall be known and may be cited as "The Town of Accident Zoning Ordinance."

101 **SCOPE**

An Ordinance to regulate and restrict within the Town of Accident: a) the location, height, bulk, and size of structures; b) building lines, minimum frontages, depths and areas of lots, and percentages of lots which may be occupied; c) the size of yards and other open spaces; d) temporary uses and structures; e) the density and distribution of population; f) to divide the Town into Zoning Districts as shown on the attached "Zoning Map - Town of Accident" attached to and adopted as part of this Ordinance; g) the types of businesses, residences, or other purposes permitted within each zoning district for which land may be used or structures may be erected, expanded or used; h) within each District to regulate the location, height, bulk, and size of structures, building lines, minimum frontages, depths and areas of lots, and percentages of lots which may be occupied, the size of yards and other open spaces, and i) to provide for the administration of this Ordinance, including for fees to compensate the Town for administrative costs, and for the enforcement of this Ordinance; and j) to regulate Sensitive Areas as required under State law.

102 **PURPOSES**

The purposes of this Ordinance are the promotion of the public health, safety, morals, or the general welfare by:

- A. Encouraging the most appropriate use of land.
- B. Preventing the overcrowding of land.
- C. Conserving the value of land and buildings.
- D. Lessening congestion in the road and streets.
- E. Avoiding undue congestion of population.
- F. Providing for adequate light and air.
- G. Securing safety from fire, panic, and other dangers.
- H. Facilitating the adequate provision of transportation, water, sewerage, and other public facilities.
- I. Giving reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses.
- J. Giving effect to the goals, policies and proposals of the Comprehensive Development Plan for Accident, Maryland.
- K. Serving such other purposes for zoning as are authorized under State law.
- L. Carrying out the Visions as established in the 1992 State Economic Growth, Resource Protection and Planning Act.

103 **INTERPRETATION**

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the protection of the public health, morals, safety, comfort, convenience, and general welfare. This Ordinance shall not be deemed to interfere with, abrogate, annul, or otherwise affect in any manner whatsoever any easements, covenants, other agreements between parties; provided, however:

- A. where a provision of this Ordinance imposes greater restrictions upon the use of land or structure than are imposed or required by any statute, other ordinance, regulation, permit, easement, covenants, or agreement, the provision of this Ordinance shall prevail; and
- B. where any statute, other ordinance, regulation or permit imposes greater restriction than this Ordinance, such other statute, other ordinance, regulation or permit shall be controlling if applicable.

104 **REPEALER**

The pre-existing "Zoning Ordinance for Accident, Maryland" of 1988, as amended, is hereby repealed. Other previous ordinances and resolutions adopted by the Mayor and Town Council of Accident are also hereby repealed to the extent that they directly conflict with or impose less restrictive standards than the provisions of this Ordinance.

105 **SEVERABILITY**

It is hereby declared to be the legislative intent that:

- A. If a court of competent jurisdiction declares any provision of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance shall continue to be separately and fully effective.
- B. If a court of competent jurisdiction finds the application of any provision or provisions of this Ordinance to any lot, building, or other structure, or tract of land, to be invalid or ineffective, in whole or in part, the effect of such decision shall be limited to the person, property, or situation immediately involved in the controversy, and the application of any such provision to other persons, property, or situations shall not be affected.

ARTICLE 2
DEFINITIONS

200 **GENERAL**

- A. For the purpose of this Ordinance, words and terms used herein shall be interpreted as follows:
- 1) words used in the present tense include the future;
 - 2) the singular includes the plural;
 - 3) the word "person" includes a corporation, institution, partnership, and association, as well as the individual;
 - 4) the word "lot" includes the word "plot" or "parcel";
 - 5) the term "shall" is always mandatory;
 - 6) the word "used" or "occupied" as applied to any land or building shall be construed to include the words "arranged or designed to be used or occupied";
 - 7) the word "Council" and the words "Town Council" shall always mean the Town Council of Accident, Maryland;
 - 8) the word "Commission" and the words "Planning Commission" shall always mean the Accident Planning Commission;
 - 9) the word "Board" shall always mean the Board of Zoning Appeals of Accident, Maryland;
 - 10) the word "Town" shall always mean the Town of Accident, Maryland.
- B. Any word or term not defined herein shall be used with a meaning of standard usage.

201 **DEFINITION OF TERMS**

Unless a contrary intention clearly appears, the following words and phrases shall have for the purpose of this Ordinance, the meanings given in the following clauses.

1. Accessory Building. See Building, Accessory.
2. Accessory Use. See Use, Accessory.
3. Adult Use. A use involving one or more of the following and which shall only be permitted in a zoning district where the use is specifically permitted by this Ordinance:
 - a) Adult Bookstore. A use with a significant portion of the market value of all items offered for sale or rent being adult materials, or which has over 15 square feet of floor area occupied by adult materials for sale or rent.
 - 1) "Adult materials" shall be defined as books, films, videotapes (including those offered on coin or token operated machines), magazines or similar printed materials, and/or paraphernalia which is distinguished or characterized by a clear emphasis on the depiction, display or description of uncovered male or female genitals.
 - b) Adult Live Entertainment Use. A commercial use or club involving employees, contractors or other workers displaying uncovered male or female genitals or nude female breasts related to some form of monetary compensation paid to the entity operating the use or to persons involved in such display.
 - c) Adult Theater. A use involving the display of film or videotape "adult materials" to 3 or more persons at a time in a room and that is related to some form of monetary compensation by the

persons viewing such matter.

- d) Massage Parlor. A use in which manipulative exercises using the hands or a hand-held mechanical device are conducted by one or more persons on the exposed skin of one or more other persons within private or semi-private rooms, and that is related to some form of monetary compensation paid by the person(s) receiving the massage.
 - 1) This use shall not include any of the following: i) massages by State-licensed massage therapists or health care professionals, ii) massages involving persons who are related to each other, iii) massages within a licensed hospital or nursing home, iv) hand massages of the face, hands or feet, or v) therapeutic massages that are clearly incidental to a permitted exercise club or municipal, college or high school athletic program.
4. Alley. A minor way which is used primarily for vehicular service access to the back or the side of properties otherwise abutting a street.
5. Alterations. As applied to a building or structure, a change or rearrangement in the structural parts, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location to another.
6. Bed and Breakfast Inn. An owner-occupied, single-family detached dwelling unit in which a guest room or guest rooms are provided, for compensation, as overnight accommodations for transient visitors, and in which breakfast is customarily included in the charge for the room. A bed and breakfast establishment is subordinate to the use of the dwelling unit as a residence, and it is not a hotel, motel, rooming, lodging house or other uses defined or regulated elsewhere in this Ordinance.
7. Building. A type of "structure" that is a combination of materials having a roof and walls to form a structure for the shelter of persons, animals or materials. The word "building" shall include any part thereof.
8. Building Accessory. A building subordinate to the principal building on the same lot and used for purposes customarily incidental to those of the principal building.
9. Building Area. The aggregate of the maximum horizontal cross-section areas of all buildings on a lot, excluding cornices, unroofed porches, paved terraces, steps, eaves, and gutters.
10. Building Coverage. The percentage of the lot area covered by the building area.
11. Building Height. A building's vertical measurement from the mean level of the finished lot grade in front of the building to the highest point in the roof line of a flat roof or of a roof having a slope in less than 15 degrees from the horizontal, and to a point midway between the peak and the eaves of the roof having a slope of 15 degrees or more.

12. Day Care.
- a. Family Day Care Home. A facility registered by the Maryland Department of Human Resources as a "Family Day Care Home" and within which care is given to a child younger than 13 years old or to a developmentally disabled person younger than 21 years old in place of parental care for less than 24 hours a day, in a residence other than the child's residence, for which the provider is paid in cash or in kind.
 - b. Child Care Center. A facility licensed by the Maryland Department of Human Services as a "Child Care Center" and that, for part or all of a day, or on a 24 hour basis on a regular schedule, and at least twice a week, offers or provides child care to children who do not have the same parentage. Such a center may include but is not limited to a non-public nursery school.
13. Dwelling. A building or portion thereof arranged or designed to provide one or more dwelling units.
- a) Dwelling Unit. A dwelling or portion thereof providing complete living facilities for one family; provided however that the term "dwelling unit" shall not be deemed to include rooming, boarding or lodging houses or hotels, motels, tourist homes or other similar places offering overnight accommodations for transients.
 - b) Single-Family Detached Dwelling. A building, commonly known as a single-family house designed for and occupied exclusively as a residence having one dwelling unit from ground to roof and open space on all sides; where a private garage is structurally attached to such a dwelling, it shall be considered as a part thereof.
 - c) Twin Dwelling. A single building containing two dwelling units separated by a party wall, and intended and designed to be occupied as a residence by two families living independently of each other as separate housekeeping units.
 - d) Townhouse or Rowhouse. A portion of a building designed for and occupied exclusively as a residence for only one family and having i) only one dwelling unit from ground to roof, ii) two points or independent outside access, iii) at least two other dwellings built in conjunction therewith, and iv) any portions of one or two walls in common with an adjoining dwelling.
 - e) Multi-Family ("Apartment") Dwelling. Three or more dwelling units that are attached to each other in some manner on one lot, other than townhouses.
 - f) Two Family Detached Dwelling. A building containing two dwelling units that does not meet the definition of a "Twin Dwelling."
 - g) Manufactured/Mobile Home. See listed separately
 - h) Sectional Home. See listed separately.
14. Family. An individual, or two or more persons related by blood or marriage, or group of not more than four persons not related by blood or marriage, living together as a single housekeeping group in a dwelling unit.
15. Front Yard. See "Yard, Front."
16. Group Home. The use of a lawful dwelling unit to house persons who need special care and oversight because of mental retardation/ developmental disability, old age, physical disability, physical or emotional abuse committed against themselves, or mental illness. Such persons shall function as a

common household unit.

- a) A Group Home may also serve other types of persons if the applicant proves to the Board of Zoning Appeals that such persons are protected under the Americans With Disabilities Act as having "disabilities." In such case, the applicant shall also prove to the Board of Zoning Appeals that the use will involve adequate on-site supervision.
 - b) A Group Home shall not include the housing or treatment of persons who can reasonably be considered a threat to the physical safety of others. A Group Home shall not include any use meeting the definition of a "Treatment Center."
17. Home Occupation. A routine and customary non-residential use conducted within or administered from a portion of a dwelling or its permitted accessory building, and which is: a) clearly accessory to the dwelling, b) primarily conducted by resident(s) of the dwelling, and c) meets the standards of Section 406.
18. Hotel. See Motel or Hotel
19. Junk. Any discarded, unusable or scrap copper, brass, rope, rags, batteries, paper, trash, rubbish, waste, metal or any other scrap material, including without limitation, appliances, motor vehicles which do not display current State registration stickers, motor vehicle parts, machinery, and building materials. The term "junk" shall not include solid waste that is temporarily stored in an appropriate container that is awaiting imminent disposal, or waste within a permitted solid waste transfer or disposal facility.
20. Junkyard. Any location, facility, establishment or place that is maintained, operated or used for storing, keeping or selling junk, including without limitation, any location that is used for or as an automobile or mobile home graveyard or as a waste dump. The term "junkyard" shall further include any location where one or more mobile/manufactured homes that are in uninhabitable condition or state are kept, or any location where junk covers 1,000 or more square feet of outdoor land area.
21. Lot. A parcel of land used or set aside and available for use as the site of one or more buildings and buildings accessory thereto or for any other purpose, in one ownership and not divided by a street nor including any land within the limits of a public or private street right-of-way. The term "record lot" means the land designated as a separate and distinct parcel of land on a legally recorded deed filed among the Land Records of Garrett County.
22. Lot, Corner. Lot abutting two or more streets at their intersections, where the interior angle of the intersection does not exceed 135 degrees.
23. Lot Lines. The lines bounding a lot provided any street lines shall be considered lot lines for purposes of this Ordinance.
24. Lot, Width of. The width of a lot measured at the minimum front yard line.

