

Article 1. Purpose and Authority

Section 12-100. Short Title

This Ordinance shall be known, cited, and referred to as the Town of Rising Sun Zoning Code.

Section 12-101. Authority

This Code is enacted under the authority granted by the General Assembly of Maryland, as provided in Article 66B, Annotated Code of Maryland, as amended.

Section 12-102. Intent/Authority

1. This Code is intended to promote the orderly development of the Town of Rising Sun, Maryland, in accordance with the Rising Sun Comprehensive Plan or any of the component parts thereof and in compliance with Article 66B of the Annotated Code of Maryland, as amended. It is also the intent of this Code that the extent of its applicability shall be automatically changed in accordance with the provisions hereof or with any provision of State Law which may hereinafter affect the applicability of this Code.
2. The purpose of this Zoning Code is to implement the Comprehensive Plan for the Town of Rising Sun, Maryland in order to promote the health, safety, order, convenience and general welfare of the citizens of the Town in accordance with present and future needs as expressed in the Comprehensive Land Use Plan. It is the further purpose of this Zoning Code to provide for economic and efficient land development, encourage the most appropriate use of land, provide convenient and safe movement of people and goods, control the distribution and density of population to areas where necessary public service can be provided, protect historic and environmental areas, encourage good civic design, and provide for adequate public utilities, facilities, and services.
3. It is also the objective of this Code to implement the "Visions" contained in the Maryland Growth Management, Resource Protection and Economic Development Act, namely:
 - a. Development is concentrated in suitable areas.
 - b. Sensitive areas are protected.
 - c. In rural areas, growth is directed to existing population centers and resource areas are protected.
 - d. Stewardship of the Chesapeake Bay and the land is a universal ethic.
 - e. Conservation of resources, including a reduction in resource consumption, is practiced.

- f. To assure the achievement of (a) through (e) above, economic growth is encouraged and regulatory mechanisms are streamlined.
 - g. Funding mechanisms are in place to achieve all other visions.
4. The regulations and provisions contained in this Zoning Code were adopted and became effective **February 10, 2004**. (See Appendix X for list of amendments)

Section 12-103. Jurisdiction

This Code shall be effective throughout the Town of Rising Sun, Maryland's planning jurisdiction. The town's planning jurisdiction comprises all areas within the corporate boundaries of the Town of Rising Sun, Maryland.

Section 12-104. Severability

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

Section 12-105. Adequate Public Facilities Requirements

- 1. No concept or plan for a subdivision or other major development shall be approved unless the Planning Commission first determines that adequate facilities are available to support and service the proposed subdivision or major development.
- 2. The applicant shall submit with any subdivision concept plan or major development plan sufficient information and data to demonstrate the expected impact on and use of the public facilities by the residents or occupants of the proposed subdivision or major development.

(insert APFO draft ordinance)

Section 12-106. No Use or Sale of Land or Buildings Except in Conformity With Ordinance Provisions

1. No person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all of the applicable provisions of this Code.
2. For the purposes of this section, the "use" or "occupancy" of a building or lands relates to anything and everything that is done to, on, or in that building or land.

Section 12-107. Violations and Penalties

Violation of this Code shall be punishable as provided in Article 20.

Section 12-108. Relationship to Existing Zoning, Subdivision, and Flood Control Ordinances

To the extent that the provisions of this Code are the same in substances as the previously adopted provisions that they replace in the Town's Zoning Code or Subdivision Regulations, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful, nonconforming situation under the previously adopted Zoning Code does not achieve lawful, nonconforming status under this Code merely by the repeal of the Zoning Code.

Section 12-109. Fees

Fees established in accordance with Town of Rising Sun procedures shall be paid upon submission of a signed application or notice of appeal, unless otherwise determined by the Planning Commission. Additional reasonable fees may be charged by the Town to cover Town expenses related to the review of development plans, i.e., site plans and subdivision plats, and related improvement plans. These fees may include consulting services of an independent engineer, architect and/or landscape architect to assist the Town in the review of development and improvement plans.

Section 12-110. Official Zoning Map

1. The incorporated areas of the Town are hereby divided into zones, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Code.
2. The Official Zoning Map shall be identified by the signatures of the Town Commissioners attested by the Town Clerk, and bearing the seal of the Town under the following words: "This is to certify that this is the Official Zoning Map referred to in Article 1 of the Zoning Code of the Town of Rising Sun, Maryland", together with the date of the adoption of this Code.

3. When changes are approved by the Town Commissioners in Zone Boundaries and other matters, entry will be made promptly on the Official Zoning Map as follows: on (date), by official action of the Town Commissioners, the following (change or changes) were made in the Official Zoning: (brief description of nature of change)", which entry shall be signed by the Town Commissioners and attested by the Town Clerk. The amending Code shall provide that such changes or amendments shall not become effective until they have been duly entered upon the Official Zoning Map. No amendment to this Code which involves matters portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.
4. No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Code. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Code and punishable as provided under Article 16 of this Code.
5. Regardless of the existence of purported copies of the Official Zoning Map which may for time to time be made or published, the Official Zoning Map which shall be located in the office of the Town Clerk, shall be the final authority as the current zoning status of land and water areas, buildings, and other structures in the Town.

Section 12-111. Replacement of Official Zoning Map

1. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature of changes and additions, the Town Commissioners may by resolution adopt a new Official Zoning Map which shall supersede the prior Zoning Map.
2. In the case of annexations, the developer shall bear the cost of updating the zoning map to include the new development. All updates shall use the necessary coordinates provided by the town engineer with the approval of a final plat by the town engineer and the Planning and Zoning Commission.
3. In the case of annexations, the developer shall bear the cost of updating the Zoning Map to include the new development. All updates shall use the necessary coordinates provided by the Town Engineer with the approval of a final plat by the Town Engineer and the Planning and Zoning Commission.

Article 2. Rules for Interpretation of Zone Boundaries

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

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following town limits, shall be construed as following town limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
5. Boundaries indicated as approximately following the center lines of streams or other bodies of water shall be construed to follow such center lines;
6. Boundaries indicated as parallel to or extensions of features indicated in paragraphs 1 through 5 above shall be so construed. Distance not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
7. Where a lot is divided by one or more zone boundary lines each of said divisions of the lot shall be subject to the regulations of the district in which it is located;
8. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by paragraphs 1 through 7 above, the Board of Appeals shall interpret the zone boundaries.

Article 3. Application of Zone Regulations

The regulations set by this Code within each district shall be held to be the minimum requirements for the promotion of the public health, safety, morals, comfort, convenience, prosperity, environment and natural resources, and general welfare, and shall apply uniformly to each class or kind of structure or land except as hereinafter provided.

Section 12-300.

No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered externally, unless in conformity with all the regulations herein specified for the zone in which it is located.

Section 12-301.

No building or other structure shall hereafter be erected or altered:

1. To exceed the height;
2. To accommodate or house a greater number of families;
3. To occupy a greater percentage of lot area;
4. To have narrower or smaller rear yards, front yards, side yards, or other open spaces; than herein required; or in any other manner contrary to the provisions of this Code.

Section 12-302.

No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Code, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building except as may be otherwise provided for in this Code.

Section 12-303.

No yard or lot existing at the time of passage of this Code shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Code shall meet at least the minimum requirements established by this Code.

Section 12-304.

1. It is not intended by this Zoning Code to repeal, abrogate, annul, or in any way impair or interfere with any existing provisions of law, ordinance or resolution, or with any rules, regulations, or permits previously adopted or issued, or which shall be adopted or issued

pursuant to law relating the use of buildings or premises, or with any private restrictions placed upon property by covenant, deed, or recorded plat, provided, however, where this Zoning Code imposes a greater restriction upon the use of buildings or premises or upon the heights or buildings or requires greater lot areas, larger yards, or other open spaces than are imposed or required by such existing provisions of law, ordinance, or resolution, or by such rules, regulations, or permits, or by such private restrictions, the provisions of this Zoning Code shall control.

2. Whenever these regulations, subdivision plats, or development plans approved in conformance with these regulations, are in conflict with other local ordinances, regulations, or laws, the more restrictive ordinance, regulation, law, plat, or plan shall govern and shall be enforced by appropriate local agencies. When subdivision and development plans, approved by the Planning Commission, contain setback or other features in excess of the minimum Zoning Code requirements, such features as shown on the approved plan shall govern and shall be enforced. Private deed restrictions or private covenants for a subdivision, which have not been approved by the Planning Commission and made a part of the approved subdivision plan, do not fall within the jurisdiction of enforcement by any local agency and cannot be enforced by the permit official.
3. To avoid undue hardship, nothing in this Zoning Code shall be deemed to require change in the plans, construction, or designated use of any building or premises on which an application for a certificate or permit was filed with the Town prior to the date of adoption of this Code or amendment thereto, providing that the application meets all zoning and other requirements in effect on the date of said application. The issuance of said certificate or permit shall be valid only if it is exercised within 180 days from the date of issuance of the certificate or permit. "Exercised", as set forth in this section, shall mean that binding contracts for the construction of the main building or other main improvement have been let, or in the absence of contracts, that the main building or other main improvement is under construction to a substantial degree or that prerequisite conditions involving substantial investments shall be under contract, in development, or completed. When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions as set forth in the permit or certificate.

Article 4. Non-conforming Lots, Non-conforming Uses of Land, Non-conforming Structures and Non-conforming Uses of Structures and Premises

Section 12-400. Intent

1. Within the zones established by this Codes dated 1974 or amendments that may later be adopted there exist lots, structures and uses of land and structures which were lawful before this Code was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Code or future amendment.
2. It is the intent of this Code not to encourage the survival of non-conformities. Such uses are declared by this Code to be incompatible with permitted uses in the zones involved.
3. A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land shall not be extended or enlarged after passage of this Code.
4. To avoid undue hardship, nothing in this Code shall be deemed to require a change in plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Code and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

Section 12-401. Non-Conforming Lots of Record

In any zone in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Code, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date (1974) of adoption or amendment of this Code. This provision shall apply even though such lot fails to meet the requirements for area, or width, or both, that are generally applicable in the zone, provided that yard dimensions shall conform to the regulations for the zone in which such lot is located. Any variance of yard requirements shall be obtained only through action of the Board of Appeals.

Section 12-402. Non-Conforming Uses of Land

Where, at the effective date (1974) of adoption or amendment of this Code, lawful use of land exists that is made no longer permissible under the terms of this Code as enacted or amended, such use may be continued, subject to the provisions of Section 12-405 of this Article, so long as it remains otherwise lawful.

Section 12-403. Non-Conforming Structures

1. Where a lawful structure exists at the effective date (1974) of adoption or amendment of this Code that could not be built under the terms of this Code by reasons of restrictions on area, lot coverage, heights, yards, or other characteristics of the structure or its location on the lot, such structure may be continued subject to Section 12-405 of this Article, so long as it remains otherwise lawful.
2. Any dwelling lawfully existing at the effective date (1974) of adoptions or amendment of this Code, not located on a lot having frontage on a road as required herein, may be continued and may be enlarged provided no such addition shall extend closer to the road than the existing building or the set-back line for the district.

Section 12-404. Non-Conforming Uses of Structures

If a lawful use of a structure or of a structure and premise in combination, exists at the effective date (1974) of adoption or amendment of the Code, that would not be allowed in the zone under the terms of this Code, the lawful use may be continued subject to paragraph 6 of this section, so long as it remains otherwise lawful subject to the following provisions:

1. **Conformance Required** - Except as hereinafter specified, no land, building, structure or premises shall hereafter be used, and no building, or part thereof or other structure shall be located, erected, reconstructed, extended, enlarged, converted, or altered, except in conformity with the regulations herein specified for the district in which it is located.
2. **Continuing Existing Uses** - Except as provided in Section 12-405, any lawful use, building, or structure existing at the time of the enactment of this Code (1974) (including seasonal use) may be continued even though such use, building, or structure may not conform with the provisions of this Code for the district in which it is located.
3. **Non-Conforming Uses** - No existing building or premises devoted to use not permitted by this Code in the district in which such building or premises is located except when required to do so by law or order, shall be enlarged, extended, substituted, or structurally altered unless the use thereof is changed to a use permitted in the district in which such building or premises is located, except as follows:
4. **Substitutions:**
 - (a) If no structural alternations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or of a more restricted classification.
 - (b) Whenever a non-conforming use has been changed to more restricted use or to a conforming use, such use shall not thereafter be changed back to a less restricted use.

- (c) When authorized by the Board of Appeals according to the provisions of Article 9 of this Code, a non-conforming use of land may be changed to another non-conforming use or a non-conforming use of a building may be changed to one of less restricted classification.
- 5. Discontinuance - No building, structure or premises where a non-conforming use has ceased for one (1) year or more shall again be put to a non-conforming use regardless of any reservation of intent not to abandon or to resume actual operation or continued use.
- 6. Exceptions:
 - (a) A building devoted to a non-conforming use or a dwelling lawfully existing at the time of enactment of this Code may be extended, added to, or accessory use structures erected in accordance with the provisions of this Code; when:
 - (i) Literal interpretation of the provisions of this Code would deprive the owner of rights commonly enjoyed by other properties in the same zone under the terms of this Code.
 - (ii) The granting approval of such a request, would not adversely affect the public health, safety, security, morals, or general welfare, or would result in dangerous traffic conditions, or would jeopardize the lives or property of the people living in the neighborhood.
 - (b) Provisions to address the needs of handicapped persons will be met.
- 7. Unsafe Buildings - Nothing in this Code shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by a proper authority.

Section 12-405. Elimination of Certain Non-Conformities

- 1. Within not more than two (2) years from the effective date of this Code or amendment of this Code by which a use becomes non-conforming, the right to maintain the following non-conformities shall terminate and such non-conformities shall no longer be operated:
 - (a) Any junk yards;
- 2. Within not more than five (5) years from the effective date of this Code or amendment of this Code all non-conforming off-site signs shall be removed.

Section 12-406. Repairs and Maintenance

Nothing in this Code shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared unsafe by an official charged with protecting the public safety, upon order of such official.

Article 5. Zone Regulations

Part I Zoning Districts

Section 12-500. Districts Established

The incorporated areas of the Town of Rising Sun shall be divided into fourteen (14) zoning districts to be listed as follows:

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| “RE” - Rural Estate District | “CC” - Commercial Center District |
| “RR” - Rural Residential District | “OTC” - Old Town Center District |
| “R1” - Single Family Residential District | “EC” - Employment Center District |
| “R2” - Mixed Residential District | “LI” - Light Industrial District |
| “R3” - Multi-Family Residential District | “RB” - Rural Business District |
| “LC” - Limited Commercial District | “MH” - Mobile Home District |
| “NC” – Neighborhood Convenience Centers | “C.I.D.” – Controlled Industrial District |

These districts shall be established to regulate and restrict the location of residences, trades, industries, and buildings erected or altered for specific uses; to regulate and limit the height and bulk of buildings hereafter erected or structurally altered; to regulate and limit population density and the intensity of the use of lot areas; to regulate and determine the areas of yards, courts, and other open spaces with and surrounding such buildings; and the implement the recommendations of the Rising Sun Comprehensive Plan.

Section 12-501. R-E Rural Estate District

The regulations of this zone are intended to establish very low-density single family detached residences and supporting uses, with the intent of maintaining and preserving the rural character of the Rising Sun region. Residential Development will require one (1) dwelling unit per ten (ten) acres and a minimum of sixty (60) percent of the total lot area or a parcel to be designated as open space. Clustering and PUDS may be permitted as defined in this code. When portions of the greenbelt area are annexed, the existing protected lands will be designated with the town Open Space (OS) zoning overlay. To the extent feasible, all forested lands and floodplain areas will be designated as (OS). Zone regulations shall be defined as per the Schedule of Zone Regulations found in Article 6 titled Supplemental Zone Regulations; and permitted uses are defined in the Table of Permissible uses found in Article 5 titled Zone Regulations, Part III titled Permissible Uses.

Section 12-502. R-R Rural Residential District

The regulations of this zone are intended to establish low-density single family detached residences and supporting uses, with the intent of maintaining and preserving the rural character of the Rising Sun region and to provide for a manageable amount of rural residential development that does not overload the community infrastructure or services and is compatible and harmonious with adjacent areas. Residential Development will require one (1) dwelling unit per

acre in minor subdivisions and one (1) dwelling unit for 3 acres in major subdivisions. Clustering and PUDS may be permitted as defined in this code. Zone regulations shall be defined as per the Schedule of Zone Regulations found in Article 6 titled Supplemental Zone Regulations; and permitted uses are defined in the Table of Permissible uses found in Article 5 titled Zone Regulations, Part III titled Permissible Uses.

Section 12-503. R-1 Single Family District

The regulations of this zone are intended to establish predominately Single Family Detached residential dwellings and their associated uses. This zone is designed to secure for residents a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in non-residential districts. Residential Development will require one (1) dwelling unit per acre. Clustering and PUDS may be permitted as defined in this code. Zone regulations shall be defined as per the Schedule of Zone Regulations found in Article 6 titled Supplemental Zone Regulations; and permitted uses are defined in the Table of Permissible uses found in Article 5 titled Zone Regulations, Part III titled Permissible Uses.

Section 12-504. R-2 Mixed Residential District

The regulations of this zone are intended to establish a variety of housing-types including single-family, two-family, duplexes and accessory apartments. Development is encouraged to provide for a mix in housing prices, household size, age groups, and lifestyles. Residential cluster is encouraged for development on minimum lot areas to provide for additional open space for common use by local residents as well as by the adjacent community. PUDS may be permitted as defined in this code. Zone regulations shall be defined as per the Schedule of Zone Regulations found in Article 6 titled Supplemental Zone Regulations; and permitted uses are defined in the Table of Permissible uses found in Article 5 titled Zone Regulations, Part III titled Permissible Uses.

Section 12-505. R-3 Multi-Family District

The regulations of this zone are intended primarily for multi-family dwellings and supporting uses and to establish a variety of housing-types including single-family, two-family, duplexes, townhouses, and apartments. Development is encouraged to provide for a mix in housing prices, household size, age groups, and lifestyles. Residential cluster is encouraged for development on minimum lot areas to provide for additional open space for common use by local residents as well as by the adjacent community. Recreation, health, and social service facilities for the elderly and handicapped are also encouraged in this zone. PUDS may be permitted as defined in this code. Zone regulations shall be defined as per the Schedule of Zone Regulations found in Article 6 titled Supplemental Zone Regulations; and permitted uses are *defined in the Table of Permissible uses found in Article 5 titled Zone Regulations, Part III titled Permissible Uses.*

Section 12-506. LC Limited Commercial District

The regulations of this zone are intended to support commercial, and employment uses that meet the daily convenience and shopping needs of the nearby residents, focusing on retail and service uses and generally located on commercial lots less than three (3) acres in size, or are a part of a

series of contiguous commercial lots to create a district or node, generally less than fifteen acres in size. PUDS may be permitted as defined in this code. Zone regulations shall be defined as per the Schedule of Zone Regulations found in Article 6 titled Supplemental Zone Regulations; and permitted uses are defined in the Table of Permissible uses found in Article 5 titled Zone Regulations, Part III titled Permissible Uses.

Section 12-507. CC Commercial Centers District

The regulations of this zone are intended to support more intensive commercial, and retails development on commercial lots generally larger than three (3) acres in size that are typically located in parks or a campus-like form with access provided from internal access streets that combine commercial facilities with other types of uses such as light industrial uses or additional community facilities in order to create community focal points. Commercial Centers maybe located within a PUB that is greater than 200 acres in size. Zone regulations shall be defined as per the Schedule of Zone Regulations found in Article 6 titled Supplemental Zone Regulations; and permitted uses are defined in the Table of Permissible uses found in Article 5 titled Zone Regulations, Part III titled Permissible Uses.

Section 12-508. OTC Old Town Commercial Center District

The regulations of this zone are intended to provide appropriate locations for select commercial activities. Provision should be made for accommodation of a wide range of business pursuits, as restaurants, banks, specialty shops, food stores, department stores, service stores, such as barbershops, bakery, delicatessen, drug store, dry cleaner, florist, etc.; as well as community facilities such as churches, post office, library, and other similar service activities which serve the needs of citizens of the area. The district is designed to preserve, and to encourage the continued development, as well as redevelopment, of the Old Town Commercial area consistent with the unique land use mix which currently exists. Generally, this area covers the historic commercial center of the Town and as such is intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods, or by any nuisance factors other than associated by incidental light and noise of congregation of people and passenger vehicles. Although the zone provides for some residential uses, the Old Town Commercial Center is intended to reduce commercial encroachment into the adjacent residential uses. Zone regulations shall be defined as per the Schedule of Zone Regulations found in Article 6 titled Supplemental Zone Regulations; and permitted uses are defined in the Table of Permissible uses found in Article 5 titled Zone Regulations, Part III titled Permissible Uses.

Section 12-509. EC Employment Center District

The regulations of this zone are intended to establish commercial type uses that provide large employment populations, including offices, research, hospitals, and manufacturing uses that are located in parks of a campus-like form (with access provided from internal access streets) that combine commercial facilities with other types of uses such as light industrial uses or additional community facilities such as a library branch and meeting areas to create community focal points. Mixed Use Employment Centers should provide convenience shopping facilities as well as some light industrial and research facility buildings for those residents living within a planned

development. Basically, it would be a large employment center. Financial incentives may be provided through Town legislation that recognizes development of high impact sustainable businesses and or development that employees significant numbers of high paying jobs that are tailored towards residents of the Town of Rising Sun. Zone regulations shall be defined as per the Schedule of Zone Regulations found in Article 6 titled Supplemental Zone Regulations; and permitted uses are defined in the Table of Permissible uses found in Article 5 titled Zone Regulations, Part III titled Permissible Uses.

Section 12-510. LI Light Industrial District

The regulations of this zone are intended to promote Industrial development into industrial parks of a campus-like form and in areas that have access to major transportation routes that provide rapid and safe movement within the County and to sources of supply and distribution of raw materials to points outside the County. This should be achieved within the limits of the existing or planned transportation system. Special consideration should be given to the potential negative impacts of existing and proposed industrial facilities on existing and planned public facilities, and the health, safety and welfare of employees and residents of the neighborhood. Zone regulations shall be defined as per the Schedule of Zone Regulations found in Article 6 titled Supplemental Zone Regulations; and permitted uses are defined in the Table of Permissible uses found in Article 5 titled Zone Regulations, Part III titled Permissible Uses.

Section 12-511. RB Rural Business District

The regulations of this zone are intended to support the potential annexation of existing County zoned commercial properties, in the rural areas, without also expanding the range and intensity of commercial uses that are generally allowed in the Town's Commercial Center District, but with greater restrictions to maintain and facilitate the preservation of the rural character of the Rising Sun region and to provide for a manageable amount of commercial development that does not overload the community infrastructure or services and is compatible and harmonious with adjacent areas. Development would be on lots typically larger one (1) acre and must be served or scheduled to be served by municipal water and sewer. Properties zoned Rural Business are typically located in parks or a campus-like form with access provided from internal access streets that combine commercial facilities with other types of uses such as light industrial uses and limited commercial uses, such as, agricultural supplies and equipment, hotels, outdoor recreational facilities, active or passive parks, veterinarian clinics and animal sanctuaries, zoos, vehicle sales and repairs and other community facilities. In addition, landscaped buffers, native tree plantings as well as imaginative site and architectural design, should be encouraged to maintain a more rural appearance, especially along the highway and commercial strip development along the highway should be avoided. Zone regulations shall be defined as per the Schedule of Zone Regulations found in Article 6 titled Supplemental Zone Regulations; and permitted uses are defined in the Table of Permissible uses found in Article 5 titled Zone Regulations, Part III titled Permissible Uses.

Section 12-512. MH Mobile Home District

This zone is intended to provide areas where grouping of mobile homes may occur in an appropriate, sanitary, and attractive environment. Zone regulations shall be defined as per the Schedule of Zone Regulations found in Article 6 titled Supplemental Zone Regulations; and permitted uses are defined in the Table of Permissible uses found in Article 5 titled Zone Regulations, Part III titled Permissible Uses.

Part II Special Districts

Section 12-513. Controlled Industrial District C.I.D.

1. In order to provide greater freedom in the selection of areas for certain classes of industries and at the same time to secure and maintain effective control over the locations, type and arrangement of industrial uses and to protect the uses in neighboring districts, areas for Controlled Industrial District may be designated on the zoning map and/or may be created by petition in accordance with the procedure specified in Article 12. Such areas may be located in any district. Any such area shall be at least five (5) acres in size.
2. When designating or creating any Controlled Industrial District, the Board of Appeals may authorize any one or more of the uses listed in the Table of Permitted Uses for the CID District. In authorizing any such additional use, the Board of Appeals may impose such requirements and conditions with respect to location, construction, maintenance and operation - in addition to those expressly stipulated hereinafter - as they may deem necessary for the protection of adjacent properties and the public interest.
3. Prohibited uses:

Any retail business, service, billboard, or other use permitted in LC or CC Districts other than those expressly permitted in this Code; provided, however, that any such use is purely incidental and accessory to a permitted use, such as a restaurant, canteen, recreation field, or dispensary shall be permitted in connection therewith, and providing that any prohibited use legally existing in a Light Industrial District at the time of its establishment shall not be subject to any of the limitations or other regulations prescribed for nonconforming use elsewhere in this Code.
4. Required conditions:
 - (a) All "Special Uses" shall be subject to the distance requirements in Article 6.
 - (b) All, uses except agricultural, public utility, airport and similar uses, shall be conducted wholly within completely enclosed buildings, except for parking, loading and unloading facilities.
 - (c) No use shall be permitted to be established or maintained which by reason of its nature or manner of operation is or may become hazardous, objectionable, or

offensive, by reason of explosion, fire, odor, dust, smoke, cinders, gas, fumes, noise, vibration, radiation, refuse matter, or water-carried waste.

- (d) The front yard requirements shall apply along all public streets and roads, including side roads, and such yards shall be landscaped and maintained in good condition.
 - (e) All roads, driveways, and parking areas shall be surfaced with a dustless all-weather material.
 - (f) Off-street parking areas shall be provided sufficient to accommodate the combined total number of employees on the two heaviest shifts, plus adequate areas for officials and visitors.
 - (g) Storage facilities shall be provided for all company vehicles.
 - (h) All buildings on any premises shall not cover in the aggregate more than thirty-five (35%) percent of the of the gross site area.
5. No building or zoning permit shall be issued in any Controlled Industrial District for a building or use which does not comply substantially with the approved general plan, layout, or standards, and with the conditions of approval. If the authorized use has not been established within five (5) years, the approval shall be void unless the Board of Appeals, upon written request and after recommendation and reports from the Planning Commission, grant an extension, except that not more than two (2) such extensions, of one year each, may be granted.

Section 12-514. Planned Unit Development (PUD)

1. Planned Unit Development in General:

It is the intent of these regulations to control the placement, design, use and density of well-planned, residential developments which will offer a variety of building types and a more efficient overall use of land and, within these limits, permit the optimum amount of freedom and variety in the design and management of such varying types of residential structures, including one and two-family units, town houses and garden apartments within the areas designated. In connection with the intention of these regulations, the following objectives are sought to provide for the Planned Unit Development:

- (a) To provide a more attractive and varied living environment than would be possible through the strict application of R-1, R-2 and R-3 district requirements.
- (b) To encourage a more intimate, efficient and aesthetic use of open space.
- (c) To encourage developers to use a more creative approach in the development of land.
- (d) To encourage variety in the physical development pattern of residential areas.

2. P.U.D. Requirements:

- (a) Planned Unit Developments are based in design policies and objectives that appear in the Comprehensive Plan and are contemplated to be primarily residential in nature and shall be no less than seventy five (75) acres. However, Planned Unit developments of sufficient size and appropriate character may have certain limited commercial development which is incidental to the Planned Unit Development. Permitted Uses shall be as shown in the Table of Permitted Uses.

- (b) Planned Unit Developments may contain Commercial establishments of a convenience and service nature upon issuance of a special exception approved by the Planning Commission and the Board of Appeals. The Planned Unit Development should contain uses which serve a larger area than a neighborhood and also may contain community facilities such as a post office branch, a library branch, etc. The main commercial uses in this area are service-oriented for daily convenience goods such as dry cleaners, food stores, barber shop, delicatessen, drug store, book, newspaper and magazine store, shoe repair, and similar uses. Also, community meeting areas and other cultural-oriented uses. Such commercial establishments shall be an integral part of the plan for the P.U.D. The total aggregate area of all the commercial establishments and their parking area shall not occupy more than 15%, or 20 acres whichever is less, of the gross area of the P.U.D. Commercial areas shall be of two types:
 - (1) Small neighborhood convenience centers as defined in section 515 below. No commercial establishment shall be constructed until twenty-five (25%) percent of the residential units are completed. Centers may include one or more stores.
 - (2) More intense “Commercial Centers” or “CC” will be permitted with PUDs of at least 200 acres in size. Planned commercial centers shall be a group of commercial uses compatible with the residential nature of the P.U.D. These may include but are not limited to medical and professional offices, general retail stores, floor stores and one automobile service station. No construction of the planned commercial center shall begin until fifty (50%) percent of the total planned residential units are complete.
 - (3) The Planning Commission may also approve and/or require land and places for public assembly, recreational buildings, public buildings and accessory buildings, or may require the reservation of lands for such use, if it is deemed, they are advantageous or necessary for the purpose of serving the Planned Unit Development and local community.

- (c) Where Permitted:

Planned Unit Developments are special exceptions in the R-1, R-2 and R-3 Districts. In general, a Planned Unit development is contemplated in residential

zones where tracts of suitable location, size and character exist. The uses and structures proposed are to be planned and developed according to the requirements and procedures of this Code. Planned Unit Developments shall be approximately located with respect to the general pattern of urban development existing or proposed, and to existing public and private facilities and services.

(d) Computation of Dwelling Units Permitted:

The total density in the P.U.D. will not be greater than if conventionally developed. Density factors for computing total units shall be:

- (1) R-1, two (2) units per acre.
- (2) R-2, four (4) units per acre.
- (3) R-3, six (6) units per acre.

(e) Density:

Regulation of the total number of units that can be located on an acre of land shall be set according to the minimum lot area as established by the chart below.

(f) Lot, Yard and Lot Coverage:

Permitted uses shall be subject to the regulations hereinafter stated as to lot, yard and lot coverage (see following chart):

	Min. Lot Area	Min. Lot Width	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Max No Dwelling Units/Bldg [1]
Single Family, Interior Lot	6,000	60	35	10 (one) 20 sum of both	35	1
Single Family, Corner Lot	7,000	70	35	15 (one) 25 (both)	35	1
Semi-detached, ½ bldg. Interior lot	4,000/unit	40/unit	25	10	25	2
Semi-detached, ½ bldg. corner lot	5,000/unit	50/unit	25	15 (corner) 25 (both)	25	2
Apt House Interior Yard	2,000 sq. ft./ Apt. unit	100	25	30	25	18 [2]
Apt House Street Corner	2,000 sq. ft./ Apt. unit	100	25	30	25	18 [2]
Town House Interior Lot	2,000/unit	18/unit	25	0	25	7 [2]

Town House, End Dwelling (no street cor.)	2,500/unit	25	25	10	25	7 [2]
Town House End Dwelling	3,000/unit	35	25	15	25	7 [2]

[1] A building shall be construed to mean any structure enclosed within exterior walls or firewalls, for the enclosure, shelter, or protection of persons, animals or chattels. Maximum overall length of apartment structures shall be controlled by Planning Commission action based on the particular site plan reviewed, with suggested maximum density of thirty-six units per contiguous building group.

[2] Where more than one apartment building and/or townhouse group is placed on a tract of land and all considered contiguous units, there shall not be less than forty (40) feet between the long dimension of any building or building groups regardless of the relation between front and rear facades and not less than thirty (30) feet between the ends of the building.

Area: The proposed P.U.D. shall in no case contain less than one (1) acre of land.

(g) Open Space:

Common open space shall comprise not less than twenty-five (25%) percent of the gross area. All open space shall be designated for the common use of all occupants of the P.U.D. and at least seventy (70%) percent of such space shall be developed as recreational areas.

(h) Sanitary Facilities:

(1) No P.U.D. shall be approved unless the proposes development will be served by public water and sewer disposal systems which shall be existing at the time the plan receives final approval.

(2) Satisfactory evidence must be furnished to the Planning Commission and the Board of Appeals that the existing town sewer and water systems can handle the increased demands placed upon them by the proposed P.U.D. and meet current Health Department requirements for standards of operation.

(i) Height requirements:

The requirements shall be those set out in the Zoning Code.

(j) Parking

At least two usable off-street parking spaces shall be provided for each dwelling unit, either on the lot it occupies or within one hundred and fifty (150) feet of such lot or of an apartment dwelling unit.

3. Administrative Procedures

(a) Preliminary Application:

Preliminary application shall be made to the Board of Appeals for conditional approval of the P.U.D. and shall include, but not be limited to:

- (1) A general diagram showing the P.U.D.'s relation to the town of Rising Sun and major public access to the P.U.D. (10 copies)
 - (2) A general development plan setting forth preliminary information required by the Board of Appeals (10 copies). The General Development Plan shall include the information required in Appendix A as well as the the following:
 - (i) Proposed housing types, the total number of units, percentage of each type, general location of each type, elevations of each buildings type.
 - (ii) Proposed planned commercial centers and/or neighborhood convenience centers, location, types of business(es) size of area (s), and elevations of each building type.
 - (iii) Proposed open spaces, their size, their location, their uses, and their proposed ownership (town and/or association).
 - (iv) General statement concerning provisions of utilities. (Public Works Agreement).
 - (v) Statement of expected Town responsibilities.
 - (vi) Cost/benefit ratio of the proposed P.U.D. for the town.
 - (vii) Tentative time table and staging of development. (schedule of construction).
 - (viii) Applicant shall pay an application fee as previously established by the town.
 - (iii) The Board of Appeals shall hold a public hearing on the preliminary application. Notice of public hearing before the Board of Appeals shall be given at least fifteen (15) days prior to the hearing by publishing the time, place and nature of the hearing in a newspaper having general circulation in the town. In addition, the Board shall cause the date, time, place and nature of the hearing to be posted conspicuously on the property, in accordance with the rules of the Board. The published and posted notices shall contain reference to the place or places within the town where the application may be examined.
- (b) Preliminary Site Plan:

The developer shall submit the following to the Planning commission for its review after receiving conditional approval from the Board of Appeals:

- (1) Ten (10) copies of a preliminary site plan shall be filed with the Planning Commission. The preliminary site plan shall comply with the requirements of Appendix A and be accompanied by such other written or graphic material as may be deemed necessary or desirable in aiding the decisions of the Board of Appeals and the Planning Commission.
 - (2) The Planning Commission shall review the site plan for compliance with the requirements of this Code. Before recommending approval of a site plan, the Planning Commission may make reasonable additional requirements including, but not limited to, those which may be imposed by the Board of Appeals and especially requirements, as to utilities, drainage, landscaping and maintenance thereof, lighting, signs and advertising devices, screening access ways, curb cuts, traffic control, heights of buildings, to protect adjoining residentially zoned lots or other uses. The site plan shall be amended in accordance with the requirements of the Planning Commission before being submitted to the Board of Appeals with a recommendation for approval by the Planning Commission.
 - (3) The Planning Commission may establish additional requirements for preliminary site plans.
 - (4) After Planning Commission review and approval the developer shall submit the amended site plan to the Board of appeals for final approval.
- (d) Final Review and Approval Procedure:
- (1) The Board of Appeals shall review the preliminary final site plan and other documents as finally approved and submitted by the Planning Commission.
 - (2) The Board of Appeals shall hold a public hearing in the manner required in Section c (1) (c) of this article.
 - (3) The Board of Appeals may approve or disapprove the proposed P.U.D. In granting approval the Board shall secure:
 - (i) A surety bond or bonds be filed for/or deposited in escrow with the Board of Appeals in an amount sufficient to ensure completion of all requirements as imposed by the Planning commission and/or Board of Appeals. Such bond or bonds shall be reviewed annually and adjusted to reflect current costs.
 - (ii) A final site plan in the form of a final plat shall be prepared, files and recorded. The final plat shall comply with the specifications of

the Planning Commission and Board of Appeals, and the requirements of this Article and applicable laws, regulations, and ordinances governing the subdivision of land.

- (iii) Permits for building shall be issued in accordance with the schedule for construction approved by the Board of Appeals as part of the final approval.
 - (4) When a P.U.D. is to be developed in stages each stage shall be processed as a separate P.U.D. after first submitting and receiving approval of a preliminary plat for the entire project.
 - (5) As part of the final approval, the Board of Appeals shall approve dates for initiation and completion of the P.U.D. and/or of its phases. Any departure from these dates shall constitute material breach of contract and outstanding bonds can be called in. The Board of Appeals can waive for cause.
- (e) Conflict With Other Articles
- (1) Provisions of the P.U.D. article when found to be in conflict with other provisions of the Rising Sun Zoning Code shall supersede those other provisions with which they conflict.
 - (2) Provisions of the P.U.D. article when found to be in conflict with other provisions of the Rising Sun Subdivision Regulations shall supersede those other provisions with which they conflict.
- (f) Status of the Rising Sun Zoning and Subdivision Ordinance:

The Rising Sun Zoning and Subdivision Ordinance shall fully apply to all Planned Unit Developments except as noted in Subsection e, above.

Section 12-515. NC Neighborhood Convenience Centers

This zone is intended to support low intensity commercial uses within an approved planned unit development (PUD) and typically features primarily convenience goods, and personal services, and should be geared to provide service and goods to a small population or neighborhood. It is limited to use such as a small food store or delicatessen, drug store or other type of similar uses on a smaller scale than the PUD Commercial Zone. The characteristics of a neighborhood convenience center is that it is within a few minutes' walk or drive from the residential area. Usually there are anywhere from two to six stores in such a center. Neighborhood convenience centers serve residential areas with a Planned Unit Development or "PUD". It is proposed that residential areas of sufficient population and documented need contain individual neighborhood centers that include other facilities such as day care centers and playgrounds.

Part III Permissible Uses

Section 12-516. Use of the Designations P, PC, SE and SC in the Table of Permissible Uses

When used in connection with a particular use in the Table of Permissible Uses, the letter "P" means that the use is permissible in the indicated zone with a zoning permit issued by the Planning Commission. When used in connection with a particular use in the Table of Permissible Uses, the letter "PC" means that the use is permissible in the indicated zone with a zoning permit issued by the Planning Commission provided the conditions stipulated in Article 6 are met. The letters "SC" mean the conditions of approval stipulated in Article 6 for the proposed use must be met and a special exception permit must be obtained from the Board of Appeals. The letters "SE" mean a special exception permit must be obtained from the Board of Appeals.

Section 12-517. Board of Appeals Jurisdiction Over Uses Otherwise Permissible With a Zoning Permit

Notwithstanding any other provisions of this article, whenever the Table of Permissible Uses (interpreted in the light of the applicable provisions contained in this article) provides that a use in a nonresidential zone or a nonconforming use in a residential zone is permissible with a zoning permit, a special-exception permit shall nevertheless be required if the Planning Commission finds that the proposed use would have an extraordinary impact on neighboring properties or the general public. In making this determination, the Planning Commission shall consider, among other factors, whether the use is proposed for an undeveloped or previously developed lot, whether the proposed use constitutes a change from one principal use classification to another, whether the use is proposed for a site that poses peculiar traffic or other hazards or difficulties, and whether the proposed use is substantially unique or is likely to have impacts that differ substantially from those presented by other uses that are permissible in the zoning district in question.

Section 12-518. Permissible Uses and Specific Exclusions

1. The presumption established by this Zoning Code is that all legitimate uses of land in the Town are provided for within at least one zoning district in the Town's planning jurisdiction. Because the list of permissible uses set forth in the Table of Permissible Uses cannot be all inclusive, those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed uses.
2. Notwithstanding Subsection 1., all uses that are not listed in the Table of Permissible Uses, even given the liberal interpretation mandated by Subsection 1., are prohibited. Nor shall the Table of Permissible Uses be interpreted to allow a use in one zoning district when the use in question is more closely related to another specified use that is permissible in other zoning districts.

3. No building or tract of land shall be devoted to any use other than a use permitted hereinafter in the zoning district in which such building or tract of land shall be located, with the exception of the following:
 - (a) Uses lawfully existing on the effective date of this Code.
 - (b) Special exceptions, recommended by the Planning Commission and approved by the Board of Appeals.
4. No More Than One Principal Structure on a Lot.
 - a. Every structure hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot of record and in no case shall there be more than one (1) principal structure on a lot unless as provided in 2 below.
 - b. More than one principal structure may be located upon a lot in the following instances subject to the lot, yard and density requirements and other provisions of this chapter:
 - (1) Institutional buildings.
 - (2) Public or semi-public buildings.
 - (3) Multiple family dwellings.
 - (4) Commercial or industrial buildings.
 - (5) Manufactured Home Parks.
 - (6) Campgrounds.
 - (7) Permitted mixed-use buildings.
 - (8) Additional principal structures with the prior approval of the Planning Commission.
 - (9) Condominiums.
5. The following uses are specifically prohibited in all districts:
 - (a) Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials.
 - (b) Stockyards, slaughterhouses, rendering plants.
 - (c) Use of a travel trailer as a temporary or permanent residence.
 - (d) Use of a motor vehicle parked on a lot as a structure in which, out of which, or from which any goods are sold or stored, any services are performed, or other business is conducted.

Section 12-519. Accessory Uses

1. The Table of Permissible Uses classifies different principal uses according to their different impacts. Whenever an activity (which may or may not be separately listed as a principal

use in this table) is conducted in conjunction with another principal use and the former use (a) constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or (b) is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use. For example, a swimming pool/tennis court complex is customarily associated with and integrally related to a residential subdivision or multi-family development and would be regarded as accessory to such principal uses, even though such facilities, if developed apart from a residential development, would require a special-exception permit.

2. The following activities, so long as they satisfy the general criteria set forth above, are specifically regarded as accessory to residential principal uses:
 - (a) Offices or studios within an enclosed building and used by an occupant of a residence located on the same lot as such building to carry on administrative or artistic activities, so long as such activities do not fall within the definition of a home occupation.
 - (b) Hobbies or recreational activities of a noncommercial nature.
 - (c) The renting out of one or two rooms within a single-family residence (which one or two rooms do not themselves constitute a separate dwelling unit) to not more than two persons who are not part of the family that resides in the single-family dwelling.
 - (d) Yard sales or garage sales, so long as such sales are not conducted on the same lot for more than three days (whether consecutive or not) during any 90-day period.
3. The following activities shall not be regarded as accessory to a residential principal use and are prohibited in residential districts.
 - (a) Storage outside of a substantially enclosed structure of any motor vehicle that is neither licensed nor operational.

Section 12-520. Public Utilities

Public utility rights-of-way and structures may be permitted as follows:

- (1) Telephone, electric, water, sewer, storm water drains, and gas lines, with necessary accompanying and incidental equipment for local distribution are permitted as a matter of right in any district.
- (2) Hydroelectric lines; dams, power plants; transmission lines; substations; pumping and boosting stations, pipelines; administrative, construction, maintenance and storage facilities; and water and sewer treatment facilities may be permitted as a special exception in any district.