25. Mobile or Manufactured Home. A single-family detached dwelling unit manufactured in one complete section, designed for a long-term occupancy, containing sleeping accommodations, a flush toilet, a bathtub or shower and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems; and designed to be transported, after fabrication, on its own wheels, or on flatbed or other trailers, arriving at the site where it is to be occupied as a complete dwelling, and ready for occupancy except for minor and incidental unpacking and assembly operations.
 - a. "Double-wide" manufactured homes and "sectional homes" shall be considered single family detached houses instead of mobile homes. The term Mobile Home shall not include "travel trailers" (see definition).
26. Mobile/Manufactured Home Park. A lot under single ownership which includes two or more mobile/manufactured homes intended for non-transient use.
27. Motel or Hotel. A building or group of buildings for the accommodation of transient guests containing guest rooms for rent.
28. Nonconformities. See Section 800.
29. Personal Care Home. A use providing residential and support services to persons who are age 60 and over, b) have physical disabilities and/or c) have mental retardation, and who as a result need oversight and assistance with daily activities, such as meal preparation.
30. Residential District. The RD, SR and TR zoning districts.
31. Restaurant. An establishment for the accommodations of the public equipped with a dining room with facilities for preparing and serving regular meals to be consumed primarily on the premises and wherein the average daily receipts from the sale of foods exceed the average daily receipts from the sale of alcoholic beverages.
 - a. A Restaurant with Drive-Thru Service shall be a Restaurant that has facilities for customers to order and receive their food while seated within their motor vehicle.
32. Roomer, Boarder or Lodger. A person occupying any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes, and paying compensation for lodging or board and lodging by prearrangement for a week or more at a time to an owner or operator. Any person occupying such room or rooms and paying such compensation without prearrangement or for less than a week at a time shall be classed for purposes of this Ordinance not as a roomer, boarder, or lodger but as a guest of a commercial establishment (motel or hotel).
33. Rooming, Boarding or Lodging House. A building or part of a building (other than an institutional building) occupied or intended to be occupied by 3 or more roomers, boarders or lodgers.
34. Sectional ("double-wide") Dwelling. A single family detached dwelling unit designed for permanent occupancy, manufactured in two or more sections, and transported to a building site in sections which are fastened together and mounted on a permanent foundation ready for occupancy except for minor and incidental unpacking and assembly operation. For purposes of this Ordinance, sectional dwellings include modular, pre-fabricated and other similar types, but mobile homes and travel trailers as herein defined are not considered as sectional homes.

35. Sewage System.
- a) Central Sewage System. A utility system, serving 2 or more dwelling units, business, commercial, industrial or other establishments, which is designed and operated for the collection, transportation, treatment and disposal of sewage, in compliance with County and State health regulations.
 - b) Private Sewage System. A system of sewers, pipes, treatment tanks or other facilities serving only a single dwelling unit or a single business, commercial, industrial or other establishment, which is designed and operated for the collection, treatment and disposal of sewage in compliance with County and State Health Regulations.
36. Sign. Any structure, part thereof, or device attached thereto or painted thereon, or any material or thing, which displays or includes any numerals, letters, model, banner, emblem, device, trademark, or other representation used as, or in the nature of, an announcement, advertisement or direction of any person, organization, place, product, service or business, which is located upon any land, on any structure, in or upon a window, or indoors in such a manner as to attract attention from outside the building.
- a) On-Premises Sign. A sign which directs attention to a person, business, service, product or activity conducted or offered on the same lot or the sale or lease of real estate on the lot.
 - b) Off-Premises Sign. A sign which directs attention to a person, business, product, service or activity not conducted or sold on the same lot.
37. Special Exception Use. A use for which the Board of Zoning Appeals may grant permission following a hearing and findings of fact consistent with the provisions of this Ordinance, and provided the use complies with standards of this Ordinance and any conditions established by the Board.
38. Street. A public or private way used or intended primarily to be used for travel by motor vehicles, and which serves three or more lots, or that is an expressway.
39. Street Line. The dividing line between the street and the lot. The street line shall be the same as the legal right-of-way, except if a future right-of-way width for a street is established under any applicable Subdivision Ordinance, then the street line shall be the side of the future right-of-way as established.
40. Structure. A "building" or other combination of materials assembled, constructed, or placed at a fixed location, the use of which requires location on the ground or attachment to something having location on the ground. The word "structure" shall include any part thereof.
41. Tavern. An establishment used primarily for the serving of liquor by the drink to the general public, wherein the average daily receipts from the sale of alcoholic beverages exceed the average daily receipts from the sale of food.
42. Townhouse. See under "Dwellings."

43. Travel Trailer and Trailer Camp.
- a) Travel Trailer or Trailer. A habitable vehicular, portable structure designed to be used as a temporary and not year-round dwelling for travel, camping and recreational purposes. Such units shall not include mobile homes with transport licenses.
 - b) Trailer Camp. Any site, lot, parcel or tract of land which is improved, used, or intended to provide a location for the servicing or temporary accommodation of one or more travel trailers which are used for travel, camping, or recreational purposes.
44. Treatment Center. A use, other than a prison, providing housing facilities for persons who need specialized housing, treatment and/or counseling because of:
- a) criminal rehabilitation, such as a criminal halfway house or a treatment/housing center for persons convicted of driving under the influence of alcohol,
 - b) addiction to alcohol and/or a controlled substance, or
 - c) a type of mental illness that involves or has involved behavior related to violent felony crime.
- See also definition of "Group Home."
45. Uninhabitable. A structure or facility that would be declared unsuitable for human habitation if inspected under the standards for human habitation established by the State of Maryland Department of Health and Mental Hygiene and/or the Garrett County Health Department.
46. Use, Accessory. Use of a building, lot or portions thereof, which is customarily incidental or subordinate to the principal use of the main building or lot.
47. Variance. A modification only of density, bulk or area requirements of this Ordinance where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property, and not the results of any action taken by the applicant, a literal enforcement of this Ordinance would result in unnecessary hardship and/or practical difficulty.
48. Water Supply System.
- a) Central Water System. A utility system serving 2 or more dwelling units, business, commercial, industrial or other establishments, which is designed and operated to supply potable water in compliance with County and State health regulations.
 - b) Private Water Supply. A utility system serving only one dwelling unit or a single commercial, business, industrial or other establishment, which is designed and operated to supply potable water in compliance with County and State health regulations.
49. Yards.
- a) Front. The required open space, the full width of the lot, measured from the street line and which limits the closest location of any building on the lot, exclusive of overhanging eaves, gutters, or cornices.
 - b) Side. The required open space measured from a side lot line of a lot, and which limits the closest location of any building on the lot, and which extends from the front yard to the rear yard.
 - c) Rear. The required open space, the full width of the lot, measured from the rear property line of the lot, and which limits the closest location of any building on the lot, exclusive of overhanging eaves, gutters, or cornices.
50. Zoning Administrator. The person(s) appointed by the Mayor and Town Council to administer and enforce this Ordinance.

51. Zoning Ordinance or "this Ordinance." The Town of Accident Zoning Ordinance, as amended.

ARTICLE 3
ZONING DISTRICTS

300 ESTABLISHMENT OF DISTRICTS

For the purposes of these regulations, the Town is hereby divided into classes of Districts, which are established as follows:

- A. RD Rural Development District
- B. SR Suburban Residential District
- C. TR Town Residential District
- D. TC Town Center District
- E. EC Employment Center District

Every parcel of land and every building or other structure in the Town, except as otherwise provided by law, shall be subject to the regulations, restrictions, and requirements specified for the district in which it is located.

301 ZONING MAP

The location of boundaries of districts established in the Town shall be as shown on the map attached to this Ordinance entitled "Zoning Map - Town of Accident," as amended, and said map, together with all notations, dimensions, designations, references, and other data shown thereon, are made a part of these regulations to the same extent as if the information set forth on said map were fully described and incorporated herein.

302 INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundaries between districts as indicated on the Zoning Map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately coinciding with the center lines of streets, such center lines shall be construed to such boundaries.
- B. Where district boundaries are so indicated that they approximately coincide with lot lines, such lot lines shall be construed to be said boundaries.
- C. Where district boundaries are indicated as approximately parallel to street rights-of-way, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map.
- D. In unsubdivided property or where a district boundary divides a lot, the location of any such boundary, unless the same is indicated by dimensions shown on said map, shall be determined by use of the scale shown thereof, and scaled to the nearest foot.

303 NEWLY ANNEXED AREAS

- A. All areas to be annexed to the Town after the effective date of this Ordinance shall be zoned according to the provisions of Article 23A, Section 9C of the Annotated Code of Maryland, as amended. In the

event that such areas are not covered by the duly adopted Comprehensive Development Plan for Garrett County, or are shown thereon as Residential, such areas shall automatically be classified in the RD District, provided the Mayor and Town Council may, after required public notice and a hearing, provide for the classification of such annexed areas or part thereof in another zoning district or districts, effective upon the date of such annexation, subject to the provisions of Article 23A, Section 9C of the Annotated Code.

- B. If the Mayor and Town Council do not provide in advance for the zoning classification of newly annexed areas as provided in subsection A. above, the Planning Commission may prepare and recommend to the Mayor and Town Council a Comprehensive Development Plan amendment and/or recommendations for the appropriate zoning classification(s) for such annexed areas.

**ARTICLE 4
USE REGULATIONS**

400 APPLICABILITY; SIMILAR USES

Unless otherwise provided by law or in this Ordinance, no structure shall be constructed, placed or expanded and no structure or land shall be used or occupied except for the uses permitted in this Article, except:

- A. If a use is proposed that is not addressed in any part of Section 406, then the applicant may make an application to the Board of Zoning Appeals. The Board of Zoning Appeals shall only approve such use if the applicant proves all of the following:
 - 1. The use will not generate significant nuisances or hazards to the public health and safety, after considering any conditions that the Board of Zoning Appeals may place upon the approval; and
 - 2. The use is closely similar in character and impacts to uses that are permitted within the same zoning district.

401 USES BY RIGHT AND USES BY SPECIAL EXCEPTION

- A. A use listed in Section 406 is permitted by right in any district under which it is denoted by the letter "P" subject to such requirements as may be specified in Section 406.
- B. A use listed in Section 406 is not permitted in any district under which it is denoted by the letter "N".
- C. A use listed in Section 406 may be permitted if the Board of Zoning Appeals so determines and issues a special exception as provided in Article 10 in any district under which it is denoted by the letters "SE" subject to such requirements as may be specified in Section 406 and Article 10 and such further restrictions as the Board may establish.

402 USES ARE SUBJECT TO OTHER REGULATIONS

Uses permitted by right or by special exception shall be subject, in addition to use regulations, to such regulations of yard, lot area, lot width, building coverage, height, provisions for off-street parking, and to such other provisions as are specified in other Articles hereof.

403 PRE-EXISTING SPECIAL EXCEPTION USES

Any use existing on the effective date of this Ordinance which is classified as requiring a special exception in the district in which the land occupied by the use is located shall be deemed to have been granted a special exception subject to maintaining the character and extent of operations and structures existing on that date. Any application for change in use or structure after effective date of this Ordinance shall require a special exception from the Board of Zoning Appeals as provided in Article 10.

404 **TEMPORARY USES AND STRUCTURES**

- A. The Zoning Administrator may grant a temporary permit for a nonconforming temporary structure or use incidental to a construction project when such structure or use is reasonably required for such a project.
- B. The Board of Zoning Appeals may grant a temporary permit for routine and customary temporary structures and uses, other than as provided in the above subsection "A."
- C. A Temporary Permit shall be granted for an initial period of not more than one year and may be renewed for a period not exceeding one additional year.

405 **WATER AND SEWAGE REQUIREMENTS**

A non-agricultural principal building shall not be constructed following the adoption of this Ordinance unless it is served by both central sewage and central water systems, if such systems are available, except:

- A. A single family detached dwelling with private water and sewage systems or agricultural building shall be permitted in the RD District, subject to the dimensional requirements in Section 500 and State and County Health Department regulations.
 - 1. This exception shall not apply if another Town Ordinance requires connections to central sewage and/or central water systems.