Section 12-521. Permissible Uses Tables

1. More specific use controls. Whenever a development could fall within more than one use classification in the Table of Permissible Uses, the classification that most closely and most specifically describes the development controls.
2. Table of Permissible Uses (see following pages)

Legend: P = Permitted, PC = Permitted with Conditions, SE = Special Exception, SC = Special Exception with Conditions												
USES DESCRIPTION	R-O	R-1	R-2	R-3	LC	CC	CID	LI	F-1	PUD	A-R	M-H
RESIDENTIAL												
1.100 Single-Family Residences												
1.110 Single-family detached	P	P	P	P	SE	SE		SE		P	P	
1.111 Site-built and modular residential structures	P	P	P	P	SE	SE		SE		P	SE	
1.112 Manufactured or Mobile Home Park												PC
1.200 Two-Family Residence												
1.210 Primary residence with accessory apartment	PC	PC	PC	PC	SE	SE		SE		PC		
1.220 Secondary residential structure auxiliary to existing residence	PC	PC	PC	PC						PC		
1.230 Duplex	P			P	SE	SE		SE		P		
1.240 Two-family apartment				P	SE	SE		SE		P		
1.300 Multi-Family Residences												
1.310 Multi-family - townhouses	SC			SC	PC	PC		PC		PC		
1.320 Multi-family - apartments	SC			SC	PC	PC		PC		PC		
1.330 Commercial apartments	PC				PC	PC		PC		PC		
1.400 Homes emphasizing special services, treatment, or supervision												
1.410 Group homes, Halfway House private:												
1.411 not more than 7 people					P	P				P		
1.412 with between 7 and 16 people					SC	SC				SC		SC
1.413 group home for criminal offenders						SC						
1.420 Child and elderly center												
1.421 Day care home (having fewer than 7 children)	PC	PC	PC	PC	PC	PC				PC	SE	PC
1.422 Day care center, day nursery (having between 7 and 30 children)	SC	SC	SC	SC	SC	SC				SC	SE	
1.430 Housing for the elderly or handicapped	SC	SC	SC	SC	SC	SC				SC		SC
1.440 Homeless Shelter						SC						
1.500 Miscellaneous rooms for rent situations	SC		SE	SE								
1.510 Boardinghouses, bed and breakfast, country inns and tourist homes	SC		SC	SC	SC					SC		

Legend: P = Permitted, PC = Permitted with Conditions, SE = Special Exception, SC = Special Exception with Conditions													
USES DESCRIPTION	R-O	R-1	R-2	R-3	LC	CC	CID	LI	F-1	PUD	A-R	M-H	
1.520 Hotels, motels, convention centers, and similar businesses or institutions providing overnight accommodations					SC	SC	SC			SC			
1.600 Home occupations	PC	PC	PC	PC						PC		PC	
2.000 COMMERCIAL, OFFICE AND SERVICE													
2.100 No storage or display of goods outside fully enclosed building													
2.110 Retail sale													
2.111 High-volume traffic generation													
2.111.1 Automobile parts, supplies, and tire stores; drug stores, and food and beverage					PC	PC							
2.111.2 Convenience stores, delicatessens, department stores					P	P				PC			
2.111.3 Shopping Center						PC							
2.112 Low-volume traffic generation (appliance stores, book store, furniture store gift shops, hardware stores, jewelry shops, wearing apparel, photographic art supply stores, and florists)													
2.112.1 Antique Shops					PC	P							
2.112.2 Pet Shops					PC	PC							
2.120 Wholesale sales													
2.200 Storage and display of goods outside fully enclosed building													
2.210 High-volume traffic generation (building material and supply, boat sales, farm implements storage and sales, feed and grain storage and sales, heavy equipment sales and service)						P							
2.220 Low-volume traffic generation					P	P							
2.221 Accessory retail uses												PC	
2.230 Wholesale sales													
2.300 All operations conducted entirely within fully enclosed building													
2.310 Operations designed to attract and serve customers or clients on the premises						P				P			
2.311 The offices of attorneys, architects, engineers, other similar professions, insurance and stock brokers, travel agents, government office buildings, etc	SC	SC	SC		P	P				P			

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USES DESCRIPTION	R-O	R-1	R-2	R-3	LC	CC	CID	LI	F-1	PUD	A-R	M-H
2.312 Banks and financial institutions, barber and beauty shops, dry cleaning/laundry, laundromats					P	P				P		
2.313 Drive-in banks	SC				SC	PC	PC			PC		
2.314 Adult Bookstore, Adult Entertainment Center, Massage and Conversation/Relaxation Parlor						SC						
2.320 Operations designed to attract little or no customer or client traffic other than employees of the entity operating the principal use (shoe repair)					P	P				PC		
2.330 Office or clinics of physicians or dentists with not more than 10,000 square feet of gross floor area					P	P				P		
2.340 Operations conducted within and/or outside fully enclosed building												
2.341 Operations designed to attract and serve customers or clients on the premises (plumbing, mechanical contractors)						P		P				
2.342 Operations designed to attract little or no customer or client traffic other than the employees of the entity operating the principal use (furniture repair shops, sign painting)						P		P				
2.710 Funeral Parlors, Undertaking Establishments, and Mortuaries	SC	SC	SC	SC	SE					SC		
2.720 Cemetery	SE		SE	SE							SE	
2.800 Open Air Markets												
2.810 Open-air markets (farm and craft markets, flea markets, produce markets non-municipal)						P						
2.820 Greenhouses and horticultural sales with outdoor display						PC					P	
2.900 Professional Offices												
2.910 Equal to or less than 3,000 square feet					P	P					SE	
2.920 Greater than 3,000 square feet					P	P						
4.000 RESTAURANTS, BARS, NIGHTCLUBS, DINNER THEATRES												
4.100 Restaurant, standard					P	P				P		

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Current Version with Amendments 5-10-22

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USES DESCRIPTION	R-O	R-1	R-2	R-3	LC	CC	CID	LI	F-1	PUD	A-R	M-H
4.100 Restaurant, standard					P	P				P		
4.200 Restaurant, fast food					P	P				P		
4.300 Restaurant, fast food cafeteria					P	P				P		
4.400 Restaurant, fast food carry-out					P	P				P		
4.500 Restaurant, drive-in or drive-thru												
4.510 With direct highway access to individual parcel					SC	SC						
4.520 Part of a shopping center with no direct highway access					SC	SC						
4.600 Bars, dance halls, nightclubs, cocktail lounges					P	P						
5.000 EDUCATIONAL, CULTURAL, RELIGIOUS, PHILANTHROPIC, SOCIAL, FRATERNAL USES												
5.100 Schools												
5.110 Elementary and secondary (including pre-school, kindergarten, associated grounds and athletic and other facilities)												
5.111 Public	P	P	P	P						P	P	
5.112 Private	SC	SC	SC	SC						SC	SC	
5.120 Trade or vocational schools							P	P		P		
5.130 Colleges, universities, community colleges (including associated facilities such as dormitories, office buildings, athletic fields, etc.)	P	P	P	P			PC			P		
5.200 Churches, synagogues, and temples (including associated residential structures for religious personnel and associated buildings but not including elementary or secondary school buildings)	P	P	P	P						P	P	
5.300 Social, Fraternal Clubs and Lodges, Philanthropic Institutions					SC	SC				SC	SE	
5.400 Nursery Schools; Day Care Centers with More than 30 Children					SC	SC				SC		
5.500 Libraries, museums, art galleries, art centers, and similar uses (including associated educational and instructional activities)	P	P	P	P	SC	SC				SC		
5.600 Art or cultural center	PC				P	P				PC		

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USES DESCRIPTION	R-O	R-1	R-2	R-3	LC	CC	CID	LI	F-1	PUD	A-R	M-H
6.000 RECREATIONS, AMUSEMENT, ENTERTAINMENT												
6.100 Activity conducted entirely within building or substantial structure												
6.110 Bowling alleys, skating rinks, indoor tennis and squash courts, billiard and pool halls, rifle and pistol ranges, indoor athletic and exercise facilities and similar uses						PC				PC		
6.120 Movie theatres						PC				PC		
6.200 Activity conducted primarily outside enclosed buildings or structures												
6.210 Privately owned outdoor recreational facilities such as golf and country clubs, swimming or tennis clubs, rifle and pistol ranges, etc., not constructed pursuant to a permit authorizing the construction of some residential development		SC				SC				SC	SC	
6.220 Publicly owned and operated outdoor recreational facilities such as athletic fields, golf courses, tennis courts, swimming pools, parks, etc., not constructed pursuant to a permit authorizing the construction of another use such as a school						SC				SC		
6.230 Golf Driving Range						SC		SC				
6.300 Swimming Pool, Community	SC	SC	SC	SC						SC		SC
7.000 INSTITUTIONAL RESIDENCE OR CARE OR CONFINEMENT FACILITIES												
7.100 Hospitals, clinics, other medical (including mental health) treatment facilities												
7.110 Equal to or less than 10,000 square feet of floor area					PC	PC	PC	PC				
7.120 Greater than 10,000 square feet of floor area						SC		SC				
7.200 Nursing care institutions, intermediate care institutions, handicapped or infirm institutions, child care institutions												
7.210 Equal to or less than 10,000 square feet of floor area	SC	SC	SC	SC	SC	SC				SC		SC

Legend: P = Permitted, PC = Permitted with Conditions, SE = Special Exception, SC = Special Exception with Conditions													
USES DESCRIPTION	R-O	R-1	R-2	R-3	LC	CC	CID	LI	F-1	PUD	A-R	M-H	
7.220 Greater than 10,000 square feet of floor area						P							
7.300 Institutions (other than halfway houses)													
7.310 Halfway houses, other than criminal offenders					SC	SC				SC			
7.320 Halfway houses, including criminal offenders					SC	SC				SC			
7.400 Assisted Living Facilities	SC	SC	SC	SC	SC	SC				SC			
8.000 EMERGENCY SERVICES													
8.100 Police Stations	P	P	P	P	P	P	P	P	P	P	P	P	
8.200 Fire Stations	P	P	P	P	P	P	P	P	P	P	P	P	
8.300 Rescue squad, ambulance service	P	P	P	P	P	P	P	P	P	P	P	P	
8.400 Civil defense operation	P	P	P	P	P	P	P	P	P	P	P	P	
9.000 MISCELLANEOUS PUBLIC AND SEMI-PUBLIC FACILITIES													
9.100 Post office, local	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	
10.000 UTILITY FACILITIES, TOWERS AND RELATED STRUCTURES													
10.100 Utilities													
10.110 Neighborhood Service	P	P	P	P	P	P	P	P	P	P	P	P	
10.20 Water or sewerage treatment facilities	P	P	P	P	P	P	P	P	P	P	P	P	
10.130 Public utility buildings and structures	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	
10.200 Towers and Related Structures													
10.210 Television antennas 50 feet tall or less	P	P	P	P	P	P	P	P	P	P	P	P	
10.220 Towers and antennas more than 50 ft tall and associated sub-stations	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	
10.230 Satellite dishes or receive-only earth station	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	
10.240 Commercial radio and television broadcast relay facilities											SE		

Legend: P = Permitted, PC = Permitted with Conditions, SE = Special Exception, SC = Special Exception with Conditions													
USES DESCRIPTION	R-O	R-1	R-2	R-3	LC	CC	CID	LI	F-1	PUD	A-R	M-H	
11.000 MISCELLANEOUS USES													
11.100 Temporary structures used in connection with the construction of a permanent building and real estate sales office (time limit and with permit)	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	
11.200 Festivals, events of public interest or special events, sales of merchandise at special events	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	
11.300 Christmas tree sales					P	P							
11.400 Off-site commercial sign or billboard								SE					
12.000 AGRICULTURE													
12.101 Farming		P							P		P		
12.102 Animal Husbandry		PC							PC		PC		
12.103 Roadside Stand		P							P		P		
12.104 Commercial Stables		PC							PC		PC		
12.105 Animal Boarding Places, Kennel and Veterinary Hospitals						PC					SE		
12.200 Forestry		P							P		P		
12.300 Farmers Markets		P							P				
12.400 Nursery		P							P		P		
13.000 MANUFACTURING, PROCESSING, CREATING, REPAIRING, RENOVATING, PAINTING, CLEANING, ASSEMBLING OF GOODS, MERCHANDISE AND EQUIPMENT		P											
13.100 Light Industry													
13.110 General Administrative and Executive Offices							PC	PC					
13.120 Laboratories - chemical, physical, and biological - for research, development and testing, and incidental or associated pilot plants and production facilities, but not including any rocket test stand or launching pad							PC	PC					

Legend: P = Permitted, PC = Permitted with Conditions, SE = Special Exception, SC = Special Exception with Conditions													
USES DESCRIPTION	R-O	R-1	R-2	R-3	LC	CC	CID	LI	F-1	PUD	A-R	M-H	
13.130 Electronic or similar data processing centers							PC	PC					
13.140 Fabrication and assembly of electronic components.							PC	PC					
13.150 The fabrication or assembly and testing of space equipment components (excluding rocket test stands or launching pads)							PC	PC					
13.160 Observatories, tracking or communications stations							PC	PC					
13.170 Research, testing and development laboratories							PC	PC					
13.200 All operations conducted entirely within fully enclosed building													
13.220 Low-volume business not done with walk-in trade (printing and publishing, dry cleaning plants, electronics assembly, carpentry)								PC					
13.300 Operations conducted within or outside fully enclosed building													
13.310 Welding shops, ornamental iron works machine shops excluding drop hammers and punch presses over 20 tons rated capacity, sheet metal)								PC					
13.320 Bottling, confectionery, food products except fish and meat, sauer kraut, vinegar, yeast or the rendering fats and oils								PC					
13.400 Chemical plants and plastics manufacture								PC					
13.500 Storage and processing of farm products								PC					
13.600 Airport, Private							PC						
13.700 Retail sales of products manufactured or processed in the site (accessory use)								PC					
14.000 MOTOR VEHICLE-RELATED SALES AND SERVICE OPERATIONS													
14.100 Motor vehicle sales or rental						P							
14.200 Sales with installation of motor vehicle parts or accessories (tires, mufflers, etc.)						P							

Legend: P = Permitted, PC = Permitted with Conditions, SE = Special Exception, SC = Special Exception with Conditions													
USES DESCRIPTION	R-O	R-1	R-2	R-3	LC	CC	CID	LI	F-1	PUD	A-R	M-H	
14.300 Motor vehicle repair and maintenance, not including body work						SC		PC					
14.400 Motor vehicle painting and body work								PC					
14.500 Motor vehicle fuel sales - Automobile Filling Station					SC		PC	PC					
14.600 Car wash						P							
14.700 Automotive parts								PC					
14.800 Emissions Testing Facilities						SC	PC	PC					
15.000 STORAGE AND PARKING													
15.100 Automobile parking garages or parking lots not located on a lot on which there is another principal use to which the parking is related								PC					
15.200 Storage of goods not related to sale or use of those goods on the same lot where they are stored, warehousing													
15.210 All storage within completely enclosed structures								PC					
15.220 Automobile and Light Truck Storage						PC		PC					
15.230 Truck Terminals								PC					
15.240 Automobile, Truck, and Trailer Rentals, Outdoors						SC		SC					
15.300 Parking of vehicles or storage of equipment outside enclosed structures where: (i) vehicles or equipment are owned and used by the person making use of lot and (ii) parking or storage occupies more than 75 percent of the developed area								PC					
15.310 Contractor's yard for storage of material and equipment								PC					
15.320 Building material sales yard, including the sales of rock, sand and gravel, and the like as an incidental part of the main business, and contractor's storage yard and plant								PC					
15.400 Cargo trailers and closed body trucks								PC					

Legend: P = Permitted, PC = Permitted with Conditions, SE = Special Exception, SC = Special Exception with Conditions													
USES DESCRIPTION	R-O	R-1	R-2	R-3	LC	CC	CID	LI	F-1	PUD	A-R	M-H	
15.410 Temporary (no more than two (2) days)						PC		PC					
15.420 Temporary (more than two (2) days but not more than 6 months)								PC					
15.500 Mini-warehouse								SC					
15.600 Storage of flammable and combustible liquids													
15.610 Limited quantity (less than or equal to 40,000 gallons)							SE	SE					
15.620 Large quantity (greater than 40,000 gallons)								SE					
15.700 Storage of recreational vehicles, detached caps, boats and boat trailers	PC	PC	PC	PC				PC		PC	PC	PC	

Article 6. Supplemental Zone Regulations

Part I Density and Dimensional Regulations

Section 12-600. Building Setback Requirements

1. Subject to the other provisions of this section, no portion of any building or any freestanding sign may be located on any lot closer to any lot or property line than is authorized in the Schedule of Zone Regulations.
 - (a) If the lot or property line is not readily determinable (by reference to a recorded map, set irons, or other means), the setback shall be measured from the boundary line of any adjacent right-of-way. If the boundary line of the right-of-way is not readily determinable the setback shall be measured from the centerline of the right-of-way and half the width of the right-of-way shall be added to the minimum setback requirement.
 - (b) As used in this section, the term "lot boundary line" refers to lot boundaries other than those that abut streets.
 - (c) As used in this section, the term "building" includes any substantial structure which by nature of its size, scale, dimensions, bulk, or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Without limiting the generality of the foregoing, the following structures shall be deemed to fall within this description:
 - (1) Gas pumps and overhead canopies or roofs.
 - (2) Fences running along lot boundaries adjacent to public street rights-of-way if such fences exceed six feet in height and are substantially opaque.
 - (d) Notwithstanding any other provision of this chapter, a sign may be erected on or affixed to a structure that (1) has a principal function that is something other than the support of the sign (e.g., a fence), but (2) does not constitute a building as defined in this chapter, only if such sign is located so as to comply with the setback requirement applicable to freestanding signs in the district where such sign is located.

2. Front Yards.

- (a) Averaging setbacks for existing alignment. In any zone, when the average depth of front yard of existing buildings located within 200 feet of each side of a lot in the same block front is less than the least front yard depth prescribed for a building on such lot, then the least front yard of any building or structure on such lot shall not be greater than the average depth of said existing front yards, but shall be at least 10 feet. In no event shall any building be constructed closer than any setback established on a plat of record.
- (b) Yard on street side of lot adjoining or facing residence zone. On a lot in any non-residential zone sharing the same block front with a lot in any residential zone the minimum front yard required shall equal in depth to the front yard required for that residential zone.
- (c) Front yards not parallel to the building. Where the front wall of a building is not parallel with the front lot line or is broken or otherwise irregular, the average depth of the front yard shall not be less than the otherwise required front yard, provided however, that such front wall shall at all points be within five (5) feet of the otherwise required front yard depth.

3. Side Yards. Side yard exceptions for attached dwellings. In the case of attached dwelling units, the entire structure shall be considered as a single building with respect to side yard requirements.

4. Rear yards. Where the rear wall of a building is not parallel with the rear lot line or is broken or otherwise irregular, the average depth of the rear yard shall not be less than the otherwise required rear yard provided however, that such rear wall shall at all points be within five (5) feet of the otherwise required rear yard depth.

5. Yard requirements adjoining a more restrictive zone. Where a property adjoins the side or rear yard of a lot in another zone, the side or rear yard in the zone with the less restrictive yard requirements shall equal the adjoining side or rear yard (as appropriate) of the zone with the more restrictive yard requirements.

6. Setback distances shall be measured from the property line or street right-of-way line to a point on the lot that is directly below the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it (such as a flagpole, etc.).

7. Whenever a private road that serves more than three lots or more than three dwelling units or that serves any nonresidential use tending to generate traffic equivalent to more than three dwelling units is located along a lot boundary, then:

- (a) If the lot is not also bordered by a public street, buildings and freestanding signs shall be set back from the centerline of the private road just as if such road were a public street.
- (b) If the lot is also bordered by a public street, then the setback distance on lots used for residential purposes shall be measured from the inside boundary of the traveled portion of the private road.

8. Walls and Fences.

(This section modified and amended by ORD 2009-05 adopted 11-09-09)

(a) Definitions

- (1) Building Face - Shall mean that portion of a building or structure nearest a property line, but shall not include items such as open steps, patios decks and walkways without a roof, terraces, cornices chimneys, flues, belt courses, leaders, sills, pilasters, lintels, cornices, eaves, gutters and other ornamental features.
- (2) Dog Kennel - A kennel is the name given to any structure made of a fencing type material, or similar provisions erected or installed to provide shelter or housing for dogs or other domestic animals. For the purposes of this Code a doghouse, run, or other small structure in which such animals are kept shall not be subjected to the requirements of this Code. All commercially operated Dog Kennels must comply with all other applicable Town codes and standards.
- (3) Fence - Any structure regardless of composition, except a natural living barrier such as a bush or hedge, which is erected or maintained for the purpose of providing enclosures, barriers, or to establish a boundary line or area, or to enclose a piece of land or to divide a piece of land into distinct portions. The term shall include arbors, archways, boundary fences, gates, pergolas, screens, trellises, similar structures and walls as hereby defined.
- (4) Fence Height - The distance measured from the existing grade to the top of the fence, with the existing grade consisting of any areas within 72 inches of the fence. (See diagrams 1 & 2 in appendix D for examples of flat grade and sloped grade measurements below)

- (5) Fence Zones - For the purposes of determining fence height limitations, for both residential and non-residentially zoned properties, the following fence zones shall be created and defined as follows:
- a. Front Yard Fence Zone: Shall be any area of a property that is bounded by the front property line, and shall extend between the side property lines, to a point twenty (20) feet from the edge of the front property line. (see area "a" as designated in example 1 of diagram 3, located in appendix D) For property lines that extend out into the street or public way, the zone shall extend between the side property lines to a point twenty (20) feet from the edge of the public way.
 - a.(i) Multiple Public Ways (Front Yard Fence Zones): For the purposes of interpreting these requirements, properties bounded by a public way on more than one side, shall have the same number of front yard fence zones as borders bounded by such public ways. All remaining yards shall be considered side yard fence zones.(see area "a" as designated in examples 2 & 3 of diagram 3 located in appendix D)
 - b. Side Yard Fence Zone: Shall be any area of a property extending along a side lot line measured from the front yard fence zone to the rear yard fence zone. (see area "b" as shown in example 1 of diagram 3, located in appendix D) In the case of a property with multiple front yards, all remaining yards not classified as a front yard shall be considered side yards. (see area "b" of examples 2& 3 of diagram 3, located in appendix D)
 - c. Rear Yard Fence Zone: Shall be any area of a property extending along the full length of the rear lot line between the side lot lines and shall extend to a point:
 - (1) ten (10) feet short of the front building face in any residentially zoned area. (see area "c" as designated in example 1 of diagram 3 located in appendix D); or

- (2) to within twenty feet of the front property line in any non-residentially zoned area. (see area "c" as designated in example 1 of diagram 4, located in appendix D)
 - (3) *Public Way – Any sidewalk, street, alley, highway, public thoroughfare, or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.*
 - (4) *Wall - A barrier that is built using stones concrete, dirt, earth, timbers or boards, or pre-engineered systems and is designed and intended to resist lateral pressure or restrain a vertical-faced mass of earth; or stabilize a slope and keep soil from sliding or eroding downhill or provide support for vertical or near-vertical grade changes or support the earth between two or more grade levels; or acts as a berm or barrier to protect a property from light, noise or water.*
- (b) Approval Required - *No Fence, wall or other type of barrier construction shall be erected or installed until an approved Zoning Compliance for Construction Permit is issued by the Zoning Officer.*
- (c) Application for Permit - Any person or persons, corporation, firm or association intending to erect a fence or wall shall, before any work is commenced, make application for a Zoning Compliance for Construction Permit. Application shall be accompanied by a plan or sketch showing the proposed location of any fence, the material proposed to be used, which must be in accordance with this Code, and be accompanied by an appropriate fee. Upon approval by the Zoning Officer, a Zoning Compliance for Construction permit shall be issued and the applicant shall have 6 months from date of issuance to start the project and 12 months to complete. Failure to do so will render the approval null and void.
- (c) 1. Dog Kennels over 6' in height must secure a Zoning Compliance for Construction permit and must comply with the accessory structure requirements of the zoning code.