406. **TABLE OF USE REGULATIONS.** As described in Section 401, the following uses shall be permitted by right, permitted by special exception or prohibited in the respective zoning districts:

A. RESIDENTIAL USES		RD	SR	TR	TC	EC
1.	Single Family Detached Dwelling	P	P	P	P	N
2.	Twin Dwelling (or "Duplex")	N	P	P	P	N
3.	Individual Mobile/ Manufactured Home, meeting all of the same requirements as a single family detached dwelling, and also provided that any such home placed within the Town after the effective date of this Ordinance shall comply with the 1976 or later U.S. Department of Housing and Urban Development safety and construction standards for manufactured housing.	SE	SE	SE	N	N
4.	Two Family Detached Dwelling	N	P	P	P	N
5.	Townhouse	N	N	SE	SE	N

A. RESIDENTIAL USES	RD	SR	TR	TC	EC
<p>6. Mobile/Manufactured Home Parks, provided:</p> <ul style="list-style-type: none"> a. Individual mobile home spaces within a Mobile Home Park shall include a minimum of 10,800 square feet of lot area, and a minimum width at the building setback line of 90 feet, exclusive of easements. b. The maximum number of mobile homes permitted on a lot shall be determined by deleting 10 percent from the total lot area (to account for usable open space), and then deleting land within the 100 year floodplain or with a slope in excess of 25 percent or occupied by overhead utility easements, and then dividing the remaining lot area by 10,800 square feet. c. All mobile homes shall be setback a minimum of 75 feet from any street right-of-way line that is exterior to the Mobile Home Park and 100 feet from any other exterior lot line. d. A minimum setback of 25 feet shall be provided between an individual mobile home and any street cartway, common parking area or common recreation area. e. All mobile homes shall be setback a minimum of 20 feet from each other and from other principal buildings on the lot. f. Each mobile home shall be placed on a concrete pad or otherwise be securely anchored to the ground in a manner approved by the Town. g. Vehicle access to a mobile home park shall be designed to minimize congestion and hazards at entrances and exits, and to allow free traffic movement on adjacent streets. Each mobile home park including 10 or more units shall have at least 2 vehicle access points onto an adjacent street(s). Each vehicle access point to a public street shall be separated by 150 feet from each other. h. Safe and convenient paved vehicle access shall be provided to reach each mobile home space. The alignment and slope of streets and driveways shall be properly adapted to topography. No interior street shall have a slope in excess of 12 percent. i. Streets within a Mobile Home Park shall have a minimum right-of-way of 40 feet and a minimum paved cartway of 20 feet, except that a street for one-way traffic shall have a minimum paved cartway of 14 feet. If on-street parking is to be permitted, then an additional 8 feet wide stone shoulder shall be provided. All streets shall be kept in good repair and include at least 6 inches of suitable stone base and 3 inches of asphalt, unless an alternate surface is approved in advance by the Town Council. 	N	N	SE	N	N

A. RESIDENTIAL USES	RD	SR	TR	TC	EC
<p>6. Mobile/Manufactured Home Parks (Cont.)</p> <p>k. No individual mobile home shall have its own individual driveway access directly onto a public road.</p> <p>l. Parking shall comply with Article 6. At least one of the required parking spaces for each dwelling shall be located immediately adjacent to the dwelling. Other parking spaces shall be within 300 feet of the dwelling that they serve.</p> <p>m. A substantial landscaped buffer shall be planted by the developer at least 10 feet wide around the perimeter of the mobile home park.</p> <p>n. Any mobile home park involving 5 or more units shall include at least 10 percent of the total lot area being set aside for usable recreation and open space areas for residents. Such areas shall be located to minimize conflicts with traffic. Where topography permits, such areas shall be located where they will be conveniently accessible to all residents.</p> <p>o. No enclosure attached to a mobile home shall exceed 100 percent of the floor area of a mobile home. A building permit shall be required for such enclosures.</p> <p>p. Safe, convenient, durable all-season pedestrian walkways or sidewalks with a minimum width of 4 feet shall be provided to link together homes within the site and pedestrian attractions within and adjacent to the site.</p>					
<p>7. Multi-Family Dwellings subject to the following additional provisions:</p> <p>a. <u>Building Orientation</u>. Minimum horizontal distance between facing walls of any two buildings on one lot shall be 50 feet.</p>	N	N	P	SE	N

LEGEND

P = Permitted by right subject to requirements of this Ordinance.

N = Not permitted.

SE = Permitted if Board of Appeals issues a special exception approval subject to requirements of this Ordinance and any conditions established by the Board.

406.A. RESIDENTIAL USES	RD	SR	TR	TC	EC
7. Multi-Family Dwellings (CONT'D) b. <u>Development Access.</u> Multi-family dwellings in the TR District shall be located on and have direct access to a collector street as designated in Accident's Comprehensive Development Plan. c. <u>Off-Street Parking.</u> i) All off-street parking lots and their access drives shall be at least 10 feet from any principal building; ii) No area for off-street parking of motor vehicles shall exceed 20 spaces without being separated from another parking area by 8 foot wide planting strips.					
8. One Dwelling Unit in Combination with Permitted Commercial Use	N	N	N	P	N
9. Group Home within a Lawful Existing Dwelling Unit, and meeting the additional requirements of Section 514.	P	P	P	P	N
10. Two or more Multi-Family Dwelling Units in Combination with Permitted Commercial Use	N	N	N	N	N
406.B. INSTITUTIONAL, RECREATIONAL, AND EDUCATIONAL USES	RD	SR	TR	TC	EC
1. Churches and other places of worship, providing up to two dwelling units may be provided for religious personnel which shall meet the requirements for Uses A.1 through A.5, as applicable	P	P	P	P	N
2. Private or public primary or secondary schools (other than Child Care Center or other similar uses or trade schools), subject to the following additional provisions: a) Dormitories or other living accommodations for faculty or students shall meet the minimum requirements of Section "A." as applicable. b) A lot area of not less than 5 acres shall be required. c) Lot width of 300 feet shall be required. d) No part of any building shall be located less than 75 feet from any adjoining lot line in separate ownership.	N	N	P	P	N

406.B. INSTITUTIONAL, RECREATIONAL, AND EDUCATIONAL USES	RD	SR	TR	TC	EC
3. Child Care Center, subject to the following additional conditions: (See also as an accessory use in Section F.) a) In a Residential District the use shall be conducted in a building designed for residential occupancy. b) A lot area of not less than 20,000 square feet shall be required. c) On a lot having the permissible minimum area, the total number of children registered and/or cared for on the premises shall not exceed 10 and for each additional 1,000 square feet of lot area above the minimum, one additional child may be registered and/or cared for on the premises. d) Any outdoor play area shall be located in the rear yard and its boundaries shall be at least 10 feet from any lot line. e) Outdoor play areas shall be sufficiently screened and sound insulated so as to protect the neighborhood from noise and other disturbance. To fulfill this requirement, screening may be located anywhere on the lot as needed.	N	SE	SE	P	N
4. Trade or professional school, music, dancing or hobby school.	N	N	SE	P	N
5. Library or museum, open to the public or connected with a permitted educational use, and not conducted as a private gainful business.	N	SE	P	P	N
6. Community center, adult education center, or other similar facility operated by an educational, philanthropic or religious institution subject to the following provisions: a) The use shall not be conducted as a private gainful business. b) No outdoor active recreation area shall be located nearer to any lot line than the required yard depth.	N	SE	P	P	N
7. Recreational facility owned or operated by Accident or other government.	P	P	P	P	P

406.B. INSTITUTIONAL, RECREATION, AND EDUCATIONAL USES		RD	SR	TR	TC	EC
8.	Recreation facility owned or operated by a nongovernment agency subject to the following additional provisions: a) The use shall not be conducted as a private gainful business (See below for recreational facilities operated as a gainful business). b) If the facility includes a swimming pool, the pool including the apron, filtering and pumping equipment and any related buildings, shall be at least 75 feet from any lot line except that, where the lot upon which it is located abuts land in a "TC" District, said pool may be constructed not less than 25 feet from the nearest lot line of such land in the "TC" District. c) Outdoor recreation areas including pools shall be sufficiently screened and sound insulated so as to protect the neighborhood from glare, noise and other disturbance.	SE	SE	P	P	P
9.	Private club or lodge (other than a use listed separately in this table), subject to the following additional provisions in Districts where permitted only by Special Exception: a) The use shall not be conducted as a private gainful business. b) A lot area of not less than 3 acres shall be required. c) All buildings shall be located not less than 50 feet from any lot line.	N	N	SE	P	SE
10.	Golf course, country club, subject to the following additional provisions: a) A lot area of not less than 25 acres shall be required. b) All buildings and golf greens and tees shall be located not less than 75 feet from any lot line.	P	N	N	N	N
11.	Golf driving range subject to the following additional provisions: a) A lot area of not less than 15 acres shall be required. b) All buildings and tees shall be located not less than 75 feet from any lot line. c) All lighting and activity areas shall be sufficiently screened so as to protect the neighborhood from glare, noise and other disturbance.	SE	N	N	N	N

406.B. INSTITUTIONAL, RECREATIONAL, AND EDUCATIONAL USES		RD	SR	TR	TC	EC
12.	Orphanage, licensed hospital, nursing homes, personal care center, or similar licensed establishment for the care of sick, aged, crippled, or convalescent persons, subject to the following provisions: a) Hospital. i) A lot area of not less than 5 acres shall be required; ii) a minimum lot frontage of 300 feet shall be required; iii) all buildings shall be located not less than 50 feet from any lot line. b) Nursing home or personal care home where not more than 10 persons are cared for. i) A lot area not less than 0.5 acres shall be required; ii) a minimum lot frontage of 150 feet shall be required; iii) all buildings shall be located not less than 25 feet from any lot line. c) Nursing home or personal care home where 11 or more persons are cared for. i) A lot area of not less than 0.5 acres plus 1,000 square feet for each person above 10 persons shall be required; ii) a minimum lot frontage of 150 feet shall be required; iii) all buildings shall be located not less than 25 feet from any lot line.	N	N	SE	SE	N
13.	Public building or use owned or operated by Accident.	P	P	P	P	P
C. OFFICE AND COMMERCIAL USES		RD	SR	TR	TC	EC
1.	Office or clinic for medical or dental examination or treatment of persons as out-patients including laboratories incidental thereto. In SR district, such use shall only be permitted if the exterior of the building is designed or maintained with a residential appearance. For new construction or significant exterior changes, an architectural plan shall be subject to approval by the Planning Commission.	N	SE	P	P	SE
2.	Business, professional, or governmental offices, other than uses listed separately. In SR district, shall be limited to conversion of a building that existed prior to the adoption date of this Ordinance.	N	SE	SE	P	SE
3.	Retail stores selling antiques, apparel, art supplies, beverages, books, cards, confections, dry goods, drugs, fabrics, floor covering, flowers, foodstuffs, furniture, garden supplies, gifts, hardware, hobbies, appliances, jewelry, luggage, music, musical instruments, novelties, paint, periodicals, music, shoes, sporting goods, fishing supplies, boating and marine supplies and equipment, stationery, tobacco and any similar use, but not including an "Adult Use."	N	N	SE	P	N
4.	Service business including barber, beauty shop, laundry and dry cleaning, shoe repair, photographer, caterer, custom printing or photocopying, health club, travel agency, tailor, repair shop for watches, guns, bicycles, locks.	N	N	SE	P	N

406.C. <u>COMMERCIAL USES</u>	<u>RD</u>	<u>SR</u>	<u>TR</u>	<u>TC</u>	<u>EC</u>
5. Bank or savings and loan association.	N	N	SE	P	SE
6a. Restaurant Without Drive-Thru Service	N	N	SE	P	N
6b. Restaurant With Drive-Thru Service	N	N	N	SE	N
7. Newspaper and related printing establishment.	N	N	N	P	P
8. Upholsterer, cabinet maker and similar custom crafts (see also as Home Occupation).	N	N	N	P	P
9. Theater, indoor.	N	N	N	P	N
10. Motel or hotel.	N	N	SE	SE	N
11. Entertainment and recreation facilities operated as a gainful business within a building.	N	N	N	P	N
12. Outdoor entertainment and recreation facilities, including drive-in theater, operated as a gainful business, other than uses listed separately in this Table.	N	N	N	SE	N
13. Animal kennel and office of a veterinarian subject to the following additional provisions: a. A lot area of not less than 5 acres shall be required. b. No building or structure used for boarding or exercising animals shall be within 200 feet of any lot line. c. The use shall be sufficiently constructed and screened so as to protect the neighborhood from excessive noise and other disturbance.	N	N	N	SE	SE
14. Residential parking garage or parking area subject to the following provisions: a. Such use shall be solely for the storage of cars of residents in nearby buildings. b. Such uses shall be permitted only when necessary to provide off-street parking for such vehicles. c. See requirements of Article 6.	N	P	P	P	N

406.C. <u>COMMERCIAL USES</u>	<u>RD</u>	<u>SR</u>	<u>TR</u>	<u>TC</u>	<u>EC</u>
15. Gasoline service station subject to the following additional provisions: a. All activities, except those to be performed at the fuel pumps, shall be performed within a completely enclosed building. b. Fuel pumps shall be at least 10 feet from any street right-of-way. c. All automobile parts, dismantled vehicles, and similar articles shall be stored within a building. d. Full body paint spraying or body and fender work shall not be permitted.	N	N	N	P	N
16. Sale or rental of motor vehicles.	N	N	N	P	N
17. Sale of automotive accessories, parts, tires, batteries, and other supplies.	N	N	N	P	N
18. Repair garage including paint spraying and body and fender work or car wash, provided that all repair and paint work is performed within an enclosed building.	N	N	N	SE	N
19. Sale or rental of farm equipment, trailers, mobile homes for off-site use, snowmobiles and miscellaneous vehicles, and which may include repairs and display of such items, provided: a. Storage of used equipment, used mobile homes, parts and "junk" shall be screened from view of streets and other property by building walls and/or landscaping approved by the Board of Appeals. Such landscaping shall consist of evergreen trees with an initial height of 5 feet, in sufficient number to create an effective visual screen within 3 years after planting. b. In place of screening, the Board of Appeals may approve screening of other appropriate materials that would be harmonious with the present or intended character of the surrounding area.	N	N	N	SE	N
20. Tavern	N	N	N	SE	N
21. Adult use, in recognition of the fact that all areas of the Town are within proximity of existing dwellings, residential districts, schools, places of worship, parks and playgrounds or day care centers.	N	N	N	N	N
22. Treatment Center	N	N	N	N	N
23. Software Development and Consulting; Telemarketing or similar Telecommunications Activities (other than Home Occupation)	N	N	N	P	P
24. Trailer Camp	N	N	N	N	N
25. Commercial business which primarily serves industrial customers or industries, and which may include an accessory and incidental wholesale or retail outlet.	N	N	N	SE	SE

406.D. UTILITIES, COMMUNICATIONS, TRANSPORTATION		RD	SR	TR	TC	EC
1.	Transformer stations, structures housing switching equipment and regulators, pumping stations, power transmission line rights-of-way, towers, radio and/or television transmitter towers or stations excluding commercial studios subject to the following provisions: a. In SR and TR Districts, the proposed use at the location selected is necessary for public convenience and service and cannot be supplied with equal public convenience if located in a TC or EC district. b. In SR and TR Districts, when practical, structures shall have the exterior appearance of residential buildings. c. In RD, SR and TR Districts, no public business office nor any storage yard or storage building shall be operated in connection with it. d. In the case of radio and/or television transmitter towers any such tower shall be located a distance equal to its height plus 50 feet from all lot lines.	SE	SE	SE	P	SE
2.	Emergency Services Station.	N	SE	P	P	SE
3.	Bus Station or Taxi Company.	N	N	SE	P	N
E. INDUSTRIAL USES		RD	SR	TR	TC	EC
1.	Wholesale business and storage subject to the following provision: a. Storage of all new or used items, including dismantled vehicles, parts, equipment, and what is generally referred to as "junk" must be screened from view from the street and adjoining property by building walls and/or substantial landscaping.	N	N	N	N	P
2.	Contractor offices and shops such as building, cement, electrical, heating, masonry, painting and roofing, and provided that within the TC district, such use shall not include outdoor storage of equipment or materials that are visible from a street or other property.	N	N	N	SE	P
3.	Printing, publishing, binding, other than newspaper printing or custom printing/photocopying shop.	N	N	N	N	P

406.E. INDUSTRIAL USES	RD	SR	TR	TC	EC
<p>4. Production, processing, cleaning, testing, and distribution of materials, goods, food stuffs, and products, other than uses listed separately in this table, subject to the following provisions:</p> <ul style="list-style-type: none"> a. Lot area shall be not less than 3 acres. b. No building area shall be less than 100 feet from any lot line. c. Activities shall be carried on in completely enclosed buildings. Storage may be permitted out-of-doors, but shall be effectively screened by a solid, uniformly finished wall or fence or substantial landscaping with an initial height of 5 feet. Parking of licensed vehicles with a rated capacity under 1.5 tons are not required to be screened. d. Applicants must show that industrial uses comply with the following standards in that they: <ul style="list-style-type: none"> i) emit no obnoxious, toxic or corrosive fumes or gases except for those produced by internal combustion engines under design operating conditions; ii) emit no odorous gases or other odorous matter in such quantities as to be perceptible at or beyond any point on the lot boundaries; iii) emit no smoke greater than that emitted by properly operating domestic heating equipment; iv) discharge into the air no dust or other particulate matter created by any industrial operation or emanating from any products stored prior or subsequent to processing; v) produce no heat or glare humanly perceptible at or beyond the lot line; vi) produce no noise exceeding 55 A-weighted decibels measured at the lot line of any residential lot between the hours of 9 p.m. and 7 a.m.; viii) utilize all lighting in a manner which does not permit an external light source to be directly visible from any point beyond a lot line. 	N	N	N	N	P
<p>5. Conversion of an Existing Building for use in light production, processing, cleaning, testing and distribution of materials, goods, food and products, subject to the following provisions:</p> <ul style="list-style-type: none"> a. The Board of Appeals may limit the number of employees working at one time in the TC district, considering the size and suitability of the site. b. Subsections b. through d. under the above use "E.4." shall apply. 	N	N	N	SE	P
<p>6. Asphalt plant, slaughterhouse, solid waste landfill, solid waste transfer facility or highly hazardous or toxic chemical manufacture.</p>	N	N	N	N	N
<p>7. Junkyard or other outdoor storage of "Junk".</p>	N	N	N	N	N

406.F. ACCESSORY USES	RD	SR	TR	TC	EC
1. Home occupation (see definition in Section 201), provided: <ul style="list-style-type: none"> a) the home occupation shall be carried on wholly indoors and within the principal building or within a building or other structure accessory thereto; b) there shall be no use of show windows or display or advertising visible outside the premises other than home occupation announcement signs as permitted; c) there shall be no exterior storage of materials unless completely screened from view from the street and adjoining property; d) no external alterations, additions, or changes to the structure that would reduce the residential appearance of a dwelling shall be permitted in order to accommodate or facilitate a home occupation; e) the home occupation shall be carried on only by members of the immediate family residing on the premises plus not more than one additional employee; f) the floor area devoted to a home occupation shall not be more than 25 percent of the ground floor area of the principal residential structure or 250 square feet, whichever is less; g) signs shall meet Article 7; h) in a residential district, any on-site retail sales or any use that will involve customers visiting the site on a daily basis shall require special exception approval. 	P	P	P	P	N
2. Non-commercial greenhouse, tool shed, private garage, swimming pool, or similar accessory structure and other accessory uses customarily incidental to a permitted use and not normally conducted as an independent principal use.	P	P	P	P	P
3. Rooming, boarding, lodging houses, only as accessory uses to residential uses subject to the following additional provisions: <ul style="list-style-type: none"> a. Not more than 9 guests shall be accommodated at any one time. b. Not more than 3 guest rooms shall be permitted. 	N	N	N	SE	N

F. ACCESSORY USES (Cont.)		RD	SR	TR	TC	EC
4.	Bed and breakfast inn, only as accessory to residential uses subject to the following provisions: a. Not more than 3 guest rooms shall be permitted, except no maximum shall apply in the TC district. b. Other than breakfast, no other meals shall be prepared for consumption by guests and breakfast shall not be prepared for any non-residents of the dwelling unit. Food service is subject to Health Department regulations. c. The inn shall be subject to appropriate State Fire Regulations, Health Department, and/or Sanitary District Requirements. d. Off-street parking shall conform to applicable requirements in Article 6 and be provided as follows: 2 spaces for residents and one additional space for each guest room. e. No on-premises signs over 4 square feet in area and no off premise signs shall be permitted. Signs shall meet Article 7.	SE	SE	SE	P	N
5.	Travel trailer and boat storage as accessory uses subject to the following additional provisions: a. The trailer or boat shall not be occupied or used for dwelling purposes. b. In a residential district the use shall not be located in the required front or side yard. c. The trailer or boat shall not be permitted on the public street.	N	P	P	P	P
6.	Fences, walls and landscaping subject to the traffic visibility requirements and provisions of Section 504.	P	P	P	P	P
7.	Off-street parking subject to the requirements of Article 6.	P	P	P	P	P
8a.	Family Day Care Home serving a maximum of 4 persons at a time who are not relatives of the operator, within a lawful existing dwelling.	P	P	P	P	N
8b.	Other Family Day Care Home within a lawful existing dwelling.	SE	SE	SE	P	N
8.	Signs subject to the requirements of Article 7.	P	P	P	P	P
G. AGRICULTURAL USES		RD	SR	TR	TC	EC
1.	Crop farming, orchards and forestry	P	P	P	P	SE
2.	Agricultural activities other than "G.1.," subject to the following provisions: a. Structures and enclosures routinely used for the keeping of livestock and related activities or the storage or processing of manure shall be setback a minimum of 200 feet from any lot line, unless the owner of the abutting property at the time of the construction of such uses waives the right to such setback in writing.	P	N	N	N	P

ARTICLE 5
DIMENSIONAL AND MISCELLANEOUS REQUIREMENTS

500 TABLE OF DIMENSIONAL REQUIREMENTS

The regulations for each District pertaining to minimum lot area, minimum lot area per dwelling unit, minimum lot width, maximum height, and minimum required yards shall be as specified in the "Table of Dimensional Requirements for Principal and Accessory Uses" on the following page, subject to any further applicable provisions of Articles 4 and 5.

501 LOT AREA AND YARD REQUIREMENTS

The lot or yard areas required for any new building or use shall not include any part of a lot that is required by any other building or use to comply with the requirements of this Ordinance. No required lot or area shall include any property, the ownership of which has been transferred subsequent to the effective date of this Ordinance, if such property was a part of the area required for compliance with the dimensional requirements applicable to the lot from which such transfer was made.

502 EXCEPTIONS TO MINIMUM LOT AREA AND LOT WIDTH

- A. If 2 or more adjoining lots of record, one or both of which fail to meet the requirements of this Ordinance with regard to lot area and/or lot width, have continuous frontage and are in single ownership at any time after the application of the provisions of this Ordinance to such lots, and if such lots taken together would form one or more lots, each meeting the requirements of this Ordinance with regard to lot area and lot width, such lot or lots shall no longer be considered nonconforming, and must be used in compliance with the lot area and lot width requirements irrespective of subsequent changes in ownership.
- B. In any zone in which single family dwellings are permitted, subject to the provisions of Section 502.A. above, if a lot which is of record at the time of application of the provisions of this Ordinance has insufficient lot area and/or lot width, then a single family detached dwelling may be constructed on such lot regardless of the lot area and/or lot width requirements of this Ordinance, provided:
 - 1. such building and lot conforms to all other regulations of the district in which such lot is located, and
 - 2. that no single family dwelling shall be constructed unless a lot or contiguous lots have a total width of at least 50 feet.

503 FRONT YARD REDUCTION

When there is an existing building on each of 2 lots adjacent on either side to a lot on which a proposed building is to be erected, where both such existing buildings have an alignment nearer to the street line than the required front yard depth elsewhere specified in this Ordinance, and when both such existing buildings are within 100 feet of the proposed building, the average of the existing front yard depths of such adjacent lots shall be the minimum required front yard depth on which the proposed building is to be erected, provided that the above reduction shall not apply to any special exception uses.