- (d) Height & Location Restrictions - Any newly constructed fence, walls or similar type barriers may be installed up to a property line, unless there is an existing fence in the vicinity of the shared property line, in which case the proposed fence must comply with sub note e(2) below. All fences shall comply with the following height limitations as defined herewith in:
- (1) Rear Yard Fence Zones - No fence, walls or similar type barriers located in a rear yard fence zone, shall be more than seventy-two (72) inches high in any residentially zoned district, and no more than eighty-four (84) inches high in any non-residentially zoned district. (See diagram 5 located in appendix D) In residential districts, rear yard fences, walls and similar type barriers may extend along the side yard to point not less than ten (10) feet from the front face of the existing building. (see area "c" as designated in example 1 of diagram 3 located in appendix D). In non-residential zones, rear yard fences may extend to within twenty (20) feet of the street or public way. (see area "c" as designated in example 1 of diagram 4, located in appendix D)
 - (2) Side Yard Fence Zones - No fence, walls or similar type barriers located in a side yard fence zones, shall be more than forty-eight (48) inches high when located in a residentially zoned district. (see diagram 6 located in appendix D) However, all side yard fences, walls or barrier shall be reduced to a height of no more than forty-two inches (42) high(see diagram 7 located in appendix D) for any portion located within twenty (20) feet of the street or roadway edge. (see area "b" as designated in the three (3) examples of diagram 3 above). Side yard fences located in non-residentially zoned districts shall be permitted to be no more than eighty-four (84) inches high (See diagram 5, located in appendix D), however such fences shall be reduced to a height of no more than forty-two inches (42) high (see diagram 7, located in appendix D) for any portion located within twenty (20) feet of the street or roadway edge. (see area "b" as designated in the three (3) examples of diagram 4, located in appendix D).
 - (3) Front Yard Fence Zones - As depicted by area "a" in all examples of diagrams 3 & 4, located in appendix D, no fence,

wall or similar type barrier located in a front yard fence zone shall exceed forty-two (42) inches high. (see diagram 7, located in appendix D) In addition, in the absence of a public sidewalk, no fence, walls or similar type barrier shall be located any closer than five (5) feet from the edge of any public roadway, alley or passageway; nor shall they reduce the width of any existing public sidewalk or designated walking area to less than 5 feet, regardless of actual width of existing walkway area. No fence shall be located in any road or highway right-of-ways. Furthermore, and only in the case of properties located in a non-residentially zoned area, a fence, wall or similar barrier may be installed higher than forty-two (42) inches, upon granting of a variance by the Board of Zoning Appeals prior to installation, but in no case may they be constructed of a solid material, that would limit visibility to or from the public way.

- (4) Town House Developments (as defined in the general definitions of the zoning code – Shall be regulated as follows:
 - (a) No front yard fences are allowed in townhouse projects unless approved by the Planning and Zoning Board as part of an overall design concept for the project that specifies height, materials, et., and how fences will be maintained.
 - (b) All fences or walls erected within a rear or side yard setback, that results in the complete enclosure of the rear property of any building that is part of a series of 3 or more independently accessed yet connected buildings; shall be provided with a minimum forty-eight (48) inch unobstructed emergency personnel access way that shall run along the rear property line. A gate shall be installed to provide a minimum thirty-six (36) inch wide by seventy-two (72) inch high access way between each enclosed property and the emergency personnel access way. Property owners shall be responsible for maintaining their portion of the emergency personnel access way.

- (5) Covenants and Deed Restrictions – All fences must comply with any deeds and or covenants regulating such applications as specifically spelled out in such legal documents.
- (e) Existing Installations – Properties with existing installations, or adjacent to properties with existing installations shall comply with the following:
 - (1) Repair or Replacement: Any existing non-compliant fence, wall or similar barrier in place at the time of this Code adoption shall be permitted to continue in non-compliance with this code, however if such fence is damaged or replaced, it must be replaced or repaired in the same location, at the same heights and must use the same materials, otherwise any such repairs or replacement must be brought into compliance with this code.
 - (2) Shared Property Line Installations: Property owners shall have the right to install a fence along a shared property line. However, in an effort to avoid areas that are too narrow to maintain the growth of vegetation and the collection of trash and debris, a fence that is proposed to be installed in the vicinity of the property line of which there is an existing fence from a neighboring property, must
 - (a) abut or connect to the existing fence that is already installed on the property line (see diagram 8 below); or
 - (b) if item (a) above is not possible due to existing setbacks from the property line or desirable, the proposed fence must be installed at least eighteen (18) inches away from the property line, regardless of whether the existing fence is on the property line or not. (see diagrams 9 & 10, listed in appendix D)
- (f) Materials and Composition
 - (1) Any fence, wall or similar structure, which may cause a nuisance, a fire hazard or a dangerous condition or an obstruction affecting the public safety is prohibited. Further, no fence shall be erected in a front yard in a residential district or along a public right-of-way unless the fence is uniformly less than fifty percent (50%) solid.

- (2) The following fences and fencing materials are specifically prohibited:
 - (i) Barbed or razor wire.
 - (ii) Pointed fences less than three (3) feet in height.
 - (iii) Canvas fences.
 - (iv) Cloth fences.
 - (v) Electrically charged fences.
 - (vi) Poultry fences.
 - (vii) Turkey wire.
 - (viii) Temporary fences such as snow fences.
 - (ix) Expandable fences and collapsible fences, except during construction of a building.
 - (x) Chain link fencing is not permitted to be used as border fencing in any residential applications, unless rubberized or coated material is used.
- (3) Fences facing a public way shall be placed with the smooth or finished side facing the public way. The side without the horizontal supports is considered the smooth or finished side.
- (4) All rubberized, coated or chain link fences erected shall be erected with the closed loop at the top of the fence.
- (5) All entrances or gates shall open into the property.
- (6) A permit may be issued for the construction of a security fence for commercial and industrial properties, upon application.
- (7) All fences or walls must be erected so as not to encroach upon a public right-of-way or easements unless a waiver is granted by the Town Commissioners of Rising Sun with the stipulation that the fence be removed or relocated upon request by appropriate town officials. All fences or walls must be erected on or within the property line, and none shall be erected so as to interfere with vehicular or pedestrian traffic or interfere with visibility on corner lots and/or other structures or vehicles, whether stationary or transitory, on public or private property.
- (8) Fences may be located within a required buffer yard.
- (g) Powers and Duties of the Zoning Inspector - In the case of a dispute over a fence proposed to be located along a property line, the Zoning Officer shall have the authority to require the applicant to secure a survey of all property boundaries, prior to granting any approvals of the project and shall further have the right to suspend any project if same dispute arises after the start of the project, but prior to final Town approval and completion of said project. The Zoning Inspector shall have the authority to direct, in writing, the removal or modification of any fence, wall, hedge or other structure on

private or public property wherever the same shall interfere with adequate visibility of operators of motor vehicles at street intersections or curbs. Any person who shall refuse or neglect to comply with the written direction of the Zoning Inspector shall be guilty of a violation of this Code and shall be subject to its penalties.

- (h) Violation and Penalties - Any violator of any of this provision of this chapter shall be guilty of a municipal infraction and shall be punished as provided herein. The Town is entitled to seek equity enforcement for the correction and abatement of any violations.(i)

Appeals - Any change, other than provided in the provision of this Code, as to height, area, size, location or materials uses, shall not be allowed unless a variance is approved by the Board of Appeals.

9. Projections.

Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and the like may extend no more than 24 inches into any required yard.

Section 12-601. Accessory Building Requirements

1. The following provision shall regulate the location of accessory buildings with respect to required yards:
- (a) Accessory buildings shall be prohibited in any required front yard or side street side yard.
 - (b) Accessory buildings shall be distant at least five (5) feet from rear lot boundary lines.
 - (c) Where an accessory building is located in a district requiring a side yard and such building is entirely to the rear of the principal structure, the accessory building shall be located at least five (5) feet from any side or rear lot line. Where an accessory building is located in a district not requiring a side yard, the accessory building shall be located at least three (3) feet from the side lot line.
 - (d) Where any portion of an accessory building projects between a principal structure and the side lot line, the accessory building shall comply with the required side yard restriction for a principal structure on that lot.
 - (e) Where a corner lot adjoins in the rear a lot in any residential zone, no part of an accessory building within 25 feet of the common lot line shall extend closer to street than the actual or required (whichever is less) depth of the front yard for the principal structure on adjoining lot.

2. Accessory buildings shall not exceed the maximum height restriction for the zone in which they are located.
3. Accessory buildings in residential zones shall not exceed the lot coverage nor the total square footage of the building to which it is accessory.
4. Where the high point of the roof or any appurtenance of any accessory building exceeds 12 feet in height, the accessory building shall be set back from rear lot boundary lines an additional two feet for every foot of height exceeding 12 feet.

Section 12-602. Building Height Limitations

1. For purposes of this section:

Except as hereinafter provided, no building or structure, or part thereof, shall hereafter be erected or altered to a height greater than the maximum specified for the respective zone.

The "height" of a wall or structure or a part of a building is the vertical distance from the highest point of a structure, excepting chimney or antenna on a building, to the average ground level of the grade where the walls or other structural elements intersect the ground.

- (a) Where a lot abuts on two or more streets or alleys, of different average established grades in front of the lot, the higher of such grades shall control.
- (b) A point of access to a roof shall be the top of any parapet wall or the lowest point of a roof's surface, whichever is greater. Roofs with slopes greater than 75 percent are regarded as walls.

2. Subject to the remaining provisions of this section, building height limitations in the various zoning districts shall be as indicated in the Schedule of Zone Regulations.
3. Exceptions to height limits. Notwithstanding other regulations in this Article or the maximum specified for the respective zone, the height limits of this Zoning Code shall not apply to penthouses or roof structures for housing stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building; fire or parapet walls; towers, steeples, church spires, belfries, and cupolas, not for human occupancy; flag poles, silos, smoke stacks, masts, tanks, monuments, or other structures that project into the air.
4. Television antennas are allowed in all zoning districts but shall not exceed requirements for antennas and towers.

Section 12-603. Density on Lots Where Portion Dedicated to the Town

1. Subject to the other provisions of this section, if (1) any portion of a tract lies within an area designated on any officially adopted Town plan as part of a proposed public park,

greenway, or bikeway, and (2) before the tract is developed, the owner of the tract, with the concurrence of the Town, dedicates that portion of the tract so designated, then when the remainder of the tract is developed for residential purposes, the permissible density at which the remainder may be developed shall be calculated in accordance with the provisions of this section.

2. If the proposed use of the remainder is a single-family detached residential subdivision, then the minimum lot size and minimum setbacks in such subdivision may be reduced, as determined appropriate by the Planning Commission to achieve the development, and the permitted density shall be calculated by regarding the dedicated portion of the original lot as if it were still part of the lot proposed for development.
3. If the proposed use of the remainder is a two-family or multi-family project, then the permissible density at which the remainder may be developed shall be calculated by regarding the dedicated portion of the original lot as if it were still part of the lot proposed for development.
4. If the portion of the tract that remains after dedication as provided in Subsection 1. is divided in such a way that the resultant parcels are intended for future subdivision or development, then each of the resultant parcels shall be entitled to its pro rata share of the "density bonus" provided for in Subsections 2. and 3.

Section 12-604. Visibility at Intersections

On a corner lot in any zone, nothing shall be erected, placed planted, or allowed to grow in such a manner as materially to impede vision between a height of two and a half (2 ½) and ten (10) feet in the area bounded by the street lines of such corner lots and a line from the point of the intersection.

At driveways or other vehicles egress points, no fence or wall shall be erected which obstructs the view of the road from such point of egress.

No fence, wall, hedge, or shrubbery shall be erected, constructed, maintained, or grown in any zone to a height exceeding thirty-six (36) inches within twenty-five (25) feet of any street intersection.

Section 12-605. Schedule of Zone Regulations (see following pages)

Schedule of Zone Regulations													
Districts	Minimum Lot Criteria				Minimum Yard Requirements (feet)			Max. Height	Lot Coverage	Density	Min.Open Space	Min.Living Space of Dwelling [2] [3]	Min. Tract Size
	Total (sq. ft.)	Per Family. (sq. ft.)	Width (feet)	Depth (feet)	Front	Side/aggregate	Rear	(feet)/stories	Max % [1]	Max dus/ac	OSR	(sq. ft.)	aces.
R-0													
single-family detached	[4]	[4]	[4]	[4]	[4]	5/10	[4]	35/2½	[4]		10%		
R-1													
single-family detached	15,000	1,5000	80	125	35	10/20	35	35/2½	50%	2	10%	1,200	
R-2													
single-family detached	7,500	7,500	50	100	25	9/18	25	35/2½	50%	4	15%	1,000	
R-3													
single-family detached	5,000	5,000	50	100	20	5/15	25	35/2½	50%	6	15%	1,000	
duplex	10,000	5,000	100	100	20	5/15	25	35/2½	60%	6	15%	1,000	
townhouse	2,000	2,000	18	100	25	0	25	35/2½	65%	6	20%	900	
other multifamily	2 ac.	2,000	100		50	50[5]	50[5]	35/2½	65%	12	25%	900	2 acs.
apartments	2 ac.	2,000	100		50	50[5]	50[5]	35/2½	65%	12	25%	900	2 acs.
CC													
single-family detached	5,000	5,000	50	100	20	5/15	25	35/2½	50%	6		1,000	
duplex	10,000	5,000	100	100	20	5/15	25	35/2½	60%	6		1,000	
townhouse	2,000	2,000	18	100	25	0	25	35/2½	65%	7		900	

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Current Version with Amendments 5-10-22

Schedule of Zone Regulations

Districts	Minimum Lot Criteria				Minimum Yard Requirements (feet)			Max. Height	Lot Coverage	Density	Min. Open Space	Min. Living Space of Dwelling [2] [3]	Min. Tract Size
	Total (sq. ft.)	Per Family. (sq. ft.)	Width (feet)	Depth (feet)	Front	Side/aggregate	Rear	(feet)/stories	Max % [1]	Max dus/ac	OSR	(sq. ft.)	aces.
CC (Continued)													
apartments	2 ac.	2,000	100		50	50[5]	50[5]	35/2½	65%	12		900	2 acs.
office	--	--	--	--	--	[6]	20	35/2½	85%				
commercial	--	--	--	--	--	[6]	20	35/2½	85%				
LC													
commercial/office					30	[6]	20	35/2½	80%				na
commercial apartments					30	[6]	20	35/2½	80%				na
CID													
commercial	21,000		100	100	60	0[6]	20	35/2½	85%				5 acs.
office	21,000		100	100	60	0[6]	20	35/2½	80%				5 acs.
commercial apartments			100	100	60	0[6]	20	35/2½					5acs.
LI													
commercial	3 ac		200	500	100	20	40	35/2½	85%				
office	3 ac		200	500	100	20	40	35/2½	80%				
industrial	5 ac		200	500	100	20	40	35/2½	85%				
A-R													
single-family detached	43,560	43,560	150	200	30	20	40	35/2½	50%		30%		
office	21,000		100	100	30	20	40	35/2½	85%				

Schedule of Zone Regulations													
	Minimum Lot Criteria				Minimum Yard Requirements (feet)			Max. Height	Lot Coverage	Density	Min. Open Space	Min. Living Space of Dwelling [2] [3]	Min. Tract Size
M-H													
Mobile Home Park	4,000	4,000	100	200	15	14	15	35/2½	65%	8	15%		10 acs.
PUD													
PUD (See Section 12-511)								35/2½			30%		1 ac.

Notes:

- [1] The computed ground area occupied by all buildings and other impervious surfaces within a lot.
- [2] Initial structure, exclusive of proposed alterations or additions.
- [3] Net living area, exclusive of porches, basements, breezeways, garages, etc. A living area may be reduced proportionally when in apartment format.
- [4] Lot size, front and rear yard set-backs must conform to neighboring properties
- [5] Reserved
- [6] None except when adjacent to a residential zone or building, then a side yard of 10 feet is required.

Definitions:

Open Space Ratio (OS) - The proportion of a site consisting of open space calculated using the gross site area.
 DU/Ac - Dwelling Units per acre

Part II Supplemental Use Regulations

This Article contains regulations for specific uses that supplement the requirements found in other articles of this Code. The following specific supplementary use regulations are applicable to both specific uses permitted by right and to uses permitted by special exception as indicated in the Table of Permissible Uses.

Section 12-606. Accessory Apartments

An accessory apartment may be permitted as a Special Exception by the Board of Appeals in any residential zone subject to the following conditions:

1. The owner of the residential dwelling unit in which the accessory apartment is to be located shall occupy at least one of the dwelling units on the premises.
2. An accessory apartment may be located either in the principal dwelling unit or in an accessory building.
3. Apartment size. The minimum floor area for an accessory apartment within a principal dwelling shall be three hundred (300) square feet but in no case shall it exceed thirty percent (30%) of the gross floor area of the dwelling in which it is located. For accessory apartments located in accessory buildings, the minimum floor area shall also be three hundred (300) square feet, there shall be no more than two (2) bedrooms in the apartment and the apartment shall occupy less than 50% of the structure.
4. Number of accessory apartments per lot. There shall be no more than one (1) accessory apartment permitted per existing single family dwelling.
5. Exterior appearance. If an accessory apartment is located in the principal dwelling building, the entry to such unit and its design shall be such that, to the degree reasonably feasible, the appearance of the building will remain as a single-family residential structure and that no external entrance that faces a road or street will be added.
6. Off-street parking. Off-street parking shall be provided in accordance with the standards and requirements contained herein.

Section 12-607. Accessory Infill Residential Structures Auxiliary to an Existing Residence

An accessory residential structure may be permitted as a Special Exception by the Board of Appeals as infill development in any residential zone subject to the following conditions:

1. The proposed residential structure is located in the rear yard.
2. In cases where the lot is in mid-block, there shall also be a minimum 10 feet between the existing building and the side property line to provide adequate visibility and access to the building.

3. The site coverage of the rear yard secondary residence and existing accessory buildings shall not exceed 40 percent of the rear yard.
4. There shall be a minimum separation of 18 feet between the existing building and the new infill building.
5. The maximum width of the rear yard infill building shall be 75 percent of the width of the site, including all projecting building elements such as bay windows and balconies.
6. Corner infill buildings shall have a minimum ten (10) foot side yard setback facing the street.
7. Infill buildings in rear yards shall not exceed the height of the principal residential structure and in no case shall be greater than maximum height limit permitted in the district.
8. Infill buildings shall be limited to no more than 60 percent of the total floor area of the principal residential structure on the site.
9. The architectural style of the infill building is deemed to be compatible with that of the principal residential structure and the adjoining neighborhood.

Section 12-608. Adult Bookstore, Adult Entertainment Center, Massage and Conversation/Relaxation Parlor

Adult bookstores and/or entertainment center may be permitted by the Board of Appeals as a Special Exception in the CC District provided:

1. That no such establishment shall be nearer than 1,500 feet to any church property, school property, hospital property, or the property of similar institutions for human care;
2. No adult store, center, or studio shall be nearer than 1,000 feet to another adult store, center or studio; and
3. These establishments, as state above, shall not be permitted in any other zone.

Section 12-609. Animal Boarding Places, Kennel and Veterinary Hospitals

A veterinary hospital, kennel or animal boarding place may be permitted by the Board of Appeals as a Special Exception in the CC District and shall be permitted in the A-R District provided that such animal boarding place shall be located only on a lot having an area of two acres or more and that no part of any building or area used for such purposes shall be located within 100 feet of any street or road or the nearest property line, or, in the alternative, that the animals be kept in a sound-proofed building from 8 pm to 8 am and that it shall be located only on a lot having an area of two acres or more and that no part of any building or any area used for such purposes shall be located within 50 feet of any street or road or the nearest property line or within 150 feet from any dwelling

other than the house of the owner or person in control of the boarding place. The Board of Appeals is hereby empowered to increase the restrictions herein provided and to add others when it is deemed necessary in order to protect the health and safety of residents and workers on adjoining properties and in the general neighborhood. Such a use shall be for a period of two years, subject to renewal.