500. TABLE OF DIMENSIONAL REQUIREMENTS FOR PRINCIPAL AND ACCESSORY USES.

District	Use	Minimum Lot Area (sq.ft.)	Minimum Lot Area Per Dwelling Unit (sq.ft.)	Minimum Lot Width (feet)	Minimum Required Yards (feet)		
					Front	Side (each required)	Rear
RD	Single Family detached dwelling.	40,000	40,000	100	40	10	30
	Other structure or use.	40,000	N/A	100	40	10	30
SR	Single family detached dwelling.	20,000	20,000	75	15	8	20
	Two family dwelling.	20,000	10,000	75	15	8	20
	Twin dwelling.	10,000	10,000	75	15	8	20
	Mobile Home.	20,000	20,000	75	15	8	20
	Other structure or use.	20,000	N/A	75	15	8	20
TR	Single family detached dwelling.	10,000	10,000	75	15	8	20
	Twin dwelling.	10,000	5,000	50 per unit	15	8	20
	Two family detached.	10,000	5,000	75	15	8	20
	Townhouse.****	3,000 ****	3,000 ****	20	15	8	20
	Multi-family dwelling.	20,000	4,000	200	25	15	25
	Mobile/Manufactured home park.	80,000	See Section 406	200	***	***	***
	Other structure or use.	10,000	N/A	75	15	8	20
TC	Single family detached dwelling.	7,500	7,500	75	15	8	20
	One dwelling unit in combination with permitted commercial use.	10,000	5,000	75	15	8	20
	Twin dwelling.	7,500	7,500	50 per unit	15	8	20
	Two family detached.	10,000	5,000	75	15	8	20
	Townhouse.****	3,000 ****	3,000 ****	20 per unit	15	8	20
	Multi-family dwelling.	20,000	4,000	200	25	15	25
	Other structure or use.	7,500	7,500	50	15	8**	20**
EC	Any structure or use.	40,000	N/A	200	25	15	25*

See Section 506 for reduced setbacks for accessory structures from side and rear lot lines.

See maximum height in Section 510.

* Except 15 feet if such lot line abuts lots that are only occupied by principal non-residential uses.

*** See standards for mobile/manufactured home parks in Section 406.

** Except 5 feet if such lot line abuts lots that are only occupied by principal non-residential uses.

**** One acre minimum tract size. The average density shall not exceed

6 dwelling

units per acre in the TR and TC districts. Such density may be calculated

based

upon the total lot area before the development of new streets.

504 **TRAFFIC VISIBILITY ACROSS CORNERS** (clear sight triangle)

On any corner lot, no wall, fence or other structure shall be erected or expanded, and no hedge, tree shrub or other vegetation shall be planted or maintained which may cause danger to traffic by obscuring the views of oncoming traffic. Visual obstructions shall be limited to a height of not more than 2 feet above street level within the triangular area bounded by the street cartway lines and a straight line drawn between points on each such line 25 feet from the intersection of such lines.

505 **PROJECTIONS INTO REQUIRED YARDS**

Subject to Section 504, the provisions of Section 500 shall not apply to fences or walls within which are less than 6 feet high above the natural grade nor the terraces, steps, uncovered porches, or other similar features not over 3 feet high above the floor level of the ground story. Subject to Section 504, Article 6, and Article 7, the yard requirements of Section 500 shall not apply to accessory signs and off-street parking spaces. Wood decks that are open on all sides, except along the building wall to which they are attached, may also extend into a rear yard.

506 **ACCESSORY STRUCTURES IN SIDE AND REAR YARDS**

Completely detached accessory structures may occupy required side and rear yards but shall not be located closer than 5 feet to any side or rear property line.

507 **WALLS NOT PARALLEL TO LOT LINES**

Where a wall of a building is not parallel with its corresponding lot line, the required width or depth of any yard on that side of the building shall be taken as the average width or depth, provided that said yard shall not be narrower at any point than three-fourths of the required width or depth.

508 **CORNER LOTS**

On a corner lot, a side yard alongside a public street shall meet the same minimum yard requirement as a front yard.

509 **TRIANGULAR LOTS**

In the case of a triangular lot with no rear lot line, the distance between any point on the building and corner of the lot farthest from the front line shall be at least twice the minimum depth specified in Section 500.

510 **MAXIMUM HEIGHT**

- A. A maximum height of 35 feet shall apply for structures in all districts, except a maximum height of 40 feet shall apply in the EC District, and except as stated otherwise for specific types of structures, such as signs.
- B. Maximum height regulations shall not apply to church spires, chimneys, water towers, aerials and other structures normally built or located above the roof and not devoted to human occupancy.

511 **STEEP SLOPES (OVER 30%)**

- A. New Slopes. If any new slope will be created of greater than 4:1, the application shall provide a written description of the measures that will be used to stabilize such slope, together with a legally binding timetable for the implementation of such measures.
- B. Over 30 Percent Slopes. Any construction of a new principal building or a new parking lot on land with an existing natural slope of over 30 percent shall require special exception approval by the Board of Zoning Appeals. When special exception approval is required, the applicant shall:
 - 1) show that existing trees and other vegetation will be preserved to the maximum reasonable extent, or be immediately replaced by new trees and other vegetation, while avoiding excessive coverage by impervious surfaces,
 - 2) submit a plan showing that stormwater runoff will be properly controlled,
 - 3) submit and carry out a detailed soil erosion and sedimentation control plan, which shall be submitted in advance for review and acceptance by the Town or its designee, and
 - 4) submit a grading plan prepared by a qualified professional in a manner that holds grading to a reasonable minimum.
- C. Slopes on Proposed Lots.
 - 1) If natural slopes of over 30 percent are present on a proposed lot, then the applicant shall submit a site plan that designates the maximum portions of the lot that will be used for construction of a principal building. In many cases, an applicant may be able to avoid the requirements of this Section c) by restricting construction to the less steep portions of a lot.
 - 2) If the site plan designates areas of over 30 percent slope for the construction of a principal building, then a minimum lot area of 3 acres shall be required for a new lot, and a maximum total of 5 percent of the lot area may be covered by all buildings, paving and stone surfaces.
 - 3) If the footprint of a new principal building would affect less than 200 square feet with a natural slope of over 30 percent, then the requirements of this Section c) shall not apply.
 - 4) This Section c) shall not apply within the TC district.

512 **STREAM BUFFERS**

- A. Setback. No new principal building, off-street parking, loading area or commercial or industrial outdoor storage area shall be located within 25 feet of the top of the primary bank of any perennial waterway.
- B. No new or expanded paving or stone surface shall be placed within the setback established by Section 512.A., except for:
 - 1) trails that will not serve motor vehicles,
 - 2) necessary road and driveway crossings that are approximately perpendicular to the stream, and
 - 3) temporary waterway crossings related to construction, provided such crossings are approved by applicable State agencies.
- C. Property-owners are strongly encouraged, but not required, to maintain the stream buffers in natural vegetation, and to plant new trees in areas without significant existing vegetation. Subdividers are encouraged to establish deed restrictions to limit tree cutting within this buffer.

513 **FLOOD-PRONE AREAS; NOTIFICATION OF THREATENED AND ENDANGERED SPECIES AND WETLANDS**

- A. All activity shall comply with the Garrett County Floodplain Ordinance, as amended.
- B. In any area suspected of being a wetland, where development or other alterations are proposed, the applicant shall provide evidence that he/she is complying with the regulatory procedures of the State of Maryland.
- C. The Zoning Administrator should notify an appropriate Federal agency if an application for development is submitted that could affect a site known to the Town to have been identified by a Federal agency as a habitat for a Federally designated Rare, Threatened or Endangered Species.
- D. If proposed development activity would require one or more State permits, then State agencies are encouraged to identify any affected Rare, Threatened or Endangered Species habitats on the State of Maryland list, and to work cooperatively with property-owners to minimize impacts on such habitats.

514. **GROUP HOMES**

- A. See definition of Group Homes in Section 201 and provisions in Section 406.A.
- B. See provisions for modifications in Section 1006.E.
- C. A Group Home meeting the requirements of this Section 514 shall house a maximum of 8 unrelated persons, in addition to any staff-persons necessary to assist and supervise such persons.
- D. A minimum of one off-street parking space shall be provided for each employee on-site during peak periods.
- E. A copy of any relevant Federal, State or County license or certification shall be provided to the Zoning Administrator. The Zoning Administrator shall be notified in writing within 7 days by the operator of the use if such license or certification is suspended, expired or withdrawn, or if there is a significant change in the type of residents housed.

- F. The Group Home shall apply for and obtain a Zoning Permit. The permit application shall state the maximum number of residents, general type of treatment/care, level of staffing, any sponsoring agency and a phone number and address of a responsible supervisor of the use.
- G. Any medical or counseling services on-site within a residential district shall be limited to a maximum of 3 persons who do not live on-site.
- H. If a group home is within a residential district: a) it shall be maintained and/or constructed with a clearly residential appearance, and b) no exterior signs shall identify the use.

515. **SCREENING AND BUFFERING**

- A. If any new principal commercial or industrial use is developed directly adjacent to or directly across the street from a residential use in a residential district, and such use is visible from such residence, then a substantial landscaped buffer shall be provided alongside the edge of the commercial or industrial use.
 - 1. A substantial landscaped buffer shall also be provided along the edge of a storage area if new or expanded outdoor commercial or industrial storage of machinery, equipment, materials or "junk" is visible from a public street or dwelling.
 - 2. Such landscaping shall primarily include evergreen trees and shrubs within an initial height of 3 feet. Such landscaping shall include choices of species and locations so that it can reasonably be expected that a mostly solid visual screen 6 feet in height will result within 5 years.
 - 3. Screening shall not be required at driveway crossings or where it would obstruct safe sight distances.
- B. A landscaped buffer shall not be required along a front yard, except to buffer an outdoor storage area. A landscaped buffer shall not be required where existing vegetation will serve the same purposes, and there is a legal commitment to preserve such vegetation.
- C. The Zoning Administrator may permit a landscaped buffer to be replaced by an attractive mostly solid weather-resistant fence made of wood or materials with a similar appearance or brick or other decorative masonry if the applicant proves good cause in writing for such substitution. Such fence shall have a minimum height of 6 feet. The Zoning Administrator may base his/her decision upon a review by the Planning Commission or Town Council.
- D. The Mayor and Town Council may waive any fencing or buffer where the applicant proves such features would not serve any valid purpose, or is unneeded because of major changes in elevation or similar features.

ARTICLE 6
OFF-STREET PARKING

600 REQUIRED NUMBERS OF PARKING SPACES

Off-street parking spaces shall be provided and satisfactorily maintained in accordance with the following provisions for each building which, after the effective date of this Ordinance, is erected, enlarged, or altered for any of the following purposes:

- A. ~~Residential, other than Multi-Family Dwellings.~~ Two spaces per dwelling unit.
- B. ~~Multi-Family Dwellings.~~ 1.5 spaces per dwelling unit.
- C. ~~Home Occupation.~~ One parking space per non-resident employee.
- D. ~~Institutional, Recreation, and Educational, other than uses listed separately in this Section.~~ One space per 5 seats plus one space per 2 employees on the premises. Where fixed seats are not provided, one space for every 80 square feet of floor area intended to be used by patrons, guests, members, clients, or customers, plus one space per 2 employees on the premises.
- E. ~~Recreation, Non-Governmental or Club or Lodge.~~ One space per 3 patrons of maximum capacity.
- F. ~~Nursing Home, Personal Care Home or Hospital.~~ One space for each 3 patient beds.
- G. ~~Office.~~ One space for each 200 square feet of floor area used for office purposes.
- H. ~~Retail Sales and Consumer Services, other than uses listed separately in this Section.~~ One space for each 150 square feet of gross floor area. Where retail sales are combined with a gasoline service station, then up to 50 percent of the required parking spaces may be met by spaces in front of gasoline pumps. If a lot includes over 20,000 square feet of retail sales floor area and other related uses typically found in a shopping center, then one space shall be required for every 225 square feet of leasable floor area.
- I. ~~Restaurants or Similar Establishments.~~ One space for each 50 square feet of floor area devoted to patron use, or one space per 3 seats for a primarily sit-down restaurant.
- J. ~~Hotel or Motel.~~ One space for each rental unit. If other uses are included that typically serve persons who are not staying overnight, such as a restaurant, then parking shall also be provided for such uses.
- K. ~~Gasoline Service Station, Auto Sales, Repair Garage.~~ Sufficient spaces on the premises shall be provided for the parking or storing of all vehicles left for service or awaiting customer pick-up. The parking of such vehicles on the street or sidewalk is prohibited. See also "Retail Sales" above.
- L. ~~Funeral Home.~~ One space per 5 seats in rooms intended to be in use at one time for visitors.
- M. ~~Theater.~~ One space per 4 seats.
- N. ~~Haircutting or Hairstyling.~~ One space per seat intended to be in use at one time for haircutting, hairstyling, washing or similar work.

- O. Industrial Uses. One space per 1.2 employees on-site during peak times, plus spaces for trucks and company vehicles as needed.
- P. Other Uses. The applicant shall provide sufficient information for the Zoning Administrator to determine that sufficient space will be provided for all reasonably expected parking demand.

601 **GENERAL REQUIREMENTS FOR PARKING.**

- A. Existing Parking. Structures and uses in existence at the date of adoption of this Ordinance shall not be subject to the requirements of this Article so long as the kind or extent of use is not changed, provided that any parking facility now serving such structures or uses shall not in the future be reduced below such requirements.
- B. Changes in Requirements. Whenever there is an alteration of a structure or a use which increases the parking requirements according to the standards of Section 600, the total additional parking required for the alteration, change, or extension shall be provided in accordance with the requirements of that section.
 - 1) No required parking spaces shall be reduced in area to less than the number of spaces required by this Ordinance.
- C. Conflict With Other Uses. No parking area shall be used for any use that interferes with its availability for the parking need it is required to serve.
- D. Continuing Character of Obligation. All required parking facilities shall be provided and maintained so long as the use exists which the facilities were designed to serve. Off-street parking facilities shall not be reduced in total extent after their provision, except when such reduction is in conformity with the requirements of this Article. Reasonable precautions shall be taken by the owner of a particular use to assure the availability of required facilities to the customers, employees, or other persons whom the facilities are designed to serve.
- E. Joint Use. Two or more uses may provide for required parking in a common parking lot if the total space provided is not less than the sum of the spaces required for each use individually.
- F. Fractional Spaces. Where the computation of required parking space results in a fractional number, only the fraction of one-half or more shall be counted as one.
- G. Location of Parking Space. Required off-street parking spaces shall be on the same lot or premises with the principal use served, or where this requirement cannot be met, within 400 feet of the principal use served within the same district.

602 **PARKING DESIGN STANDARDS**

- A. The minimum dimensions of stalls and aisles shall be as follows:
 - 1. Stall width shall be at least 10 feet.
 - 2. Stall depth shall be at least 20 feet for all angle parking and 22 feet for parallel parking.
 - 3. Minimum width of aisles providing access to stalls for one-way traffic only, varying with the angle of parking shall be:

<u>Angle of Parking</u>	<u>Minimum Aisle Width</u>
Parallel	12 feet
30°	11 feet
45°	13 feet
60°	18 feet
90°	20 feet

4. Minimum width of aisles providing access to stalls for two-way traffic shall be 24 feet.
- B. Parking areas shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without requiring the moving of any other vehicle.
- C. The width of entrance and exit drives shall be:
1. A minimum of 12 feet for one-way uses only.
 2. A minimum of 20 feet for two-way use.
 3. A maximum of 30 feet at the street line.
- D. In no case shall parking areas for 3 or more vehicles be designed to require or encourage cars to back into a public street in order to leave the lot.
- E. For parking areas of 3 or more vehicles, the area not landscaped and so maintained, including driveways, shall be graded, surfaced with asphalt or other suitable material, and drained to the extent necessary to prevent dust, erosion, or excessive water flow across streets or adjoining property.
- F. All lighting used to illuminate any parking space or spaces shall be arranged so as not to cause a glare into abutting lots.
- G. Handicapped Parking.
- 1) Number of Spaces. Any lot including 4 or more off-street parking spaces shall include a minimum of one handicapped space. The following number of handicapped spaces shall be provided, unless a revised regulation is officially established under the Federal Americans With Disabilities Act:

TOTAL NO. OF REQUIRED PARKING SPACES ON THE LOT	REQUIRED MINIMUM NO./PERCENT OF HANDICAPPED PARKING SPACES
4 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of required number of spaces

TOTAL NO. OF REQUIRED PARKING SPACES ON THE LOT	REQUIRED MINIMUM NO./PERCENT OF HANDICAPPED PARKING SPACES
1,001 or more	20 plus 1% of required number of spaces over 1,000

- 2) Location. Handicapped parking spaces shall be located where they would result in the shortest reasonable accessible distance to a handicapped accessible building entrance. Curb cuts shall be provided as needed to provide access from the handicapped spaces.
- 3) Minimum Size. Each required handicapped parking space shall be 8 by 18 feet. In addition, each space shall be adjacent to a 5 feet wide access aisle. Such access aisle may be shared by 2 handicapped spaces by being placed between them. However, one out of every 8 required handicapped parking spaces shall have an adjacent access aisle of 8 feet width instead of 5 feet.
- 4) Slope. Handicapped parking spaces shall be located in areas of less than 6 percent slope in any direction.
- 5) Marking. All required handicapped spaces shall be well-marked by clearly visible signs or pavement markings. Blue paint is recommended.
- 6) Paving. Handicapped parking spaces and adjacent areas needed to access them with a wheelchair shall be covered with a smooth surface that is accessible with a wheelchair.

H. Bicycle Parking. To comply with 1995 amendments to Article 66B of the Code of Maryland, any new use required to provide 10 or more new off-street parking spaces shall include a suitable area for the parking of bicycles. Such area should allow for locking of bicycles to a secure feature, but shall not result in obstructions to fire exits or handicapped access.

603 **OFF-STREET LOADING**

- A. All permitted uses requiring truck loading and unloading space for normal operations shall provide adequate loading space so that no vehicle being loaded or unloaded in connection with the normal operations shall stand in or project into any public street.
- B. Size. The applicant shall provide evidence acceptable to the Zoning Administrator that the loading space(s) will be large enough to reasonably accommodate the size of trucks expected to routinely service the use. To serve medium sized trucks, each loading space is intended to be at least 30 feet in length by 12 feet in width by 14 feet in height.
- C. Number. The applicant shall provide evidence acceptable to the Zoning Administrator that the number of off-street loading spaces will be sufficient.

ARTICLE 7
SIGNS

700 **SIGN DEFINITIONS.** See Section 201 under "Signs."

701 **NONCONFORMING SIGNS.**

An existing lawful nonconforming sign may be replaced with a new sign, provided that the new sign is not more nonconforming in any manner than the existing sign, and provided that in no case shall the new sign exceed an absolute maximum of 200 square feet per side in sign area.

702 **APPLICABILITY**

- A. No sign shall be erected, hung, placed, or painted in any District except as hereinafter provided.
- B. Tacking, painting, posting, or otherwise affixing of signs or posters of a miscellaneous character on the walls of structures, trees, posts, poles, fences, walls, or other structures except as provided for in this Ordinance is prohibited.
- C. A sign erected before the effective date of this Ordinance shall not be expanded or moved, except in compliance with the provisions of this Ordinance.
- D. The flag, emblem, insignia or symbol of a nation, other governmental unit, non-profit education, charitable, or religious group shall be exempt from the terms of this Article.
- E. Art. If an applicant proves to the satisfaction of the Zoning Administrator that a proposed display is "art" instead of being a "sign," then the art shall not be regulated under this Ordinance. For such purpose, the applicant shall prove:
 - 1. that the display will not be internally illuminated;
 - 2. that the display clearly is primarily intended to serve an artistic or public service purpose, as opposed to any commercial purpose; and
 - 3. that the display shall be in place no more than two consecutive weeks per year.

703 **INTERPRETATION**

For the purposes of regulating signs in this Ordinance, any of the following words are intended to include any tense or to read with the prefix "re": affix, alter, attach, display, erect, hang, move, paint, paper, paste, place, post, repair.

704 **AREA OF SIGN**

- A. The area of a sign shall be construed to include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself.
- B. The area of a sign painted upon or applied to a building shall be construed to include all lettering, wording, and accompanying designs or symbols together with any backing associated with the sign.
- C. Where the sign consists of individual letters or symbols attached to or painted on a surface, building, wall, or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.
- D. In computing square foot area of a double-face sign, only one side shall be considered, provided both faces are identical.

705 **PERMIT REQUIREMENTS FOR SIGNS**

No on-premises sign over 4 square feet in area and no off-premises sign (except official governmental signs) of any size shall be erected, affixed, painted, hung, or otherwise displayed, altered, or repaired, unless a permit therefor has been issued. No permit shall be required for the repainting, repapering or change of copy of an existing lawful sign. All signs of any size must comply with all the regulations contained herein, irrespective of whether a permit is required.

706 **SIGNS PERMITTED IN RESIDENTIAL DISTRICTS.** The following signs shall be permitted in Residential Districts:

A. **On-Premises Signs.**

- 1) Official Signs. Official traffic signs and other official federal, state, county or town government signs.
- 2) Identification or Home Occupation Signs. A sign indicating the name of the building or premises or the accessory use of a dwelling for a home occupation, provided that such sign shall not exceed 2 square feet in area that not more than one such sign shall be erected on a property, unless such property fronts on more than one street, in which case one such sign may be erected on each street frontage. Such sign shall not be internally illuminated if within a residential district.
- 3) Farm Signs. A sign advertising the sale of farm products grown or produced on the premises, provided that the area of any such sign shall not exceed 12 square feet and not more than one such sign shall be placed on the property unless such property fronts on more than one street, in which case one such sign may be erected on each street frontage.
- 4) Bulletin Boards. Bulletin or announcement board or identification signs for schools, churches, hospitals, and other principal uses and buildings other than dwellings, provided that the area of any such sign shall not exceed 12 square feet and not more than one such sign shall be placed on a property unless such property fronts on more than one street, in which case one such sign may be erected on each street frontage.
- 5) Real Estate Signs. Signs advertising exclusively the prospective sale or lease of the land or building upon which such signs are displayed, provided that the area of any such signs shall not exceed 6 square feet and not more than one such sign shall be placed on a property, unless such property fronts on more than one street, in which case one such sign may be erected on each street frontage. Such signs shall be removed immediately upon final settlement or renting of a property.
- 6) Development Signs. A temporary sign advertising the development of the property upon which it stands or the opening of a new subdivision, provided that the area of any such sign shall not exceed 100 square feet, that not more than one such sign may be placed on a property, unless such property fronts on more than one street, in which case one such sign may be erected on each street frontage. Such signs shall be removed immediately upon completion of the development. Such signs shall not be illuminated if within a residential district. Such a sign may be attached to a brick or other decorative masonry wall with a maximum height of 6 feet and a maximum length of 20 feet.
- 7) Contractor's Signs. Temporary contractors', architects' or building signs, provided that the area of any such sign shall not exceed 12 square feet. Such signs shall be removed immediately upon completion of the work or 18 months after erection of the signs, whichever shall occur first.
- 8) Directional Signs. Traffic control and directional signs not exceeding 2 square feet in area. Such signs shall not be illuminated, but may be of the beaded reflector type. No advertising matter whatsoever shall be contained on signs of this type.

- 9) No Trespassing Signs. No trespassing signs, signs indicating the private nature of a road, driveway, or premises, provided that the area of any such sign shall no exceed 2 square feet.
- 10) Non-Profit Signs. Temporary signs announcing a campaign, drive, or event of a civic, philanthropic, education, or religious organization. Such signs shall not exceed 12 square feet in area and shall be removed not more than 5 days after the event.

B. Off-Premises Signs.

- 1) Signs directing patrons, members, or audience to temporary exhibits, shows, or events, subject to the following requirements:
 - i) No such sign shall exceed 12 square feet in area.
 - ii) Signs shall be removed within 5 days after the date of the exhibit, show, or event.
 - iii) No permit shall be issued for the erection of such signs until a deposit shall be made with the Zoning Administrator in accordance with a fee schedule adopted by the Town Council to guarantee removal within the time prescribed. Failure to remove such signs within the time prescribed shall result in forfeiture of the deposit.
 - iv) No such signs shall be posted earlier than 2 weeks before the occurrence of the event to which it relates.
- 2) Official traffic signs and other federal, state, county, or town government signs.

707 **SIGNS PERMITTED IN BUSINESS DISTRICTS.** The following signs shall be permitted in Business Districts:

A. On-Premises Signs.

- 1) All signs permitted in Section 706 at the standards prescribed therein except as otherwise provided in this Section.
- 2) Signs for permitted principal non-residential uses provided:
 - i) The aggregate area of all signs attached to or printed on a building shall not exceed 10% of the area of the building face to which they are attached or painted, or 50 square feet, whichever is less.
 - ii) There shall be a maximum of one free-standing sign per lot per street frontage.
 - iii) The area of any free standing sign shall not exceed one square foot for each 2 lineal feet of street frontage occupied by the use on which or in connection with which the sign is to be erected, but in no case shall the area of a sign exceed 100 square feet.

- B. Off-Premises Signs.
- 1) All signs permitted in Section 706 at the standards prescribed therein.
 - 2) Signs used for directing patrons, members, or audience to service clubs, churches, or other non-profit organizations, provided signs shall indicate only the name, emblem, meeting hours, address, and direction of the facility, and shall not exceed 4 square feet in area.