Section 12-610. Antenna or Tower Greater Than 50 Feet in Height and Associated Substations

Communication towers, antenna or towers greater than 50 feet in height and associated substations and antenna or tower greater than 50 feet in height and associated substations (radio, television, wireless telephone, microwave broadcasting, etc.) may be permitted as a special exception by the board of zoning appeals in any district provided:

1. All structures shall be located at least 200 feet from an existing dwelling.
2. A minimum 10-foot landscape strip shall be required and maintained around all property lines exterior to any fence or wall.
3. Any proposed broadcasting tower shall have a setback of one foot from all property lines for every foot of height of the tower and associated antenna provided that any antenna or tower lawfully existing prior to the effective date of this Code shall be exempt from the setback limitations imposed by this subsection and may be continued. Structurally altered, reconstructed, or enlarged provided that no structural change, repair, addition. Alteration, or reconstruction shall result in increasing the height of such tower above the then existing structurally designed height.
4. The applicant shall demonstrate that a diligent effort has been made to locate the proposed communication facility on an existing structure or in a nonresidential zoning district and that, due to valid considerations, including physical constraints and economic or technical feasibility, no other appropriate location is available. The information submitted by the applicant shall include a map of the area to be served by the tower. Its relationship to other antenna sites in the applicant's network. An evaluation of existing structures taller than fifty (50) feet and communication and water towers within one-half (1/2) mile radius of the proposed tower.
5. New communication towers shall be designed to accommodate antennas for more than one (1) user, unless the applicant demonstrates why such design is not feasible for economic, technical or physical reasons. Unless collocation has been determined to be unfeasible, the plan shall delineate an area near the base of the tower to be used for the placement of additional equipment buildings for other users.
6. Ground level equipment and buildings and the tower base shall be screened from public streets and residentially zoned properties.

7. Communication towers shall be gray or a similar color that minimizes visibility. Unless a different color is required by the federal communication commission or the federal aviation administration.
8. No signals or lights shall be permitted on a tower unless required by the federal communications commission or the federal aviation administration.
9. A communication tower that is no longer in use shall be removed from the site within six (6) months of the date that the use ceases.

Section 12-611. Antique Shops

An antique shop shall be permitted in LC District in an existing building or part of an existing building provided that the original character of the building be maintained; that such use shall not constitute a nuisance because of traffic, noise, type of physical activity, or any other element that is incompatible with the character of the surrounding neighborhoods; and that signs shall be limited to identification signs -- the location and design of the signs shall be subject to the provisions contained herein.

Section 12-612. Art or Cultural Centers

A non-commercial art or cultural center may be allowed as a Special Exception by the Board of Appeals in R-O and PUD Districts and shall be permitted in the LC and CC Districts upon a finding that the proposed use will not constitute a nuisance because of traffic, noise, number of persons, or physical activity and that the proposed use is operated by a non-profit organization not organized or operated for the purpose of carrying on a trade or business, no part of the net earnings of which inures to the benefit of any member of such organization or individual. Such use may consist of one or more buildings or structures which the Board or Planning Commission shall find will be devoted entirely to the furtherance of the arts or culture, including, but not limited to, a theater, museum, classrooms, or any combination thereof, and may provide for a restaurant or snack bar designed solely for service of food or refreshments to people using the facilities of the proposed center. The lot, parcel, or tract of land upon which the proposed center is to be located shall have a minimum area of two acres.

Section 12-613. Automobile Filling Stations and Emission Testing Facilities

1. An automobile filling station or emission testing facility may be permitted as a Special Exception by the Board of Appeals in the CC District and shall be permitted in the CID and LI Districts, upon a finding, that:
 - (a) The use will not constitute a nuisance because of noise, fumes, odors, or physical activity in the location proposed.
 - (b) The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of

turning movements in relation to its access to public roads or intersections, or its location in relation to other buildings or proposed buildings on or near the site and the traffic pattern from such buildings, or by reason of its location near a vehicular or pedestrian entrance or crossing to a public or private school, park, playground or hospital, or other public use or place of public assembly.

- (c) The use at the proposed location will not adversely affect nor retard the logical development of the general neighborhood or of the industrial or commercial zone in which the station is proposed, considering service required, population, character, density, and number of similar uses.

2. In addition, the following requirements shall be complied with:

- (a) Signs, product displays, parked vehicles, and other obstructions that adversely affect visibility at intersections or to station driveways shall be prohibited.
- (b) Lighting, including permitted illuminated signs, shall be arranged so as not to reflect or cause glare into any residential zone.
- (c) When such use occupies a corner lot, the ingress or egress driveways shall be located at least 20 feet from the intersection of the front and side street lines of the lot as defined in Article 6, and such driveways shall not exceed 30 feet in width, provided that in areas where no master plan of highways has been adopted the street line shall be considered to be at least 40 feet from the center line of any abutting street or highway.
- (d) Gasoline pumps or other service appliances shall be located on the lot at least 10 feet behind the building line, and all service storage or similar activities in connection with such use shall be conducted entirely within the building. There shall be at least 20 feet between driveways on each street, and all driveways shall be perpendicular to the curb or street line.
- (e) Light automobile repair work may be done at an automobile filling station, provided that no major repairs, spray paint operation, or body or fender repair is permitted.
- (f) Vehicles shall not be parked so as to overhang the public right-of-way.
- (g) Adequate vehicle stacking is provided so as not to impair access from the street or pedestrian traffic in the area.

Section 12-614. Automobile, Motorcycle, and Motor Vehicle Repair and Maintenance, not Including Body Work

A motor vehicle repair and maintenance shop is limited to the sale, installation, repair, replacement, modification, adjustment, or servicing of the power plant or drive-train of a vehicle may be permitted as a Special Exception by the Board of Appeals in CC District and shall be permitted in the LI District subject to the following standards:

1. The minimum lot size shall be 20,000 square feet.
2. All activity and storage of parts with the permitted use shall occur entirely within a completely enclosed building. Any vehicle storage shall be temporary, in side or rear yards, and screened from adjacent properties.
3. No building or structure shall be located in any required yard or setback.
4. Wall openings in structures are permitted in those walls directly facing an existing Commercial or Industrial zoning district. Wall openings necessary for ventilation, fire exits, and light, pursuant to the standards of the Building Code and the Fire Safety Code, shall be permitted.
5. The maximum permitted total floor area shall not exceed twenty-five (25) percent of total lot area.
6. A minimum ten (10) foot wide buffer yard meeting the standards for Buffer yard C shall be provided adjacent to and completely across all property lines. Curb cuts shall be minimized.
7. No outdoor display of merchandise sold, serviced, or rented is permitted.
8. Vehicles shall not be parked so as to overhang the public right-of-way.
9. Lubrication Equipment and Outdoor Storage and Refuse Areas. Hydraulic racks and service pits shall be located within the main structure. Any outdoor storage or refuse area shall be fenced or screened from view and must be approved as to location and design. The site plan shall indicate the disposal methods to be used for all waste material including recycling of waste oil generated by the operation.
10. No maintenance or repair work on or involving motorized vehicles or equipment shall be performed after the hours of 9:00 PM.
11. Any use of an acetylene torch comprising of welding, cutting or burning shall require a permit from the Zoning Inspector.

Section 12-615. Automobile Painting and Body Work

An automotive painting and body shop limited to the painting, repair, or alteration of the auto body may be permitted as Special Exception by the Board of Appeals in the LI District subject to the following standards:

1. Minimum lot size shall be 20,000 square feet.
2. All activity and storage associated with the permitted use shall occur entirely within a completely enclosed building. Vehicles may be temporarily stored in side or rear yards if completely screened from adjacent properties.
3. No building or structure shall be located in any required yard or setback.
4. Wall openings in structures are permitted in those walls directly facing an existing Commercial or Industrial zoning district. Wall openings necessary for ventilation, fire exits, and light, pursuant to the standards of the Building Code and the Fire Safety Code, shall be permitted.
5. The maximum permitted total floor area shall not exceed twenty-five (25) percent of total lot area.
6. The minimum ten (10) foot wide buffer yard meeting the standards of Buffer yard C shall be provided adjacent to and completely across all property lines. Curb cuts shall be minimized.
7. No outdoor display of merchandise sold, serviced, or rented is permitted.
8. Vehicles shall not be parked so as to overhang the public right-of-way.
9. Buffer yards meeting the standards of Buffer yard D shall be required to adequately separate this use from adjacent uses or properties in order to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas, or to provide spacing to reduce impacts of noise, odor, or danger from fires or explosions.
10. Automobile painting and body work shops shall be separated from each other or similar uses such a distance as to eliminate the combined effects of odors or concentration of fumes.

Section 12-616. Automobile and Light Truck Storage Lots

An automobile and light truck storage lot may be permitted in the CC and LI Districts for use in connection with a towing operation, but not for the storage of junked cars.

Section 12-617. Automobile, Truck, and Trailer Rentals, Outdoors

1. A lot for the storage and rental of only the following rental vehicles: automobiles, light trailers of such limited size and capacity so as to be capable of being safely towed by a passenger motor vehicle designed for carrying less than 10 passengers, and light and medium duty trucks may be permitted as a Special Exception by the Board of Appeals in the CC and LI Districts upon a finding that:
 - (a) The use will not constitute a nuisance because of noise, fumes or odors, or physical activity in the location proposed.
 - (b) The use at the proposed location will not create a traffic hazard to traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads or intersections, or its location in relation to other buildings or proposed buildings on or near the site, and the traffic pattern from such buildings, or by reason of its location near a vehicular or pedestrian entrance or crossing to a public or private school, park, playground, hospital, or other public use or place of public assembly.
 - (c) The use at the proposed location will neither adversely affect nor retard the logical development of the general neighborhood or of the commercial zone in which the lot is proposed considering service required, population, character, density, and number of similar uses.
2. In addition, the following requirements shall be complied with:
 - (a) Unless the use is accessory to motor vehicle-related fuel sales, gasoline pumps and other service appliances shall not be permitted, except that not more than one gasoline pump shall be permitted, but only for the fueling of rental vehicles. No major repairs, spray paint operation, or body or fender repair shall be permitted.
 - (b) Vehicles shall be stored or parked only on a surface area constructed of material that will assure a surface resistant to erosion and adequately treated to prevent dust emission, surround by a raised curb. The curb shall be located so that no vehicle can be parked or stored within 15 feet of any street line, nor within 15 feet of any property line adjoining land in a residential zone, nor within three feet of any property line. In a Commercial zone, the entire lot shall be on or near grade with the most traveled abutting street or highway.
 - (c) There shall be at least 20 feet between access driveways on each street, and all driveways shall be perpendicular to the curb or street line.
 - (d) When such a use occupies a corner lot, no access driveway shall be located less than 20 feet from the intersection of the front and side street lines of the lot, as defined herein, and no such driveway shall exceed 45 feet in width. In areas where no master plan of highways has been adopted, the street line shall be considered to be at least 40 feet from the centerline of any abutting street or highway.

- (e) Signs, product displays, parked vehicles, and other obstructions that would adversely affect visibility at intersection or to driveways shall be prohibited.
- (f) Lighting shall be low level and so arranged as not to reflect or to cause glare into any residential zone.
- (g) When such use abuts a residential zone or institutional premises and is not effectively screened by a natural terrain feature, the use shall be screened by a solid wall or a sightly, substantial solid fence not less than five feet in height, together with a three-foot planting strip on the outside of such wall or fence, planted in shrubs and evergreens. The failure of the owner and/or operator to maintain any required planting so that they exist in a flourishing and healthy condition is grounds for revocation of the occupancy permit. Screening shall not be required on street frontage unless abutting a highway corridor.

Section 12-618. Boardinghouses, Bed and Breakfasts, Country Inns

Boardinghouses, bed and breakfasts and country inns may be permitted as a Special Exception by the Board of Appeals in the R-O, R-2, R-3, LC and PUD Districts subject to the following standard:

1. The use is temporary, for a period of not more than three years, subject to renewal.
2. The establishment shall be located on a state-or town maintained road with direct access to the state-maintained road. Direct access shall mean an entrance located on the same property as the establishment.
3. The driveway entrance onto the state-maintained road shall meet MDDOT standards.
4. One off-street parking space shall be provided for each guest room and shall be located at the rear of the site. Furthermore parking areas shall be 50 feet from any adjacent residentially zoned property or shall be adequately screened.
5. The establishment shall be owner/manager occupied and managed
6. Accessory commercial activities such as weddings, graduation, and similar parties are allowed only if included as part of the special exception application.
7. Facilities for dining shall be in the location customarily used by a single family in the structure.
8. No separate kitchen shall be provided.
9. All requirements of the Town Building Code shall be met if required.

Section 12-619. Cargo Trailers and Closed-Body Trucks

1. Cargo trailers and closed-body trucks shall be permitted in the CC, CID, and LI Districts provided:

- (a) No such vehicle shall be parked in a commercial area for more than two (2) consecutive working days unless a permit is obtained from the Zoning Inspector.
 - (b) This permit shall be valid for a period of not more than six (6) months.
 - (c) An applicant wishing to renew an existing permit shall re-apply to the Zoning Inspector at least fifteen (15) days before the expiration of the existing permit. In issuing or renewing a permit, the outside appearance shall be inspected at this time so it will not detract from the surrounding neighborhood and the Zoning Inspector reserves the right to inspect the contents of the cargo trailer or closed body truck.
2. Cargo trailers and closed-body trucks may be permitted by the Board of Appeals as a Special Exception in the CC District and shall be permitted in the CID and LI Districts provided:
- (a) The cargo trailers and closed body trucks are accessory to an existing business.
 - (b) The cargo trailers and closed body trucks are placed in the rear yard or side yards in conformance to all setback and screening regulations.
 - (c) Section 1.a and b above, except that the applicant must re-apply for a Special Exception in the CC District.

Section 12-620. Child or Elderly Care Centers (day care centers)

Child or elderly care centers serving between seven (7) and thirty (30) children or elderly persons may be permitted as a Special Exception in the R-O, R-2, R-3, MH, LC, CC and PUD Districts and child or elderly care centers serving fewer than seven (7) children or elderly persons shall be permitted in R-O, R-1, R-2, R-3, MH, LC, CC and PUD Districts subject to the following:

- 1. A site plan must be submitted showing existing or proposed building, play area, fencing, parking, ingress and egress, and with the following:
 - (a) Applicant shall meet requirements of state and local health departments for family/group care.
 - (b) The Board may prescribe specific conditions determined necessary to minimize effects of use on neighboring properties given identification of concerns specific to a particular site.
 - (c) The applicant shall provide 100 square feet of usable outdoor recreation area for each child that may use this space at any one time. Such usable outdoor recreation area shall be identified on the site plan and shall be sufficiently buffered from adjacent residential area. Usable outdoor recreation areas shall be limited to the side and rear yard of the property. Recreational areas shall not include the required front yard of the property or any off-street parking areas.

- (d) All such uses shall be located so as to permit the safe pickup and delivery of all people on this site.
 - (e) Such use shall not constitute a nuisance because of traffic, insufficient parking, number of individuals being cared for, noise, or type of physical activity; and
 - (f) The area of the property shall contain no less than 1,000 square feet per child being cared for.
2. The requirements of these sections shall not apply to child or elderly day care facilities or centers that are operated by a non-profit organization in buildings, structures, or on premises owned or leased by a religious organization and which premises are regularly used as a place of worship or are located on premises owned or leased by a religious organization adjacent to premises regularly used as a place of worship, or are used for private parochial educational purposes that are exempted under the provisions of this section for private educational institutions or are located in publicly owned school buildings.

Section 12-621. Clinics

Medical clinics of less than 10,000 square feet of gross floor area shall be permitted in the LC, CC, CID and LI Districts subject to the following:

1. Site requirements:
 - (a) Minimum lot area, 40,000 square feet.
 - (b) Minimum frontage, 200 feet.
 - (c) Minimum setback, 40 feet from all property lines.
 - (d) Maximum building height, as specified in zone.
 - (e) Location of access on business district street, arterial, or major highways.
2. Disposal of waste shall be through approved, safe means and shall be separate from regular trash disposal.
3. Accessory services, including laboratories and pharmacies for the use of patients visiting medical practitioners in the clinic, shall be permitted as part of the clinic facility, subject to the following specific conditions:
 - (a) All entrances to parts of the building in which these accessory services are provided shall be from within the building and any direct access from the street is prohibited.

- (b) The hours during which these services are provided shall be the same as those during which medical practitioners are receiving patients.

Section 12-622. Drive-in Banks

Drive-in/ banks may be permitted as a Special Exception by the Board of Appeals in the R-O and LC Districts and shall be permitted in the CC, CID and LI Districts provided:

1. The use will not constitute a nuisance because of noise, illumination, fumes, odors, or physical activity in the location proposed.
2. The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads and intersections, or its location in relation to other buildings or proposed buildings on or near the site and the traffic patterns from such buildings or cause frequent turning movements across sidewalks and pedestrian ways, thereby disrupting pedestrian circulation within a concentration of retail activity. A traffic impact study shall be required.
3. The use of the proposed location will not pre-empt frontage on any highway or public road in such manner so as to substantially reduce the visibility and accessibility of an interior commercial area zoned or proposed for commercial use that is oriented to the same highway or public road.
4. When such use abuts a residential zone or institutional premises the use shall be screened by a solid wall or a substantial, slightly, solid fence, not less than five feet in height, together with a three-foot wide planting strip on the outside of such wall or fence, planted in shrubs and evergreens three feet high at the time of original planting and which shall be maintained in good condition. Location, maintenance, vehicle sight distance provision, advertising, and parking areas pertaining to screening shall be as provided for in this Code.
5. When such use occupies a corner lot, the ingress or egress driveways shall be located at least 20 feet from the intersection of the front and side street lines of the lot and such driveways shall not exceed 25 feet in width, provided that, in areas where no master plan of highways has been adopted, the street line shall be considered to be at least 60 feet from the centerline of any abutting street or highway.
6. Drive through lanes shall be marked with distinctive pavement markings and/or special striping and shall not block exit or entry to building or to off-street parking spaces otherwise required on the site.
7. Adequate spaces for stacking (line-up) at drive through facilities shall be provided. Specifically, five for first station plus two for each additional station.

8. Vehicular access shall not be by means of any street internal to a subdivisions for single-family dwellings.

Section 12-623. Drive-in/Fast Food Restaurants

Drive-in/fast food restaurants may be permitted as a Special Exception by the Board of Appeals in the LC District and shall be permitted in the CC Districts provided:

1. The use will not constitute a nuisance because of noise, illumination, fumes, odors, or physical activity in the location proposed.
2. The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads and intersections, or its location in relation to other buildings or proposed buildings on or near the site and the traffic patterns from such buildings or cause frequent turning movements across sidewalks and pedestrian ways, thereby disrupting pedestrian circulation within a concentration of retail activity. A traffic impact study shall be required.
3. The use of the proposed location will not pre-empt frontage on any highway or public road in such manner so as to substantially reduce the visibility and accessibility of an interior commercial area zoned or proposed for commercial use that is oriented to the same highway or public road.
4. When such use abuts a residential zone or institutional premises the use shall be screened by a solid wall or a substantial, slightly, solid fence, not less than five feet in height, together with a three-foot wide planting strip on the outside of such wall or fence, planted in shrubs and evergreens three feet high at the time of original planting and which shall be maintained in good condition. Location, maintenance, vehicle sight distance provision, advertising, and parking areas pertaining to screening shall be as provided for in this Code.
5. When such use occupies a corner lot, the ingress or egress driveways shall be located at least 20 feet from the intersection of the front and side street lines of the lot and such driveways shall not exceed 25 feet in width, provided that, in areas where no master plan of highways has been adopted, the street line shall be considered to be at least 60 feet from the centerline of any abutting street or highway.
6. Drive through lanes shall be marked with distinctive pavement markings and/or special striping and shall not block exit or entry to building or to off-street parking spaces otherwise required on the site.
7. Adequate spaces for stacking (line-up) at drive through facilities shall be provided. Specifically, seven per station, five of which must be before the ordering station (intercom).
8. Vehicular access shall not be by means of any street internal to a subdivisions for single-family dwellings.

Section 12-624. Education Institutions, Private

(This section modified and amended by ORD 2007-02 adopted 11-27-07)

Private educational institutions may be permitted as a Special Exception by the Board of Appeals in the residential, light industrial and commercial zones, not to include the central commercial district, provided:

1. That such use will not constitute a nuisance because of traffic, number of students, noise, type of physical activity, or any other element that is incompatible with the environment and character of the surrounding neighborhoods; and
2. That, except for buildings and additions thereto completed, or for which building permits have been obtained prior to the time of adoption of this section, such use will be housed in buildings architecturally compatible with other buildings in the surrounding neighborhoods, and, in the event that such building is to be located on a lot, tract, or parcel of land of two acres or less, in either an undeveloped area or an area substantially developed with single-family homes, that the exterior architecture of such building will be of a residential home design and at least comparable to existing residential homes, if any, in the immediate neighborhood; and
3. That such use will not, in and of itself or in combination with other existing uses, affect adversely or change the present character or future development of the surrounding residential community; and
4. That such use can and will be developed in conformity with the following area, density, building coverage, frontage, setback, access, and screening requirements, where specified:
 - (a) Area, frontage, and setback. As shall be specified in a site plan of development approved by the Planning Commission, provided that in no event shall such standards be less than the area regulations for the zone in which the private educational institution is proposed to be located; and
 - (b) Access building coverage and screening. As shall be specified in a site plan of development approved by the Planning Commission; and
 - (c) Density. Such density, being the allowable number of pupils per acre permitted to occupy the premises at any one time, as shall be specified by the Board upon consideration of the following factors:
 - (1) Traffic patterns, including:
 - (i) Impact of increased traffic on residential streets;
 - (ii) Existence of arterial highways; and

- (iii) Noise or type of physical activity;
 - (2) Character, percentage, and density of existing development and zoning within the community; and
 - (3) Topography of the land to be used for the special exception, provided that in no event shall a special exception be granted for a density in excess of 87 pupils per acre.
- 5. If the school offers general academic instruction below college level, an outdoor play area (or other outdoor activity area) shall be required that shall have a usable space of at least 100 square feet per student. The area shall be located at least 25 feet from any adjoining lot.
- 6. Exemptions. The requirements of this section shall not apply to the use of any lot, lots, or tract of land for any private educational institution or parochial school that is located in a building or on premises owned or leased by any church or religious organization, the government of the United States, the State of Maryland, or any agency thereof, Cecil County, or the Town.
- 7. Non-conforming uses. Nothing in this Code shall prevent any existing private educational institution that obtained a special exception prior to the effective date of this Code from continuing its use to the full extent authorized under the resolution granting the respective special exception.