708 **GENERAL SIGN REGULATIONS**

- A. No sign shall project more than 3 feet above the roof nor more 3 feet from the wall to which it is attached. A sign may be incorporated into a durable awning or canopy that projects up to 3 feet from a wall. Any sign attached to and placed approximately perpendicular to a building face shall have a maximum sign area of 4 square feet and a minimum clearance of 8 feet above the ground level.
- B. No sign shall be located within any street right-of-way, except official signs, non-commercial banners and directional signs approved by the Town Council, and signs permitted by Sections 706.A.1) and 706.B.2). Signs permitted by Section 708.A. may project into a street right-of-way if the wall of an existing building is located immediately adjacent to the right-of-way.
- C. Height. Signs attached to a building shall not exceed the height of the building to which it is attached. Signs that are not attached to a building shall not exceed a maximum total height of 25 feet above the ground level, unless a more restrictive height is established by another provision of this Ordinance.
- D. Obstructions. Signs shall not obstruct any window, door, fire, escape, stairway, or other opening intended to provide light, air, ingress, or egress for any building.
- E. Safety and Lighting. No sign shall constitute a public safety and traffic hazard, such as by obstructing traffic signals, road warning signs, street name signs, or the full view of the traffic in all directions. Lighting devices shall be shielded so that they do not shine directly into the eyes of motorists or into a residential district.
- F. Condition of Signs. All signs except temporary signs shall be constructed of durable material and kept in good condition and repair. Whenever a sign becomes structurally unsafe or endangers the safety of a building or premises or the public safety, in the opinion of the Zoning Administrator, he/she shall order that such sign be made safe or removed. Such order shall be complied with within 5 days of receipt thereof by the person or entity owning or using the sign or the owners of the building or premises on which such unsafe sign is affixed or erected.
- G. No sign placed or constructed after the effective date of this Ordinance shall flash or mechanically rotate.

**ARTICLE 8
NONCONFORMITIES**

800 **DEFINITIONS**

- A. Nonconforming Structure or Lot. A structure or lot that does not conform to a dimensional regulation prescribed by this Ordinance for the district in which it is located or to regulations for signs, off-street parking, off-street loading, or accessory buildings, but which structure or lot was in existence at the effective date of this Ordinance and was lawful at the time it was established.
- B. Nonconforming Use. A use of a building or lot that does not conform to a use regulation prescribed by this Ordinance for the district in which it is located, but which was in existence at the effective date of this Ordinance, was lawful at the time it was established. Owners of nonconforming uses are strongly encouraged to obtain a certificate under Section 808.

801 **CONTINUATION OF NONCONFORMITIES**

The lawful use of any structure or land existing at the effective date of this Ordinance may be continued although such use does not conform with the provision of this Ordinance except as otherwise provided in this Article.

802 **EXPANSION OF NONCONFORMITIES**

- A. An existing use of land or a structure which is not listed as permitted by right or by special exception in the applicable district according to the regulations of Section 406 shall not be expanded unless a zoning permit is issued and the following standards are met:
 - 1. Such expansion shall not exceed 25 percent of the total land area covered by such use at the time of adoption of this Ordinance.
 - 2. Such expansion shall comply with all other requirements of this Ordinance, including setbacks.
 - 3. No new nonconformity shall be created as a result of the expansion.
 - 4. In no case shall an expansion be permitted in either of the following:
 - a) the land area covered by the outdoor storage of junk;
 - b) the height of the outdoor storage of junk.
- B. A structure which does not conform to the regulations of this Ordinance other than Section 406 may be altered, reconstructed or enlarged, provided that no such nonconformity is increased beyond its extent on the date that it became nonconforming, and provided that all other provisions of this Ordinance are met, including other provisions of Article 8.
- C. See Section 805 for changes in use.

803 **RESTORATION OF NONCONFORMITIES**

- A. Structures damaged by fire or other causes to the extent of more than 75 percent of the market value of the structure shall not be repaired, reconstructed, or used for the same nonconforming use without the approval of the Board of Zoning Appeals. Such approval is termed a "Special Exception" (see Section 1006).
- B. Structures with damage to the extent of 75 percent or less of the market value may be reconstructed, repaired, or used for the same nonconforming use without Board of Zoning Appeals approval.
- C. Any such reconstruction or repair shall be subject to the following provisions:
 - 1. The reconstructed structure shall not exceed the height, area, or volume of the damaged structure.
 - 2. Reconstruction shall begin within one year from the date of damage and shall be carried on without interruption.

804 **ABANDONMENT OF NONCONFORMITIES**

Whenever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be reestablished and any future use shall be in conformity with the provisions of this Ordinance.

805 **CHANGES TO NONCONFORMITIES**

Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to another nonconforming use if the applicant shows that the proposed change will be less objectionable in external effects than the existing nonconforming use with respect to:

- A. traffic generation and congestion, particularly involving truck traffic;
- B. noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, or vibration;
- C. storage and waste disposal;
- D. appearance.

Such a change is termed a "Special Exception" requiring the approval of the Board of Zoning Appeals (see Section 1006).

806 **DISPLACEMENT**

No nonconforming use shall be extended to displace a conforming use.

807 **DISTRICT CHANGES**

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming uses or structures existing therein.

808 **NONCONFORMING USE CERTIFICATE**

Nonconforming use certificates shall be issued by the Zoning Administrator if an applicant provides evidence that a nonconformity exists and was lawful when it was first established.

809 **NONCONFORMING LOTS OF RECORD** See Section 502.

**ARTICLE 9
ADMINISTRATION**

900 ZONING ADMINISTRATOR - DUTIES AND POWERS

The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator who shall be appointed by the Mayor and confirmed by the Town Council. One or more Deputy Zoning Administrators may also be appointed to serve in the same manner as the Zoning Administrator.

The Zoning Administrator shall have the authority and duty to:

- A. Receive and examine all applications for zoning permits.
- B. Issue permits only where there is compliance with the provisions of this Ordinance and with other Town ordinances. Permits for construction or uses requiring a special exception or variance shall be issued only upon order of the Board of Zoning Appeals.
- C. Receive applications for special exceptions, submit these applications to the Planning Commission for their comments, and then forward the applications along with Planning Commission's recommendation to the Board of Zoning Appeals for action thereon.
- D. Following refusal of a permit, to receive applications for interpretation appeals and variances and forward these applications to the Board of Zoning Appeals for action thereon.
- E. Conduct inspections and surveys to determine compliance or non-compliance with the terms of this Ordinance.
- F. Issue stop, cease, and desist order, and orders in writing for correction of all conditions found to be in violation with the provisions of this Ordinance. Such written orders shall be served personally or by certified mail upon persons, firms, or corporations deemed by the Zoning Administrator to be violating the terms of this Ordinance. It shall be unlawful for any person to violate any such order lawfully issued by the Zoning Administrator, and any person violating any such order shall be guilty of a violation of this Ordinance.
- G. With the approval of the Town Council, or when directed by them, institute in the name of the Town any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct, or abate such violation so as to prevent the occupancy of or use of any building, structure or land, or to prevent any illegal act, conduct, business, or use in or about such premises.
- H. Revoke by order, a zoning permit issued under a misstatement of fact or contrary to the law or the provisions of this Ordinance.
- I. Record and file all applications for zoning permits with accompanying plans and documents. All applications, plans, and documents shall be a public record.
- J. Maintain a map or maps showing the current zoning classification of all land in the Town.
- K. Maintain a map of all nonconforming uses and special exception uses in the Town and a file on each such use.
- L. Upon the request of the Mayor or Town Council, the Planning Commission, or the Board of Zoning Appeals, present to such bodies, facts, records, or reports which they may request to assist them in making decisions, or assist them in any other way as requested.

901 **ZONING PERMITS**

Hereafter, until a zoning permit has been secured from the Zoning Administrator: no structure (except certain signs as provided in Article 7) shall be erected, constructed, reconstructed, or moved; and no land or building used or occupied; and no land or building changed in use. Upon completion of changes in use or construction, reconstruction, alteration, or moving of structures, the applicant shall notify the Zoning Administrator of such completion. No permit shall be considered as complete or permanently effective until the Zoning Administrator has noted on the permit that the work or occupancy and use has been approved as being in conformity with the provisions of this Ordinance, to the best knowledge of the Zoning Administrator.

902 **APPLICATION REQUIREMENTS FOR ZONING PERMITS**

All applications for zoning permits shall be made in writing by the owner, tenant, vendee under contract of sale, or authorized agent on a form supplied by the Town and shall be filed with the Zoning Administrator. The application shall include the following, except where the Zoning Administrator determines such information is not necessary to determine compliance with this Ordinance:

- A. A statement as to the proposed use of the building or land.
- B. A site layout drawn to scale showing the location, dimensions, and height of proposed buildings, structures, or uses, and any existing buildings in relation to property and street lines.
- C. Lot dimensions, lot and block numbers, and subdivision name, if any.
- D. The location, dimensions, and arrangement of all open space, parking areas, and yards. Methods to be used for screening shall be included where applicable.
- E. The number, location, and design of parking areas if applicable.
- F. The dimensions, location, and methods of illumination for signs, if applicable.
- G. In the case of applications for interpretations, variances, and special exceptions, the additional information specified in Section 1010.
- H. Any other information deemed necessary by the Zoning Administrator to ascertain whether an application complies with the provisions of this Ordinance.

903 **FEES**

All applicants for zoning permits, special exceptions, and interpretation and variance appeals shall at the time of making application, pay to the Town for the use of the Town, a fee in accordance with the fee schedule which may be adopted and amended by resolution of the Town Council. In addition, the applicant shall be responsible to pay any other actual expenses incurred by the Town through the County Planning and Zoning Office.

904 **TIME LIMIT ON A PERMIT**

Any erection, construction, reconstruction or moving of a structure, including a sign authorized by a zoning permit, shall be commenced, and any change in use of a structure or land authorized by a zoning permit shall be undertaken within one year after the date of issuance of the permit. If not, the permit shall be considered null and void. The Zoning Administrator may grant a written extension of one total additional year if an applicant proves good cause.

ARTICLE 10
BOARD OF ZONING APPEALS

1000 **ESTABLISHMENT OF BOARD**

In order that the objectives of this Ordinance may be more fully and equitably achieved and a means for competent interpretation of this Ordinance provided, there is hereby established a Board of Zoning Appeals.

1001 **MEMBERSHIP, TERMS OF OFFICE**

The Board shall consist of 3 members. The terms of office of the members shall be 3 years. Members shall be appointed by the Mayor, confirmed by the Town Council, and removable for cause upon written charges and after public hearing. The Mayor shall designate at least one alternate member for the Board who may be empowered to sit on the Board in the absence of any member of the Board.

1002 **PROCEDURES, MEETINGS, RECORDS AND DECISIONS**

- A. Procedures. The Board shall elect a chairman from its membership, shall appoint a secretary, and shall prescribe rules in accordance with the provisions of Article 66B of the Annotated Code of Maryland and this Ordinance for the conduct of its affairs.
- B. Meetings. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. Two members present shall constitute a quorum.
- C. Records and Decisions. 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 immediately filed in the office of the Board and shall be a public record.
 - 1. All actions or decisions of the Board shall be taken by resolution in which two members, present during the proceedings, must concur. Each resolution shall contain a statement of the grounds and any findings forming the basis of such action or decision.
 - 2. The Board shall notify the Mayor and Town Council, Planning Commission, and Zoning Administrator of all decisions and resolutions.

1003 **NOTICE OF HEARINGS**

Upon filing with the Board of an application for a special exception, variance, or appeal from alleged error of the Zoning Administrator, the Board shall fix a reasonable time (not less than 14 days nor more than 45 days from the filing date) for a public hearing thereon and give notice as follows:

- A. At least 14 days prior to the date fixed for public hearing publish once each week for 2 successive weeks a notice containing the name of the application or appellant; the date, time, and place fixed for the hearing; and a brief statement of the special exception sought by the applicant, or the error alleged by the appellant, or of the variance or other questions which is subject to appeal, in at least one newspaper of general circulation within the town.
- B. Post, in a conspicuous place on the property involved, a notice of pending action containing the same information as in "A." above, such posting to take place at least 14 days prior to the date fixed for the

public hearing.