Section 12-625. Festivals, Events of Public Interest or Special Events, Occasional, Outdoor

Occasional outdoor festivals or special events, including, but not limited to horse shows, carnivals, dog shows, arts and crafts shows, music festivals, etc., and seasonal business use may be permitted in any district by the Mayor and Commissioners provided:

- 1. The proposed site shall be of sufficient size to accommodate the use without adversely affecting adjacent land uses.
- 2. No temporary sanitary facility or trash receptacle may be located within 200 feet of an existing dwelling; no tent shall be located within 250 feet of an existing dwelling.
- 3. A drawing to scale shall accompany the application and shall accurately depict the standards of this section.
- 4. Non-recurring festivals or events shall not exceed seven days in any 12 consecutive months.
- 5. Seasonal business uses or sales of merchandise may be permitted by the Town and shall not exceed a total of 90 days in any 12 consecutive months.

6. A maximum continuous sound level of 60 db and a maximum peak sound level of 75 db shall not be exceeded adjacent to land used for residential purposes, and operations shall cease not later than 11:30 pm.
7. Activity areas shall be at least 500 feet from a residential district.
8. Vehicular access shall be derived only from an arterial or major collector.
9. A minimum of one parking space shall be provided for every 500 square feet of ground area.
10. In cases where it is deemed necessary, the Mayor and Commissioners may require the applicant to post a bond to ensure compliance with the conditions of the conditional-use permit.
11. If the permit applicant requests the Town to provide extraordinary services or equipment or it is otherwise determined that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the Town a fee sufficient to reimburse the Town for the costs of these services. These requirements shall not apply if the event has been anticipated in the budget process and sufficient funds have been included in the budget to cover the costs incurred.

Section 12-626. Funeral Parlors, Undertaking Establishments, or Mortuaries

The use of a tract or parcel of land or buildings for a funeral parlor or undertaking establishment may be permitted as a Special Exception by the Board of Appeals in the RO District and shall be permitted in the CC and LC Districts provided that:

1. The use will not constitute a nuisance because of noise, traffic, or type of physical activity. Such use shall be devoted to services usually incident to funeral parlor and undertaking establishment operation including, but not limited to, transportation of human remains to and from the premises; embalming, cosmetizing, and casketing of remains; visiting of the premises by decedents' families and the general public for the purpose of viewing the remains and conducting business with the establishment; delivery and storage of caskets, including a room or area devoted to display thereof, provided the cremation of remains is expressly prohibited. In any residential zone, the premises shall, and, in any commercial zone, may maintain either as a separate building or a portion of the main building one dwelling unit, which shall be occupied by the owner or an employee of the establishment.
2. The property and building shall conform to the following:
 - (a) The percentage of the lot covered by buildings shall not exceed 25 percent.
 - (b) Minimum lot area: one acre.
 - (c) Minimum front yard setback: 75 feet.

- (d) Minimum side yard setback: 25 feet each side.
- (e) Minimum rear yard setback: 25 feet.
- (f) Building height limit: same as specified in the applicable zone.
- (g) Minimum frontage at the building line: 100 feet.
- (h) The grounds and exterior of all buildings shall be kept and maintained in conformity with the prevailing standards of the community.
- (i) Special conditions, such as provisions for additional fencing or planting or other landscaping, additional setback from property lines, location, arrangement of lighting, and other reasonable requirements deemed necessary to safeguard the general community interest and welfare, as required by the Planning Commission and/or the Board of Appeals as requisites to the approval.

Section 12-627. Greenhouses, Commercial Nurseries

A horticultural nursery or commercial greenhouse, together with buildings incidental thereto shall be permitted in the CC District upon a finding that such use will not constitute a nuisance because of traffic, noise, or other factors. The sale of plants, trees, shrubs, seeds, fertilizers, plant foods, hand tools, hand spraying and watering equipment, and pesticides directly related to residential gardening shall be permitted, provided that such tools and equipment are not displayed outdoors. Nothing herein shall be construed to permit the sale or storage of general hardware or power equipment. No such horticultural nursery or commercial greenhouse shall be located on a tract of land containing less than two acres and no part of any building thereon shall be less than 50 feet from the nearest property line. Greenhouses shall have a minimum setback of twice the height of the building, and storage of all materials which produce odors or attract pests shall be effectively covered.

Section 12-628. Golf Courses and Country Clubs

A golf course, country club, private club, or service organization including community buildings, may be permitted as a Special Exception by the Board of Appeals in the R-1, A-R and PUD Districts upon a finding that the proposed use will not adversely affect surrounding residential uses because of noise, traffic, number of people, or type of physical activity, providing that the following standards and requirements can be met:

1. The provision of food, refreshments, and entertainment for club or organization members and their guests may be allowed in connection with such use, provided the availability of such services is not reasonably expected to draw an excessive amount of traffic through local residential streets.

2. All buildings shall conform to the height, coverage, and setback regulations of the zone in which they are located, and all facilities shall be so located as to conform to other special exception standards.
3. All outdoor lighting shall be located, shielded, landscaped, or otherwise buffered so that no direct light shall constitute an intrusion into any residential area.
4. A minimum 100-foot setback for all buildings and parking areas shall be provided adjacent to single-family dwelling districts or uses.
5. Vehicular access shall be derived from an arterial street.
6. Twenty parking spaces shall be provided per nine holes and one space per 500 square feet of club floor area.
7. A minimum 50-foot buffer shall be provided adjacent to the clubhouse/office and parking areas when said facilities are located adjacent to single-family dwelling districts or uses.
8. A minimum 25-foot buffer shall be provided adjoining single-family zoning or uses not part of the golf course development.
9. Off-street parking and loading areas, tennis courts, golf tees, and maintenance facilities may require additional screening as determined by the Board.

Section 12-629. Golf Driving Range

A golf driving range may be permitted as a Special Exception by the Board of Appeals in the CC and LI Districts, provided that the surrounding area is predominantly undeveloped. Such a use shall be for a period of not more than two years, subject to renewal.

Section 12-630. Group Home, Halfway House

A group home or halfway house for 9-16 individuals may be permitted as a Special Exception by the Board of Appeals in the LC and CC Districts and a group home or halfway house for criminal offenders may be permitted as a Special Exception by the Board of Appeals in the CC District subject to the following:

1. That such use will not constitute a nuisance because of noise, vehicle traffic or parking, number of residents, or any other type of physical activity;
2. That such use will not, when considered in combination with other existing group homes in the neighborhood, result in an excessive concentration of similar uses in the same general neighborhood of the proposed use;

3. That any property to be used for a group residential facility is of sufficient size to accommodate the proposed number of residents and staff; and
4. That the site to be used as a group residential facility for children provide ample outdoor play space, free from hazard and appropriately equipped for the age and number of children to be cared for.
5. In order to expedite decisions regarding proposed group residential facilities, the Board shall give priority consideration in scheduling public hearings and in deciding petitions for such facilities.
6. Non-conforming use. Where any "child care residence for up to eight children" or "group home for mentally retarded people" has been lawfully established at the same location prior to the effective date of this Code, such use shall not be required to obtain a special exception.
7. Applicant shall meet requirements of the State Department of Health.
8. The Planning Commission may prescribe specific conditions determined necessary to minimize effects of use on neighboring properties given identification of concerns specific to a particular site.
9. Parking and loading shall be provided at the rear of the site.
10. Adequate access to medical services, shopping areas, recreational, and other community services often desired by elderly and handicapped people shall be available to residents or provided on the site for residents.
11. Business uses that are permitted as accessory uses shall be integrated with the dwelling units and oriented towards the interior of the project. No exterior signs or other evidence of business facilities shall be visible from the periphery of the site.
12. The project shall be designed to provide a transition near the periphery of the site, either with open space areas and landscaping or by designing the buildings near the periphery to be harmonious in density and type with the surrounding neighborhood.
13. Open space areas, recreational facilities, and other accessory facilities shall be developed in each phase of development to meet the needs of the residents. The developer shall provide a schedule for the installation of facilities at the time the special exception is approved.

Section 12-631. Homeless Shelters

Homeless shelters may be permitted as a Special Exception by the Board of Appeals in the CC District provided:

1. All required approvals from the building inspector, fire marshal, and health department are obtained.
2. No loitering is permitted outside the building.

Section 12-632. Home Occupations

Home occupations are the accessory use of a residence involving the conduct of an art or profession, the offering of a service, the conduct of a business, or the production of handicrafts on a residential site. The use is incidental land secondary to the use of the dwelling for residential purposes, and shall not change the character of the residential use or adversely affect the uses permitted in the residential district of which it is a part. Home occupations within the context of the definition of home occupations provided in this Code may be permitted by the Planning Commission with conditions in the R-1, R-2, R-3, PUD and MH districts subject to the following:

1. The home occupation and its associated structures shall conform to all applicable standards for the zoning district.
2. Home occupations shall be conducted entirely either within the residence or within an accessory structure, but not both. The area used for the home occupation shall not exceed 25% of the gross floor area of the residence. An accessory structure of more than 1,500 square feet shall not be used for a home occupation.
3. The home occupation shall in no way cause the residential appearance or character of the premises to differ from the surrounding residential area. Home occupations shall not be conducted in such a manner as to produce noise, dust, vibration, glare, smoke, odor, electrical interference, fire hazard, traffic, or any other nuisance not typically experienced in the zoning district in which the property, is located.
4. No use shall require internal or external construction features or the use of electrical, mechanical, or other equipment that would change the fire rating of the structure or in any way significantly increase the fire danger to neighboring structures or residences.
5. Signs shall be limited to one permanent, non-illuminated sign of not more than four square feet. Signs shall conform to the signage provisions of this Code.
6. No outside storage or material, goods, supplies, or equipment related to the operation of the home occupation shall be allowed.
7. Merchandise shall be limited only, to products manufactured or substantially altered on the premises or to incidental supplies necessary for the conduct of the home occupation. Items shall not be purchases offsite for resale.
8. To the extent that there is any sale of any item related to a home occupation, delivery of that item to the buyer should occur off the premises.

9. The home occupation shall not employ any nonresident employees.
10. Any need for parking generated by the home occupation shall be offstreet and in the side or rear yard of the structure. The Zoning Inspector shall determine the number of parking spaces required based on parking requirements for like use contained in this Code.
11. No commercial vehicle shall be used in connection with the home occupation for delivery of goods to or from the premises, nor parked on the property. This provision does not preclude the delivery of mail or packages by the Postal Service or by private or public shipping and courier services. Home occupations shall not generate more than an average of one truck delivery per day.
12. No more than one home occupation per residence shall be allowed.
13. Home occupations that attract customers, clients, or students to the premises shall not be allowed in multifamily dwelling units.
14. The following uses would not be appropriate as home occupations and should not be permitted:
 - (a) Vehicle or boat repair or painting;
 - (b) Construction equipment or materials storage;
 - (c) Equipment or vehicle rental;
 - (d) Fish or bait sales;
 - (e) Furniture sales;
 - (f) Funeral director, mortuary or undertaker;
 - (g) Glazier's or painter's shop;
 - (h) Heating, plumbing, or air conditioning services;
 - (i) Laboratory or taxidermy shop;
 - (j) Medical or dental clinic;
 - (k) Private clubs;
 - (l) Restaurants or tea rooms;
 - (m) Tourist homes;
 - (n) Animal hospitals; or
 - (o) Child care centers.
5. The following is a non-exhaustive list of uses which may be conducted as home occupations within the limits established in this section, however, uses not listed below require a specific letter of confirmation from the Planning Officer.
 - (a) Art, handicraft, music, writing, photography, or similar studios;
 - (b) Direct sale product distribution (Amway, Avon, Tupperware, etc.);
 - (c) Dressmaker, seamstress, tailor;
 - (d) Hair cutting and styling;
 - (e) Home typing or computer services;

- (f) Mail-order sales;
- (g) Non-principal offices or physician, dentist, veterinarian, insurance agent, real estate or similar profession which typically serves several clients on a daily basis;
- (h) Offices of accountant, architect, engineer, surveyor, land planner, lawyer, income tax preparer, minister, priest, rabbi, member of a religious order, psychotherapist, counselor, personal consultant or similar professional which typically does not serve several clients on a daily basis;
- (i) Repair of small appliances, small engines and limited machining of small parts, office machines, cameras, and similar small items;
- (j) Telephone sales and order-taking; and
- (k) Tutor or teaching, with musical instruction limited to one (1) or two (2) pupils at a time.

Section 12-633. Hospitals, Clinics

Hospitals, clinics in excess of 10,000 square feet, and other medical treatment facilities may be permitted as a Special Exception by the Board of Appeals in the CC and CID Districts subject to the following:

1. A lot or parcel or tract of land to be used for a hospital or sanitarium building may be allowed, upon a finding by the Board that such use will not constitute a nuisance because of noise, traffic, or number of people being cared for; that such use will not affect adversely the present character or future development of the surrounding residential community; and, if the lot, parcel, or tract of land on which the buildings to be used by such institution are located, conforms to the following minimum area, frontage, and setback requirements, off-street parking, green area requirements, and building height limits:
 - (a) Total area: five acres minimum
 - (b) Frontage: 200 feet minimum
 - (c) All structures shall be located at least 200 feet from any adjacent residential lot and 50 feet from any other use.
 - (d) All parking areas shall be located at least 50 feet from any adjacent residential lot and shall be limited to a minimum of parking in the front yard.
 - (e) Accessory uses may include recreational and educational services, therapy areas, retail stores, personal and professional services, and health services, provided that use of these facilities is limited to on-site patients and their guests.
 - (f) A minimum of 40 percent of the gross site area shall be open space. The open space shall be generally continuous, accessible to the patients, and protective of natural features.

- (g) The Board or the applicant shall request a recommendation from the Planning Commission with respect to a site plan, submitted by the applicant, achieving and conforming to the objectives and requirements of this section for off-street parking and green area.
- (h) Building height limit: as determined by the Board of Appeals but in no case more than 100 feet.
- (i) A resolution approving the establishment by the Health Department shall be filed with the petition for a special exception.
- (j) The applicant shall locate amenities such as lighting, seating, shelter, and landscaping into attractive groupings that provide for safe and unobstructed pedestrian movement.

Section 12-634. Hotels and Motels

A hotel, motel, or inn may be allowed as a Special Exception by the Board of Appeals in the CC, CID, LI, and PUD Districts provided:

1. All the requirements imposed in the zone are met and provided further that special conditions -- such as for additional fencing and/or planting or other landscaping, additional setback from property lines, location and arrangement of lighting, and other reasonable requirements deemed necessary to safeguard the general community interest and welfare - - may be invoked by the Board as requisites to the grant of special exception.
2. Accessory uses may include gift shop, beauty shop, barber shop, restaurant, cocktail lounge/night club, auditorium/meeting facilities, and similar retail stores and commercial establishments. The Planning Commission may require studies of the market for specific accessory uses as well as the principal use.
3. Circulation and parking shall be adequate to fulfill requirements of all proposed uses, principal and accessory. A traffic analysis shall be provided by the applicant demonstrating adequacy of the system to the satisfaction of the Planning Commission.
4. The applicant shall design the building roof to screen mechanical equipment from public view and to contribute to an attractive streetscape.
5. The applicant shall develop the public streetscape between the street-front building and the street curb as a safe and convenient pedestrian movement.
6. The applicant shall locate amenities such as lighting, seating, shelter, and landscaping into attractive groupings that provide for safe and unobstructed pedestrian movement.
7. The applicant shall design fences and retaining walls that are consistent in materials and quality to that of the building and the adjacent properties.

8. The applicant shall design and locate signs so that their illumination is directed away from adjacent neighbors.
9. The applicant shall integrate ground signs into the design of the site and the streetscape.
10. Vehicular access to the subject property shall not be by means of any street internal to a subdivision for one-family dwellings.

Section 12-635. Housing for the Elderly or Handicapped

Housing for the elderly and handicapped may be permitted as a Special Exception by the Board of Appeals in the R-1, R-2, R-3, MH, RO, LC, CC and PUD Districts subject to the following:

1. For the purposes of occupancy, elderly and handicapped shall include only:
 - (a) People who are 62 or more years of age.
 - (b) Families where either the husband or wife is 62 or more years of age.
 - (c) Handicapped people under 62 if determined to have physical impairments that:
 - (1) Are expected to be of long-continued and indefinite duration;
 - (2) Substantially impede the ability to live independently; and
 - (3) Are of such a nature that the ability to live independently could be improved by more suitable housing conditions.
2. The minimum area shall be one and one-half acres.
3. Maximum density.
 - (a) One residential unit per 1,500 square feet of net lot area in the R-1 zone.
 - (b) One residential unit per each 750 square feet of net lot area in the R-2 zone.
 - (c) In the R-3 zone, two times the number of units normally permitted in the applicable zone.
 - (d) One residential unit per each 300 square feet of net lot area in the LC and CC zones.
4. Maximum coverage: as required in the applicable zone.
5. Parking. There shall be off-street parking as required herein.

6. The Board shall grant the application only upon a finding that such use will not affect adversely the use or development of the surrounding area.

Section 12-636. Mobile Home Zone M-H

Manufactured Home Parks as defined herein shall be permitted in the MH District subject to the following requirements. These requirements shall apply to expansion of an existing manufactured home parks and to manufactured home sites in the MH Manufactured Home Park District.

1. Minimum Dimension Requirements
 - (a) Each mobile home shall be so placed on its lot that no part of said mobile home shall be closer than: forty (40) feet to any other mobile home; forty (40) feet to any service building; twenty-five (25) feet to any interior street; seventy-five (75) feet to any public street or highway right-of-way line; or thirty-five (35) feet to any property line of the Mobile Home Park.
 - (b) Mobile Home Sites. A minimum mobile home unit site size of 4,000 square feet per unit shall be provided.
 - (c) Density of mobile home parks shall not exceed eight (8) mobile home sites per acre.
2. The following accessory structures and uses may be permitted:
 - (a) Uses and structures which are generally considered accessory and clearly incidental to the principal uses.
 - (b) Utility buildings.
 - (c) Spaces and structures designed to be utilized by the residents of the development (i.e., community center, laundry, recreational area, etc.)
 - (d) No sales lot for mobile homes may be established within the development.
3. Accessory Retail Uses in a Manufactured Home Park. Barber and beauty shops, delicatessens, laundromats and dry clean pick up and delivery stations shall be permitted as accessory uses in an approved manufactured home park provided:
 - (a) A maximum of ten (10) square feet of commercial floor space shall be permitted per mobile home on the development tract;
 - (b) No establishment shall be larger than 1,000 square feet; and
 - (c) The number and location of such establishments is shown on the approved plat of the development tract, as may be amended.
4. Minimum Tract Dimensions.

- (a) The minimum area for a mobile home park or subdivision shall be 5 acres. The minimum width of the tract measured at the street frontage of the main access shall be 200 feet.
- (b) The tract shall comprise a single plot except where the site is divided by public streets or alleys, or where the total property includes separate parcels for necessary utility plants, maintenance or storage facilities and the like, with appropriate access from the park, provided that all lands involved shall be so dimensioned and related as to facilitate efficient design and management.

5. Development Standards.

- (a) Utility Lines. All utility lines shall be placed underground.
- (b) Storage Facilities. In order to provide for the storage of personal effects of the residents of the mobile home park, at least 125 cubic feet of enclosed storage space shall be provided, either in an individual structure adjacent to each mobile home stand or in a common building within 600 feet of the residential units.
- (c) Open Space. At least 25 percent of the tract, excluding the right-of-ways, shall be established in open space.
- (d) Installation. Each mobile home, together with all enclosed extensions or structural additions thereto, shall be installed upon a mobile home stand and shall be securely anchored thereto so as to prevent the mobile home from shifting or overturning, and shall be suitable treated so as to conceal the undercarriage.
- (e) Design Compatibility. The design of the mobile home development shall provide for compatibility between the use and development of the adjacent land and the mobile home development to the maximum extent possible, either by locating double-wide trailers adjacent to land for which the Town Comprehensive Plan recommends a single-family detached zone, or by the location of open spaces and landscaping, or by such other methods as may be desirable or appropriate.
- (f) Distances Between Mobile Homes. There shall be a distance of at least 40 feet between mobile homes or enclosed extensions thereof, in order to ensure adequate light, air, safety, convenience, and amenity for the residents in the development.
- (g) Access for Fire Protection Services. Access shall be such as to permit fire protection apparatus to approach to within 200 feet of each mobile home.
- (h) Setback from Common Areas. No part of any mobile home stand shall be located within 10 feet of any common driveway, walk, parking area or other common area within the mobile home development.