- C. Give written notice of the time and place of such hearing by mail or delivery to the applicant or appellant and to the owners of property contiguous to or directly across a street from the property affected.
- D. Send written notices of hearing to other interested persons, organizations, or agencies, at the Town's complete discretion.

1004 **INTERPRETATION BY THE BOARD**

Upon appeal from a decision by the Zoning Administrator, the Board shall decide any question 1) involving the interpretation of any provisions of this Ordinance, including determination of the exact location of any district boundary if there is uncertainty with respect thereto; 2) where it is alleged there is error in any order, requirement, decision, or determination, including any order requiring an alleged violation to stop, cease, and desist, made by the Zoning Administration in the enforcement of this Ordinance.

1005 **ZONING VARIANCES** (See definition of "variance" in Section 202)

- A. Upon appeal from a decision by the Zoning Administrator, the Board of Zoning Appeals shall have the power to vary or modify the strict application of certain specific requirements of this Ordinance based upon subsection "C." below.
- B. In general, the power to authorize a variance from the terms of this Ordinance shall be sparingly exercised and only under peculiar and exceptional circumstances.
- C. Standards. No variance to the provisions of this Ordinance shall be granted by the Board unless the Board finds that the appellant has proved that the following standards are satisfied.
 - 1. The variance will not be contrary to the public interest.
 - 2. That a literal enforcement of the Ordinance would result in either practical difficulty and/or unnecessary hardship.
 - 3. The granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and shall not be injurious to the neighborhood or other wise detrimental to the public welfare.
 - 4. The granting of the variance will not permit the establishment within a District of any use which is prohibited in that District.
 - 5. There must be proof of special or unique circumstances or conditions that are peculiar to the land or buildings for which the variance is sought, such as a narrow or irregular lot. These circumstances shall be described in the findings.
 - 6. The granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that will provide the needed relief.
 - a) It is not sufficient proof of hardship to show that greater profit would result if the variance were awarded.
 - 7. The need for the variance is not self-created, and is not the result of any action taken by the applicant.

- D. Conditions. The Board may establish reasonable conditions as it deems to be necessary to provide for the objectives of this Ordinance and to protect the public health and safety and to avoid significant nuisances.

1006 **SPECIAL EXCEPTIONS USES**

- A. The Board shall have the power to approve special exceptions for any of the uses for which this Ordinance requires obtaining of such exceptions and for no other use or purpose.
- B. In granting a special exception, the Board shall make findings of fact consistent with the provisions of this Ordinance. The Board shall not grant a special exception except in conformance with the conditions and standards outlined in this Ordinance.
- C. General Requirements and Standards Applicable to All Special Exceptions. The Board shall grant a special exception only if it finds adequate evidence that any proposed use submitted for a special exception will meet all of the following general requirements as well as any specific requirements and standards listed for the proposed use. The Board shall, among other things, require that any proposed use and location:
- 1) Be in accordance with the Accident Comprehensive Plan and consistent with the spirit, purposes, and intent of this Ordinance.
 - 2) Be suitable for the property in question, and designed so as to be in harmony with and appropriate in appearance with the existing or intended character of the general vicinity.
 - 3) Be suitable in terms of effects on street traffic and safety with adequate access arrangements to protect streets from undue congestion and hazard.
 - 4) Not result in significant nuisances or significant hazards to the public health and safety.
- D. Conditions on Approval. The Board may impose reasonable conditions regarding layout, circulation, performance and other matters it deems necessary to make sure that any proposed development will serve the objectives and standards of this Ordinance.
- E. Persons With Disabilities. After having received a complete written application, the Board of Zoning Appeals shall grant a special exception allowing modifications to specific requirements of this Ordinance that the applicant proves to the satisfaction of the Board of Zoning Appeals are necessary to provide a "reasonable accommodation" under the Americans With Disabilities Act and/or the Federal Fair Housing Act and/or applicable State law, as amended, to serve persons who the applicant proves have "disabilities" as defined in and protected by such laws.

1007 **EXERCISING POWERS CONCERNING APPEALS**

In exercising the above mentioned powers concerning appeals, the Board may, in conformity with law and the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination appealed from and make such order, requirements, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

1008 **TIME LIMIT ON BOARD APPROVAL**

Within one year after a decision in favor of the applicant is issued by the Board of Zoning Appeals, a zoning permit shall be obtained by the applicant and construction or alterations shall commence. Such one year period may be extended by a total of one additional year by the Zoning Administrator if the applicant proves good cause. Otherwise, any approval by the Board shall become void.

1009 **WHO MAY APPEAL TO THE BOARD**

Appeals to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the Town affected by any decisions of the Zoning Administrator.

1010 **FILING FOR DECISION BY THE BOARD**

- A. The following general rules and procedures shall apply for appeals and applications to the Board of Zoning Appeals:
 - 1) Any appeal shall be made by filing the same with the Zoning Administrator within 30 days after the date of the Zoning Administrator's decision.
 - 2) All appeals and applications made to the Board shall be in writing on standard forms prescribed by the Board.
 - 3) All appeals and applications shall refer to the specific provisions of the Ordinance involved.
 - 4) All appeals and applications shall set forth names and addresses of all adjoining owners including those across the streets from the subject property.
- B. Interpretation Appeals. Appeals concerning the interpretation of any provisions of this Ordinance shall exactly set forth the section involved and the interpretation that is claimed.
- C. Variance Appeals. Appeals for variance from the strict application of this Ordinance shall include the zoning permit applications denied by the Zoning Administrator together with a statement with any supporting data regarding the requirements listed in Section 1005.
- D. Special Exception Applications. Applications for special exceptions shall include a zoning permit application with all information required therein and a statement with any supporting data regarding the merits of the proposed use at the proposed location and how the proposal complies with the general and specific requirements of this Ordinance.

1011 **PLANNING COMMISSION REVIEW OF APPLICATIONS TO BOARD OF ZONING APPEALS**

- A. The Zoning Administrator shall submit to the Board any advisory opinion provided from the Planning Commission on any application for a special exception and the Board shall consider such advisory opinion prior to making a decision on an application.
- B. The Board may also request an advisory opinion from the Planning Commission on any application for a variance or interpretation.

1012 **DECISIONS BY THE BOARD**

Decisions by the Board on special exceptions, variances, and interpretation appeals shall be rendered within 10 working days of the hearing on said exception, variance or interpretation, unless a later date is mutually agreed upon by the Board and applicant.

1013 **APPEAL TO COURT**

A decision of the Board of Zoning Appeals may be appealed by any aggrieved person(s), jointly or severally, or any aggrieved taxpayer of the Town, or any officer or agency of the Town, to the Circuit Court of Garrett County.

ARTICLE 11
AMENDMENTS AND ENFORCEMENT

1100 AMENDMENT OF THIS ORDINANCE

The Town Council may from time to time amend, supplement, change, modify or repeal this Ordinance Text and/or Zoning Map. When doing so the Town Council shall proceed in the manner prescribed in this Article.

1101 WHO MAY INITIATE

Proposals for amendment may be initiated by the Town Council on its own motion, by the Planning Commission, or by petition of one or more owners of property to be affected by the proposed amendment, subject to the following provisions:

- A. Proposals Originated by the Town Council. The Town Council shall refer every proposed amendment to the Planning Commission. Within 30 days of the submission of said proposal, the Commission should submit to the Town Council a report containing the Commission's recommendations, including any additions or modification to the original proposal.
- B. Proposals Originated by the Planning Commission. The Planning Commission may at any time transmit to the Town Council any proposal for amendment of this Ordinance.
- C. Proposals Originated by a Citizen's Petition. Each petition by one or more owners of property to be affected by a proposal for amendment shall be submitted in writing to the Town Clerk. On receipt of said petition, the Town Clerk shall transmit a copy of the petition to the Planning Commission. Within 30 days, the Planning Commission should submit a report to the Mayor and Town Council containing the Commission's recommendations, including any modifications of the original proposal. The Town Council may defer action on the petition until the recommendations of the Planning commission are received and reviewed.

1102 PUBLIC HEARING AND NOTICE

No amendment of this Ordinance shall become effective until after a public hearing is held by the Town Council on the matter at which parties in interest and citizens shall have the opportunity to be heard. Notice shall be given as follows:

- A. At least 14 days prior to the date fixed for public hearing, publish a notice containing the name of the applicant; the date, time, and place fixed for the hearing; and the general nature of such hearing in at least one newspaper of general circulation.
- B. When such hearing concerns a zoning map change, a notice shall be posted in a conspicuous place on the property involved, including the information listed in subsection A. above. Such posting to take place at least 14 days prior to the date fixed for public hearing.
- C. When such hearing concerns a zoning map change, written notice of the time and place of such hearing shall be mailed or delivered to the applicant and to the owners of property contiguous to or directly across a street from the property affected.
- D. Additional notices of a hearing may be provided at the Town's option. A written notice should be provided to the Garrett County Office of Planning and Zoning.

1103 FEES FOR AN AMENDMENT

All applicants for zoning amendments shall, at the time of making application, pay to the Town Clerk for the use of the Town, a fee in accordance with the fee schedule adopted, and as may be amended in the future, by resolution of the Town Council. At an absolute minimum, an applicant for a zoning amendment shall be responsible to reimburse the Town for all costs of legal advertisements and similar actual administrative costs.

1104 **CONDITIONS FOR A ZONING AMENDMENT**

A. Conditions Established by Mayor and Town Council

1. Under the authority of Section 4.01(b) of Article 66B of the Annotated Code of Maryland, the Mayor and Town Council may, upon the rezoning of any land(s):
 - a. impose such additional restrictions, conditions, or limitations as may be deemed appropriate to preserve, improve or protect the general character and design of the land or improvements being rezoned, or of the surroundings or adjacent lands and improvements, and
 - b. retain or reserve the authority to approve or disapprove the design of buildings, construction, landscaping or other improvements, alterations, and changes made or to be made on the subject land(s) to assure conformity with the purposes of Article 66B of the Annotated Code of Maryland and this Ordinance.
2. Restrictions, conditions or limitations imposed under Section 1104.A.1. shall be enforceable in the same manner as any other provisions of this Ordinance.
3. A first draft of any proposed restrictions, conditions or limitations shall be read aloud at a legally advertised public hearing, with advance notice provided to the applicant. The legal advertisement shall state that the Mayor and Town Council may consider restrictions, conditions or limitations connected to the rezoning.

B. State Law. As of 1996, Section 4.05 of Article 66B of the Annotated Code of Maryland generally provided the following:

"Where the purpose and effect of the proposed amendment is to change the zoning classification, the Mayor and Town Council:

- *shall make findings of fact in each specific case, including, but not limited to, the following matters:*
 - *population change,*
 - *availability of public facilities,*
 - *present and future transportation patterns,*
 - *compatibility with existing and proposed development for the area,*
 - *the recommendation of the planning commission, and*
 - *the relationship of the proposed amendment to the Town's Comprehensive Plan; and*
- *may grant the amendment **based upon a finding that there was a substantial change in the character of the neighborhood where the property is located or that there was a mistake in the existing zoning classification.**"*

1105 **REMEDIES**

In case any structure is erected, constructed, reconstructed, altered or converted, or any structure or land is used in violation of this Ordinance, the appropriate authorities of the Town of Accident, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct, or abate such violation; to prevent any illegal act, conduct, business, or use in or about such premises. The rights and remedies provided in this Ordinance are cumulative and are in addition to all other remedies provided by law.

1106 **FINES AND PENALTIES**

- A. For any and every violation of the provisions of this Ordinance:
- 1) the owner, general agent, or contractor of a building or premises where such violation has been committed or shall exist;
 - 2) the owners, general agent, contractor, lessee, or tenant of any part of a building or premises in which part such violations have been committed or shall exist;
 - 3) the general agent, architect, builder, contractor, or any other person who commits, takes part, or assists in any such violation or who maintains any building or premises in which any such violation shall exist, shall be on conviction thereof, guilty of a misdemeanor and liable to a fine or penalty not to exceed \$100 dollars.
- B. Whenever any such person specified in paragraph A. above shall have been notified by the Zoning Administrator in writing that he/she is violating this Ordinance, such person shall commence correction of all violations within 5 days after notice and correct all violations within 30 days. Such maximum time periods may be increased if the Zoning Administrator determines a longer period is necessary and reasonable. Each day beyond such deadlines that a violation continues shall be considered a separate offense punished by the like fine.