- (i) Access. Mobile Home Parks shall have access to a paved road or major collector road. The number and location of interior streets or access drives, within a mobile home park, shall be controlled so as to provide for maximum traffic safety and protection of surrounding properties. No mobile home space shall be designed for direct access to a street outside the boundaries of the mobile home park; each space shall have access only to an interior access drive.
- (j) Interior access drives should be at least thirty-two (32) feet in width and shall be surfaced and maintained at least to that width; provided, however, that any interior access drive which is not a through street shall be at least thirty-two (32) feet in width, surfaced and maintained to that width, and shall have two feet mountable curbing on each side of the street. All roadways and shoulders shall have a sub-base with an approved type bank run gravel of not less than eight (8) inches compacted depth. Gravel shall be applied in a minimum of two courses. The surface of all roadways to be dedicated to the town shall be three (3) inches of bituminous concrete (two (2) inches base coat and one (1) inch finish coat). All other roadways shall be two (2) inches of finished bituminous concrete or the county requirements, whichever is most stringent.
- (k) Pedestrian Ways. Walkways shall form a logical, safe, and convenient system for pedestrian access to all mobile homes, on-site facilities, and principal off-site pedestrian destinations. At a minimum, pedestrian ways shall be provided connecting mobile home sites with commercial and recreational facilities within the community. Pedestrian ways shall be not less than four feet wide. In addition, sidewalks shall be provided to each mobile home stand from a paved street or from a paved driveway or parking space connecting to a paved street.
- (l) Recreational Areas. A minimum of twelve (12) percent of the gross land area of the Mobile Home Park shall be reserved for recreational and open space uses. This area may be within or outside a building, but must be for recreational purposes and is in addition to any other open space areas required by yard requirements or other sections of this Code. A clustering of units is encouraged.
- (m) Mobile home parks shall be surrounded by buffer yards measuring not less than twenty-five (25) feet in depth on the sides and rear and not less than fifty (50) feet in depth on the front; such buffer yards shall meet the Buffer yard D standard as shown in Appendix C of this Code.
- (n) All required buffer yards shall be unoccupied except for utility facilities, signs or exits and entrances.
- (o) Each mobile home site shall be provided with two (2) off-street parking spaces.
- (p) Street lighting shall be provided as required by the Planning and Zoning Commission or Town Engineer. Purchase and installation of the required lighting,

like all other improvements, shall be the responsibility of the owner of the mobile home park.

6. Mobile Home Subdivisions, as defined in Article 18, of this Code, shall not be permitted in the Town of Rising Sun.

Section 12-637. Mini-Warehouses

A mini-warehouse may be permitted as a Special Exception by the Board of Appeals in the LI District provided:

1. At least 75 percent of the total on-site storage space shall be contained in individual enclosed stalls containing no more than 500 square feet each and no greater than 10 feet high.
2. No activities other than the dead storage or transfer of non-volatile goods or leasing of storage space are permitted. Prohibited uses include, but are not limited to, miscellaneous sales; fabrication or repair of vehicles, equipment, or other goods; transfer-storage business based on site; residential uses (other than the resident manager's apartment), or any use that creates a nuisance due to noise, odor, dust, light, or electrical interference.
3. An on-site manager or resident manager shall be required and shall be responsible for the operation of the facility in conformance with conditions of approval. A resident manager's apartment shall be included in the use permit.
4. Adequate access and parking shall be provided. Parking for storage purposes shall be provided via a driving/parking land adjacent to each storage space/stall, with a minimum 30-foot width for one-way routes where accessed on one side of the land and a 45-foot width for a two-way route or where accessed on both sides.
5. Adjoining properties used or zoned for residential/dwelling purposes:
 - (a) Non-street-facing property lines shall be improved with a minimum six-foot high, 100 percent opaque, solid wooden fence or masonry wall along the entire length (except for approved access crossings); said improvements are to be located outside any public right-of-way and interior to a minimum 50-foot natural undisturbed buffer.
 - (b) Street-facing property lines shall require a minimum six-foot, 100 percent opaque, wooden fence or masonry wall along the entire length (except for approved access crossings); said improvements are to be located outside any public right-of-way and interior to a minimum 20-foot landscape strip.
6. Adjoining all properties used or zoned for other than residential/dwelling purposes:

- (a) Non-street-facing property lines shall be improved with a minimum six-foot high, 100 percent opaque, solid wooden fence or masonry wall along the entire length, interior to a 10-foot landscape strip.
- (b) Street-facing property lines shall be provided with a minimum 20-foot landscape strip or buffer as specified in Appendices B and C and a minimum six-foot high, 100 percent opaque, wooden fence or masonry wall along the entire length (except for approved access crossings) located outside any public right-of-way and interior to any required landscape strips and/or buffers.

Section 12-638. Nursing and Care Homes

A nursing home or care home (institutional use) for more than eight (8) people may be permitted as Special Exception by the Board of Appeals in the R-1, R-2, R-3, MH, RO and PUD District provided:

1. The Board finds that such use will not constitute a nuisance because of traffic, noise, or number of patients or people being cared for; that, except for buildings completed prior to the time of adoption of this section and additions thereto, such use will be housed in buildings architecturally compatible with other buildings in the surrounding neighborhood; that such use will not adversely affect the present character or future development of the surrounding residential community; and that such use can and will be developed in conformity with the following minimum area, density, coverage, frontage, setback, access, and screening requirements where specified:
2. All care institutions hereafter established and all additions to existing homes where nine or more people are cared for:
 - (a) Minimum lot area, as stated in the applicable zone, but in no case less than one acre.
 - (b) Maximum density.
 - (1) One bed per 800 square feet of net lot area in any residential zone.
 - (2) One bed per 600 square feet of net lot area in commercial zones.
 - (c) Maximum coverage, as required in the applicable zone.
 - (d) Minimum lot frontage, as stated in the requirements for the applicable zone.
 - (e) Minimum setbacks.
 - (1) Front yards, as specified for the applicable zone, except that, for purposes of this section, all yards facing a street shall be considered front yards.

- (2) Side yards. The following minimums are in addition to those otherwise required in the various zones:
 - (i) 1.0 feet for each side yard for each bed in a residential zone.
 - (ii) 1.0 feet for each side yard for each bed in commercial and planned development zones.
 - (iii) In no case shall any minimum side yard be required to be greater than 50 feet more than would otherwise be required in the applicable zone.
 - (3) Back yards: one-half of the total of both side yards as required in paragraph (b) above, but not less than the minimum required in the applicable zone.
 - (f) Minimum screening, as determined by the Board with special attention given to off-street parking and loading areas and in no case less than buffer yard 'C' as shown in Appendix C.
 - (g) The Board shall increase the number of off-street parking spaces required for nursing or care homes where the operation or method of operation, or type of care to be provided, indicates such increase will be needed.
3. Those people who hold valid special exceptions for nursing or care homes to be built in the future may proceed under the provisions of this chapter as it existed immediately prior to enactment of this Code.

Section 12-639. Pet Shops

Pet shops shall be allowed in the LC and CC Districts, provided that the actual store or premises in which the pet shop is located is at least 75 feet from any lot in any residential zone; that the proposed use shall not be incompatible with, or detrimental to, any existing uses on abutting lots; that no animals may be kept for boarding; that no animals may be kept for breeding; that only animals for retail sale shall be maintained or kept on the premises; that all animal pens shall have glass enclosed fronts and each pen or cage shall be connected to any outside ventilating system or other appropriate air filtration system. The provision shall not apply to birds that may be maintained in bird cages. There shall be no space on the exterior of that building for the maintaining or for the use of the animals, and all animals shall be maintained within the pet shop.

Section 12-640. Public Utility Buildings and Public Utility Structures

In any zone, a public utility building or public utility structure not otherwise permitted, including radio and television broadcasting stations and towers (but not including electric power transmission or distribution lines carrying in excess of 69,000 volts, which findings shall be controlled only by subsection 8 hereunder may be permitted as a Special Exception by the Board of Appeals provided:

1. The proposed building or structure at the location selected is necessary for public convenience and service.
2. The proposed building or structure at the location will not endanger the health and safety of workers and residents in the community and will not substantially impair or prove detrimental to neighboring properties.
3. Public utility buildings in any permitted residential zone shall, whenever practicable, have the exterior appearance of residential buildings and shall have suitable landscaping, screen planting, and fencing, wherever deemed necessary by the Board.
4. Signs in connection with a public utility building or structure shall be governed by the provision of this Code.
5. Any proposed broadcasting tower shall have a setback of one foot from all property lines for every foot of height of the tower, provided that any broadcasting tower lawfully existing prior to the effective date of this Code shall be exempt from the setback limitations imposed by this subsection and may be continued, structurally altered, reconstructed, or enlarged provided that no structural change, repair, addition, alteration, or reconstruction shall result in increasing the height of such tower above the then existing structurally designed height.
6. Examples of public utility buildings and structures for which special exceptions are required under this section are buildings and structures for the occupancy, use, support, or housing of switching equipment, regulators, stationary transformers, and other such devices for supply electric service; telephone offices; railroad, bus, trolley, air, and boat passenger stations; radio or television transmitter towers and stations.
7. In any residential zone, overhead electric power and energy transmission and distribution lines carrying in excess of 69,000 volts may be permitted where the Board finds:
 - (a) The proposed use does not have an unduly adverse effect on the general plan for the physical development of the district as embodied in this Code and in the comprehensive plan or portion thereof adopted by the Town Commissioners;
 - (b) The proposed use will not adversely affect the health and safety of the residents or workers in the area;
 - (c) There is a public necessity for the proposed building, structure, or facility at the location selected; and
 - (d) The proposed use will have the least possible detrimental effect to the use of development of adjacent properties or the general neighborhood.

In making such findings, the Board shall consider the following factors, and such other factors as the Board may find to be necessary or important to effectuate its review:

- (e) Points at which the proposed line crosses heavily traveled highways or streets, or other arteries of transportation, either existing or proposed;
 - (f) Proximity of the line to schools, churches, theaters, clubs, museums, fair grounds, or other places of assembly, either existing or proposed;
 - (g) The amount and probability of low-level flying over the line and nearness of the line to airports and/or heliports, either existing or proposed;
 - (h) Any fire hazard or interference with firefighting equipment due to the location and construction of the proposed line;
 - (i) Proximity of the line to public parks and recreational areas, either existing or proposed;
 - (j) Effect upon property values of those who will not be compensated for a taking under the laws of the state;
 - (k) The effect upon environmental quality and ecological balance of protected watersheds, planned open space between corridors of development and green belt areas surrounding satellite community development; and
 - (l) Proximity of the line to historic sites and structures.
8. In addition to the authority granted by this section, the Board may attach to any grant of a special exception under this section other conditions that it may deem necessary to protect the public health, safety, or general welfare.
9. Petitions for special exception under this section may be filed on project basis. A petitioner under this section shall be considered an interested person for purposes of filing a request for a special exception if he states in writing under oath that he has made a bona fide effort to obtain a contractual interest in the subject property for a valid consideration without success and that he intends to continue negotiations to obtain the required interest or, in the alternative, to file condemnation proceedings should the special exceptions be granted.

Section 12-641. Residential Structures - Single-Family Attached and Multiple Units

1. Townhouses may be permitted in the R-O district and shall be permitted in the R-3, CC, LI and PUD Districts provided:
- (a) Both sides of rear yards may be screened with a privacy type fence or hedge of six (6) feet maximum height approved by the Planning Commission and extending not less than fifteen (15) feet from the rear building wall and in the case of interior end units, shall not extend three (3) feet forward of the rear building wall.

- (b) A minimum of twenty (20) percent of the site shall be maintained in common open space areas exclusive of front, side, or rear yards in a location approved by the Planning Commission.
 - (c) All areas not occupied by buildings, roads, parking areas, service areas, or other required or permitted uses, including open spaces and usable recreation areas shall be landscaped by lawns, trees, shrubs, gardens, or other suitable ground cover.
 - (d) A landscaping plan and a schedule of planting shall be included with the site plan. Landscaping plans shall meet the requirements of the sediment control ordinance and other applicable regulations.
 - (e) Building requirements and relationship.
 - (1) Dwelling units per townhouse structure and length of structure. No more than seven (7) dwelling units shall be contained in a townhouse structure without a setback between structures as specified below.
 - (2) Setback between buildings. The minimum distance between any two unattached townhouse structures shall be thirty (30) feet. Setback between buildings in Townhouse projects designed in a courtyard fashion may be approved on a case-by-case basis.
 - (3) Distance to service areas. No townhouse structure shall be closer than twenty (20) feet to any interior driveway or closer than fifteen (15) feet to any off-street parking area excluding garages built into an individual townhouse unit.
 - (4) Code requirements. All structures shall comply with all Town, County and State Codes.
 - (5) All public ways or other common facilities within a townhouse cluster shall be maintained by the property owners within the townhouse cluster. Maintenance provisions shall be established.
 - (6) A public way not less than ten (10) feet in width and intended for pedestrian circulation and fire protection shall be provided between abutting rear lot lines.
 - (7) Off-street parking, which shall not dominate the front of units, shall be provided in accordance with the provisions of this Code.
2. Apartments and other multi-family development residential units shall be permitted in the R-3, CC, LI and PUD Districts provided the maximum density. The density shall not exceed the maximum permitted density for the Zoning District as averaged for the total area.

- (a) Maximum number of Dwelling Units per Bldg. The maximum number of dwelling units per building is eighteen (18) units. In this context, a building is construed to mean any structures enclosed within exterior walls or firewalls, for the enclosure, shelter, or protection of persons, animals, or chattel. Maximum overall length of apartment structures shall be controlled by Planning Commission action based on the particular site plan reviewed, with suggested maximum density of thirty six units per contiguous building group.
- (b) Open area. A minimum of thirty (30%) percent of the total tract area shall be maintained as open area. This required open area shall not be devoted to service driveways, off-street parking, or loading spaces. It is further provided that twenty-five (25%) of the above-referenced open area be suitable for usable recreational space and each such recreational space shall be at least fifty (50) feet in the least dimension with a minimum area of five thousand (5,000) square feet.
- (c) Code requirements. All structures will comply with all Town, County and State codes.
- (d) Setbacks.
 - (1) All buildings and structures shall be set back a minimum of fifty (50) feet from the right-of-way line of any public street or adjacent property lines. This setback shall be exclusively devoted to landscaping and open area and shall not be occupied by any building, structure, or off-street parking area.
 - (2) All buildings and structures shall be set back a minimum of two-hundred (200) feet from the right-of-way line of any public street or adjacent property lines in PUDs of twenty-five acres or more..
 - (3) The minimum setback between any two principal buildings on the same lot shall be thirty (30) feet.
- (e) Area to be landscaped. All lot area not occupied by principal and accessory structures, required off-street parking and loading, access and circulation facilities, or other required areas shall be landscaped by lawns, trees, shrubs, ground cover, and other appropriate materials. Within the required setback areas, there shall be a landscaped buffer yard meeting Buffer yard standard C in Appendix C.
- (f) Building height. The building height shall not exceed forty-five (45) feet. When a building height exceeds 35 feet the setback between buildings on the same lot shall increase one foot for every foot of height over thirty-five (35) feet. Accessory structures. No accessory structure shall exceed twenty (20) feet in height.
- (g) Signs. Signs shall be permitted in accordance with the provisions of this Code.
- (h) Off-street parking. Off-street parking shall be required for each use in accordance with the provisions of this Code.

3. Commercial apartments may be permitted in a commercial structure in the R-O, LC, CC, and PUD Districts provided:
 - (a) No apartment is situated at the street level
 - (b) All apartment units meet applicable building and livability codes.

Section 12-642. Satellite Dish Antennas or Receive-only Earth Stations

1. A satellite dish may be located in a residential district provided it complies with the following conditions:
 - (a) It is ground mounted.
 - (b) It is not located in a front yard or side yard, said yard to be measured from any portion of the principal building to the front or exterior side of the property line.
 - (c) It complies with the setback requirements of the underlying zone for accessory structures.
 - (d) It does not exceed fifteen (15) feet in height above the existing grade.
 - (e) It shall be located on lots where at least a six-foot high solid wall or fence is installed between the dish antenna and the adjacent properties.
 - (f) It shall be adequately screened from any adjacent residential zone, right-of-way, or private street easements, at horizontal grade level to the satisfaction of the Zoning Administrator.
 - (g) Only one satellite dish shall be permitted per lot.
 - (h) Satellite dish antennas with diameter measuring less than 24 inches may be installed in a manner consistent with typical television antennas.
 - (i) A building permit shall be required. The plans of such antenna shall be submitted with each application for a building permit, which shall include a site plan indicating the height, diameter, color, location, setbacks, foundation details, landscaping and screening and shall be subject to approval by the Zoning Administrator.
 - (j) Where a satellite dish is located on a building site that is fronting upon two or more streets, the antenna shall be maintain the same setback for each such street and shall be screened as stated above.

2. A satellite dish may be located in non-residential district provided it complies with the following conditions:
 - (a) Ground mounted satellite dish antennas are permitted under the conditions stated in 1 above.
 - (b) Roof-mounted satellite dish antennas are permitted by special exception, provided however, that such antennas shall be screened from ground view by a parapet or some other type of masonry wall or screening. The minimum height and design of such parapet or screening shall be subject to approval by the Board of Appeals.
3. All satellite dish antennas in all zones shall comply with the following:
 - (a) Under no circumstances shall a satellite dish be utilized as a sign in any zone.
 - (b) Satellite dish antennas and their appurtenances shall be neutral in color or painted such a color as to blend in with the surrounding environment.
 - (c) Satellite dish antennas, appurtenances, landscaping and screening shall be kept and maintained in good condition.
 - (d) The antennas shall be permanently ground-mounted. No antenna shall be installed on a portable or movable structure, such as a trailer.
 - (e) No antenna shall exceed an overall diameter of six (6) feet or an overall height of fifteen (15) feet above the existing grade.
 - (f) Satellite dish antennas shall be of non-combustible and corrosive resistant materials erected in a secure wind resistant manner to protect the safety and welfare of the community.

Section 12-643. Shopping Centers and Malls

Shopping centers shall be permitted in the CC and LI Districts provided:

1. The shopping center shall be constructed according to an approved Comprehensive Site Plan. The Plan shall make adequate provisions for access, utilities, and adequate protection of the surrounding properties, subject to approval by the Planning Commission. As a minimum, the Comprehensive Site Plan shall contain the following information in addition to the information required on site plans in general. All site plans or plan elements shall be clearly titled, and numbered.
 - (a) A Site Plan Element is required indicating the proposed location of all buildings, parking areas, open space, signage, vehicular and pedestrian access, and landscaping and their relationship to natural features of the site.

- (b) The Site Plan Element is required which includes the proposed location and dimensions of all structures, and related areas, setbacks from property lines and other buildings, utility right-of-ways, streets, curbs, gutters, sidewalks, lighting, and fire protection measures. The Plan shall contain a tabular summary indicating:
 - (1) total area of the site;
 - (2) land area devoted to open space;
 - (3) land area devoted to buildings;
 - (4) land area devoted to parking - and total spaces;
 - (5) number of stores by use and square footage.
- (c) A copy of proposed deed restrictions, covenants, by-laws or other instruments designed to provide for continuing maintenance and control of common areas.
- (d) The architectural design of buildings shall be shown by front elevations, photographs or architectural renderings. Where a variety of designs are proposed, each design shall be shown.
- (e) If in the opinion of the Planning Commission, Zoning Inspector, or any Town department head, additional information is required to aid in the review of the project, additional elements shall be prepared.

2. General Design Standards

- (a) Buildings shall be designed so that facades, signs and other appurtenances will have an integrated and harmonious and attractively arranged, and in a manner which will not adversely affect the appearance of surrounding developments.
- (b) Shopping centers shall be located where traffic congestion does not then exist on roads used for immediate access to the center, and where congestion is not likely to be created by the proposed center; or where such congestion will be alleviated by currently scheduled improvements to access roads, by demonstrable provision for proper exits and entrances, and by internal provision for parking and traffic circulation.
- (c) Shopping centers shall be served by underground community sewer, gas, water, and electric facilities.
- (d) Passenger parking areas and freight loading areas shall be separately located and safety provisions must be made for the protection of pedestrians, including appropriate location of roadways, parking areas, sidewalks, islands, entrances, exists, crossovers and underpasses which are provided with drainage, lighting, directional signs, and supervision as may be required.

- (e) Copies of any master lease between the shopping center developers and prospective tenants must be provided. Provisions of the lease must make adequate provision for annual maintenance, security and public conveniences either with individual tenants or as the responsibility of the developer.
- (f) All roadways, parking areas and pedestrian walks shall be paved with concrete or blacktop which shall be maintained in good condition at all times and shall be properly illuminated when in use after dark in such a manner as to prevent the direct transmission of light into adjacent residential properties.
- (g) Whenever a shopping center is located adjacent to a residential development or zone district, a permanent solid fence or planted area with trees or shrubs meeting the standard of Buffer yard E in Appendix C shall be provided on the side or sides adjacent to such residential area sufficient to act as a buffer to the transmission of light and sound from the center.
- (h) All signs within the center shall be controlled by written agreement between the owners and tenants of the center, so as to avoid excessive advertising and insure attractive and harmonious appearance throughout the center. Signs should be uniform in appearance and shown on the Site Plan.

Section 12-644. Social, Fraternal Clubs and Lodges, Philanthropic Institutions

Social, fraternal clubs and lodges, philanthropic institutions may be permitted as a Special Exception by the Board of Appeals in the LC or CC Districts upon a finding that the proposed use will not constitute a nuisance because of noise, traffic, number of people, or type of physical activity, subject to the following minimum area, frontage, and setback requirements:

1. Total area: 25,000 square feet minimum
2. Frontage: 150 feet minimum
3. Setback: 25 feet from all property lines.

Section 12-645. Storage of Recreational Vehicles, Detached Caps, Boats, and Boat Trailers

Storage of recreational vehicles, detached caps, boats, and boat trailers may be stored on premises subject to the following limitations:

1. The vehicle of boat shall not be used for living quarters nor shall any business be conducted therefrom;
2. These vehicle may not be stored in front yards. They may be stored in rear or side yards provided that they are at least three (3) feet from the property line and in the case of side yard storage, provided that they are at least three (3) feet from the property line and are

situated at least ten (10) feet to the rear of a lateral projection of the front foundation of the building. Such vehicle may be stored in any completely enclosed garage.

3. Such vehicle may be stored on a specially marked parking area of a multi-family rental or condominium unit for residents only. Such areas must be screened from adjacent off-site uses as required by the Zoning Inspector.
4. A recreational vehicle may be parked on any portion of a residential or mixed commercial property for a period not more than 24 hours during loading or unloading only.

Section 12-646. Swimming Pools

1. Prior to installation of any swimming pool requiring a filtering system, or deeper than 18", application must be made with the Zoning Inspector. Prior to the filling of any such swimming pool with water from the Town system, permission must be obtained from the Town Commissioners.
2. All swimming pools must meet required set-backs for the zone in which they are located.
3. All swimming pools must have ground fault cut-off.
4. All in-ground swimming pools must be fenced in with at least a four (4) foot fence, but no higher than a six (6) foot fence, that can be secured so as to keep children from gaining unauthorized entrance.
5. All above-ground swimming pools must have a ladder that can be secured so as to keep children from gaining unauthorized entrance.
6. All swimming pools shall be to the rear of the residence or the premises.

Section 12-647. Swimming Pools, Community

A community swimming pool may be permitted as a Special Exception by the Board of Appeals in any residential zone upon a finding by the Board that such use will not adversely affect the present character or future development of the surrounding residential community and that such use of land will conform to the following minimum requirements:

1. The swimming pool, including the apron and any buildings, shall not at any point be closer than 75 feet to the nearest property line nor closer than 125 to any existing single-family or two-family dwelling, provided that where the lot upon which it is located abuts a railroad right-of-way, publicly owned land or land in a commercial or industrial zone such pool may be constructed not less than 25 feet at any point from such railroad right-of-way, publicly owned land, or commercial or industrial zone. Any buildings erected on the site of any such pool shall comply with the yard requirements of the zone in which the pool is located.

2. A public water supply shall be available and shall be used for the pool. A private supply of water for the pool may be permitted by the Planning Commission if use of a private supply of water will not adversely affect the water supply of the community.
3. When the lot on which any such pool is located abuts the rear or side lot line of, or is across the street from, any land in a residential zone, other than publicly owned land, a wall, fence, or shrubbery shall be erected or planted so as to substantially screen such pool from view from the nearest property of such land in a residential zone.
4. Special conditions deemed necessary to safeguard the general community interest and welfare, such as provisions for off-street parking, additional fencing or planting or other landscaping, additional setback from property lines, location and arrangement of lighting and other reasonable requirements, including a showing of financial responsibility by the applicant, may be required by the Board as a requisite to the grant of a special exception. Financial responsibility shall not be construed to mean a showing of a 100 percent cash position at the time of application, but shall be construed to mean at least 60 percent.

Section 12-648. Temporary Emergency Construction, or Repair Residence

1. Temporary residences used on construction sites of non-residential premises shall be removed immediately upon the completion of the project.
2. Permits for temporary residences to be occupied pending the construction, repair, or renovation of the permanent residential building on a site shall expire within six months after the date of issuance, except that the Planning Commission may renew such permit for one additional period not to exceed three months if it is determined that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the construction, repair, renovation, or restoration work necessary to make such building habitable.

Article 7. Off Street Parking and Loading and Unloading

Part I Parking

Section 12-701. Definitions

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

Circulation Area. That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles and parking spaces) comprise the circulation area.

Driveway. That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

Gross Floor Area (GFA). The total area of a building measured by taking the outside dimensions of the building at each floor level intended occupancy or storage.

Loading and Unloading Area. That portion of the vehicle accommodation area used to satisfy the requirements of Section 12-702.

Vehicle Accommodation Area. That portion of a lot that is used by vehicles for access, circulation, parking, and loading and unloading. It comprises the total of circulation areas, loading and unloading areas, and parking areas (spaces and aisles).

Parking Area Aisles. That portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

Parking Space. A portion of the vehicle accommodation area set for the parking of one vehicle.

Section 12-702. Number of Parking Spaces Required

1. All developments in all zoning districts shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question.
2. The presumptions established by this article are that: (a) a development must comply with the parking standards set forth in Subsection 5. to satisfy the requirement stated in Subsection 1., and (b) any development that does meet these standards is in compliance. However, the Table of Parking Requirements is only intended to establish a presumption and should be flexibly administered, as provided herein.
3. All off-street parking spaces required to serve buildings or a use erected or established after the effective date of this Code shall be located on the same zoning lot as the building or

use served, except that where an increase in the number of spaces is required by a change or enlargement of a non-residential use or where spaces are provided collectively or used jointly by 2 or more non-residential buildings or establishments, the required spaces may be located and maintained as set forth herein.

4. The Town recognizes that the Table of Parking Requirements set forth in Subsection 5. cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the permit-issuing authority is authorized to determine the parking requirements using this table as a guide.
5. Table of Minimum Parking Requirements

USE		OFF-STREET PARKING REQUIREMENT	
Residential		Spaces Required	
Single Family Detached Unit		2.0 spaces	
Apartments			
1 Bedroom Units		1.8 spaces	
2 Bedroom Units		2.0 spaces	
3+ Bedroom Units		2.5 spaces	
<u>Townhouse:</u>			
1 Bedroom Units		2.0 spaces	
2 Bedroom Units		2.5 spaces	
3+ Bedroom Units		3.0 spaces	
Residence/Office (VC Zone)		1 space per 250 square feet of office plus 1 space per dwelling unit. In no case shall the number of parking spaces be less than 1 per employee and 1 per occupant	
Non-Residential		Spaces Required	
Assembly Hall		1.0 space per every 100 sq. ft. GFA	
Appliance/Hardware Store		2.0 spaces per every 1,000 sq. ft. GFA, plus 1.0 space per every 300 sq. ft. GFA over 1,000 sq. ft. GFA.	
Art Gallery		1.0 space per 500 sq. ft. GFA	
Auditorium		1.0 space per 6 permanent seats	
Bar, PUB, Tavern		1.0 space per 2 seats, plus 1.0 space per 3 employees	
Beauty Parlor		3.0 spaces per operator chair	
Bed and Breakfast		1.0 space per guest room plus 2.0 spaces per owner's unit	
Bowling Alley		4.0 spaces per alley	
Bank		4.0 spaces per every 1,000 sq. ft. GFA	
Church/Synagogue		1.0 space per 3 seats	
Non-Residential (Cont.)		Spaces Required	
Convenience Store		1.0 spaces per every 250 sq. ft GFA	
Day Care Center		1.0 space per 7 children, plus 1.0 space per staff person	

Equipment Sales/Service Shop/Wholesale	2.0 spaces per every 1,000 sq. ft. GFA, plus 1.0 space per every 300 sq. ft. GFA over 1,000 sq. ft.
Fast Food Restaurant	1.0 space per 4 seats, plus 1.0 spaces per 2 employees on maximum shift.
With or Without Drive-Through Facilities	With drive-through facility, add 8 stacking spaces for the drive-through window
Fiduciary Institutions	1.0 space per 300 sq. ft. GFA
Funeral Homes	1.0 space per 4 permanent seats, or 1.0 space per 30 sq. ft. GFA
Furniture Stores	1.0 space per 500 sq. ft. GFA, plus 1.0 space per employee on maximum shift
Golf Course	6.0 per hole
Group Homes	1.0 space per staff person, plus 1.0 space per 2 occupants
Health Club	10 spaces per every 1,000 sq. ft. GFA, plus 1.0 space per every 2 employees.
Hospital	2.0 spaces per bed or 1.0 spaces 300 sq. ft. GFA, whichever is greater
Hotel/Motel	1.0 space per room, plus 1.0 space per employee on maximum work shift, plus 1.0 space per each 200 sq. ft. GFA of commercial floor area contained therein
Laundromat/Dry Cleaners	1.0 per machine, minimum of 5.0 spaces
Library	1.0 space per 300 sq. ft. GFA
Medical Center	1.0 space per 250 sq. ft. GFA
Miniature Golf	1.0 space per hole
Nightclub	1.0 space per 2 seats
Nursing Home	1.0 space per 2 beds
Assisted Living	1.0 space per 2 beds
Offices	Spaces Required
Under 49,999 sq. ft. GFA	4.5 spaces per 1,000 sq. ft. GFA
50,000 - 99,999 sq. ft. GFA	4.0 spaces per 1,000 sq. ft. GFA
100,000 + sq. ft. GFA	3.5 spaces per 1,000 sq. ft. GFA
Pool or Billiard Hall	4.0 spaces per 1,000 sq. ft. GFA
Post Office	1.0 space per 600 200 sq. ft. GFA, plus 1.0 space per employee
Racquetball Courts	2.0 spaces per court
Research Centers	1.0 space per 1,000 sq. ft. GFA
Restaurant	1.0 space per 3 seats, plus 1 space per employee on the maximum shift
Retail Store	1.0 space per 200 sq. ft. GFA
Schools	Spaces Required
Elementary	2.0 spaces per classroom, but not less than 1.0 per teacher and staff
Intermediate	1.5 spaces per classroom, but not less than 1.0 per teacher and staff
Secondary	5.0 spaces per classroom
Service Station	4.0 spaces per bay and work area

Shopping Center (GLA>200,000 sq. ft.)	4.5 space per 1,000 sq. ft. GFA
Grocery/Food Store (Super Market)	3.0 spaces per 1,000 sq. ft. GFA
Swimming Pool	1.0 space per 4 persons, up to capacity
Veterinary Offices	1.0 space per 400 sq. ft. floor space in office, with a 4 space minimum
VFW, American Legion, Etc.	1.0 space per 2 seats

Table Notes:

GFA = Gross Floor Area
 GLA = Gross Leasable Area

When determination of the number of parking spaces required results in a requirement fractional space, any fraction shall be counted as one parking space

Section 12-703. Flexibility in Administration Required

1. The Town of Rising Sun recognizes that, due to the particularities of any given development, the inflexible application of the parking standards set forth herein may result in a development either with inadequate parking space or parking space far in excess of its needs. Alternative off-street parking standards may be accepted if the applicant can demonstrate that such standards better reflect local conditions and needs.
2. Without limiting the generality of the foregoing, the Planning Commission may allow deviations from the parking requirements set forth herein when it finds that:
 - (a) A residential development is irrevocably oriented toward the elderly;
 - (b) A business is primarily oriented to walk-in trade.
 - (c) In the CC Central Commercial district of Town, the parking requirements may be waived or modified by the Planning and Zoning Commission for commercial businesses when it is determined that adequate public parking is available.
3. Whenever the permit-issuing authority allows or requires a deviation from the parking requirements set forth herein, it shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation.
4. If the permit-issuing authority concludes, based upon information it receives in the consideration of a specific development proposal, that the presumption established herein for a particular use classification is erroneous, it shall initiate a request for an amendment to the Table of Parking Requirements in accordance with the procedures set forth in this Code.

Section 12-704. Parking Space Dimensions

1. Subject to Subsections 2. and 3., each parking space shall contain a rectangular area at least 18 feet long and 9 feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section.
2. Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than 23 feet by 9 feet.
3. Each handicapped parking space shall meet the requirements of the American Disabilities Act.

Section 12-705. Required Widths of Parking area Aisles and Driveways

1. Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking.

Aisle Width	Parking Angle				
	0°	30°	45°	60°	90°
One-Way Traffic	15	15	16	18	24
Two-Way Traffic	22	22	22	23	24

2. Driveways shall be not less than 10 feet or exceed 15 feet in width for one-way traffic and less than 18 feet or exceed 30 feet in width for two-way traffic, except that 10-foot-wide driveways are permissible for two-way traffic when (a) the driveway is not longer than 50 feet, (b) it provides access to not more than 6 spaces, and (c) sufficient turning space is provided so that vehicles need not back into a public street.

Section 12-706. General Design Requirements

1. Unless no other practicable alternative is available vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one or two dwelling units, although backing onto arterial streets is discouraged.
2. Vehicle accommodation areas of all development shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.
3. Every vehicle accommodation area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation, or other obstruction.

4. Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.
5. Any lighting used to illuminate off-street parking areas shall be arranged so as to reflect away from any adjoining residential zone or uses and any public or private right-of-way.
6. A "sight triangle" shall be observed within a triangle formed by the intersection of the street lines and points on the street line 25 feet from the intersection at all street intersection or intersections of driveways with streets.
7. All parking areas shall be drained so as to dispose of all surface water within the parking area without carrying the said water accumulation over a public sidewalk. Piping the water to a suitable outfall may be required.
8. Permanent storm water retention shall be provided for all off-street parking areas as required by the Town of Rising Sun.
9. No required off-street parking space in any residential zone shall be located within any required front yard or side street side yard area except that parking in driveways for up to 2 spaces is permitted.
10. Additional parking in residential zones: Provided the above parking (Subsection 9) has been met, additional parking shall be permitted in the required front yards or side street side yard, provided the following setback requirements are met:

<u>Zone</u>	<u>Front Yard Setback</u>	<u>Side Street Side Yard Setback</u>
A-R	20'	8'
R-1	15'	8'
R-2	15'	8'

<u>Zone</u>	<u>Front Yard Setback</u>	<u>Side Street Side Yard Setback</u>
R-3	10'	4'
PUD	10'	4'

11. The percentage of coverage of permitted parking areas and driveways in any residential zone shall not exceed 50 percent of the total required front yard or side street side yard.
12. Off-street parking facilities may be located within the required front yard of any commercial, office/residential, or industrial zone. But shall not be nearer than 50 feet to any residential district.
13. Special access, surface, and location requirements for garages, parking lots, automobile service stations, and vehicle sales lots:

No building, structure or premises shall be used, erected, or altered which is intended or designed to be used as a community garage, an automobile repair shop, a service station, or a parking lot or structure as the principal use on a property, which has an entrance or exit for vehicles in the same block front and within 200 feet of the property boundary of any school, public playground, church, hospital, public library, convalescent, nursing, or rest home, orphanage, and no such entrance or exit, except for a community garage, shall be located within 20 feet of any residential zone; nor shall any structure used for an automobile repair shop or service station or any part of a parking lot or structure be located within 100 feet of any property boundary line of any of the aforesaid public or institutional uses. "Parking lot" as used herein does not include off-street parking areas as otherwise required for the public or institutional uses listed above.

No gasoline pump, oil draining pit, or similar appliance for any purpose shall be located within 15 feet of any right-of-way or within 50 feet of a residential zone, except where such a pump, pit, or appliance is within a completely enclosed building and distant at least 15 feet from any vehicular entrance or exit of such building. Except for gasoline service stations, no gasoline pumps shall be permitted as an accessory use for another activity unless a site plan is submitted to and approved by the Planning Commission.

Section 12-707. Vehicle Accommodation Area Surfaces

1. All vehicle accommodation areas shall be graded and surfaced with asphalt, concrete or other material that will provide equivalent protection against potholes, erosion, and dust as per applicable Town specifications.
2. The Planning Commission may permit surfaces that are graded and surfaced with crushed stone, gravel, or other suitable material to provide a surface that is stable and will help to reduce dust and erosion if the vehicle accommodation area contains less than 10 parking spaces and is not used regularly (e.g., temporary overflow parking). The perimeter of such parking areas shall be defined by bricks, stones, railroad ties, or other similar devices. In addition, whenever such a vehicle accommodation area abuts a paved street, the driveway leading from such street to such area (or, if there is no driveway, the portion of the vehicle accommodation area that opens onto such streets), shall be paved as provided in Subsection 1. for a distance of 15 feet back from the edge of the paved street. This subsection shall not apply to single-family or two-family residences.
3. Parking spaces in areas surfaced in accordance with Subsection 1. shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with Subsection 2. shall be demarcated whenever practicable.
4. Vehicle accommodation areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, vehicle accommodation area surfaces shall be kept in good condition (free from potholes, weeds, overgrowth, trash, clutter, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

Section 12-708. Joint Use of Required Parking Spaces (Shared Parking)

1. One parking area may contain required spaces for several different uses, but except as otherwise provided in this section, the required space assigned to one use may not be credited to any other use.
2. To the extent that developments that wish to make joint use of the same parking spaces operate at different times, the same spaces may be credited to both uses. For example, if a parking lot is used in connection with an office building on Monday through Friday but is generally 90 percent vacant on weekends, another development that operates only on weekends could be credited with 90 percent of the spaces on that lot. Or, if a church parking lot is generally occupied only to 50 percent of capacity on days other than Sunday, another development could make use of 50 percent of the church lot's spaces on those other days.
3. If the joint use of the same parking spaces by two or more principal uses involves satellite parking spaces, then the provisions of Section 12-702 are also applicable.
4. In the case of mixed uses (with different parking requirements occupying the same building or premises) or in the case of a joint use of a building or premises by more than one use having the same parking requirements, the parking spaces required shall equal the sum of the requirements of the various uses computed separately, except that parking requirements for permitted accessory retail and service uses in a hotel, motel, or motor lodge that contains 50 or more dwelling units may be reduced by the following percentages:
 - (a) Retail sales, offices, service establishments, 50 percent
 - (b) Restaurants and dining rooms, 75 percent
 - (c) Ballrooms, banquet halls, meeting rooms, auditoriums, 80 percent.
5. Off-street parking areas required for residential use shall not be included in any joint parking arrangement.

Section 12-709. Satellite Parking

1. If the number of off-street parking spaces required by this Code cannot reasonably be provided on the same lot where the principal use associated with these parking spaces is located, then spaces may be provided on adjacent or nearby lots in accordance with the provisions of this section. These off-site spaces are referred to in this section as satellite parking spaces.
2. All such satellite parking spaces (except spaces intended for employee use) must be located within 400 feet of a public entrance of a principal building housing the use associated with such parking, or within 400 feet of the lot on which the use associated with such parking is located if the use not housed within any principal building. Satellite parking spaces

intended for employee use may be located within any reasonable distance. No more than 40 percent of the total required spaces are to be located in satellite parking spaces.

3. The developer wishing to take advantage of the provisions of this section must present satisfactory written evidence that he has the permission of the owner or other person in charge of the satellite parking spaces to use such spaces. The developer must also sign an acknowledgment that the continuing validity of his permit depends upon his continuing ability to provide the requisite number of parking spaces.
4. All satellite parking spaces shall be located in the same zoning district as the structures or uses served or shall abut at least 50 feet, either directly or across an alley, from the structure or uses served.
5. Satellite parking spaces shall be used solely for the parking of passenger automobiles. No commercial repair work or service of any kind shall be conducted, and no charge shall be made for parking. No sign of any kind, other than designating ownership, entrances, exits, and conditions of use, shall be maintained on such satellite parking areas.
6. Each entrance and exit to and from such parking area shall be at least 20 feet distant from any adjacent lot line located in any residential zone.
7. The satellite parking areas shall be subject to all requirements of this Code concerning surfacing, lighting, drainage, landscaping, screening, and setbacks.

Section 12-710. Special Provisions For Lots With Existing Buildings

1. Any increase in the intensity of use of any structure shall mean the addition of dwelling units, employees, gross floor area, seating capacity, or any other unit of measurement used as a basis for determining required parking facilities. When the intensity of use of any structure is increased by less than 20 percent, parking facilities shall be provided for the increase, but not for any existing deficiency in such facilities. When the intensity is increased by more than 20 percent, including consecutive increases from the date of this Code, parking facilities shall be provided for the entire structure on premises.
2. When the use of any structure or premises is changed to a different use, parking facilities shall be provided for the different use.
3. Notwithstanding any other provisions of this Code, whenever (a) there exists a lot with one or more structures on it constructed before the effective date of this Code, and (b) a change in use that does not involve any enlargement of a structure is proposed for such lot, and (c) the parking requirements of Section 12-702 that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking, then the developer need only comply with the requirements of Section 12-702 to the extent the (a) parking space is practicably available on the lot where the development is located, and (b) satellite parking space is reasonably available as provided in Section 12-702. However, if satellite parking subsequently becomes reasonably available, then it shall be a continuing condition of the

permit authorizing development on such lot that the developer obtain satellite parking when it does become available.

Section 12-711. Loading and Unloading Areas

1. Subject to Subsection 5., whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this section to accommodate the delivery or shipment operations in a safe and convenient manner.
2. The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the development in question. The following table indicates the number and size of spaces that, presumptively, satisfy the standard set forth in this subsection. However, the permit-issuing authority may require more or less loading and unloading area if reasonably necessary to satisfy the foregoing standard.

<u>Gross Leasable Area of Building</u>	<u>Number of Spaces*</u>
1,000- 19,000	1
20,000- 79,999	2
80,000-127,999	3
128,000-191,000	4
192,000-255,999	5
256,000-319,999	6
320,000-391,999	7

Plus one (1) space for each additional 72,000 square feet or fraction thereof.

*Minimum dimensions of 12 feet x 55 feet and overhead clearance of 14 feet from street grade required.

3. Loading and unloading areas shall be so located and designed that the vehicles intended to use them can (a) maneuver safely and conveniently to and from a public right-of-way, and (b) complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.
4. No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking be used to satisfy the area requirements for loading and unloading facilities.
5. Whenever (a) there exists a lot with one or more structures on it constructed before the effective date of this Code, and (b) a change in use that does not involve any enlargement of a structure is proposed for such lot, and (c) the loading area requirements of this section cannot be satisfied because there is not sufficient area available on the lot that can practicably be used for loading and unloading, then the developer need only comply with this section to the extent reasonably possible.

6. No such space shall be located closer than 50 feet to any other lot in any residential district unless wholly within a completely enclosed building or unless enclosed on all sides by a wall or uniformly painted board fence not less than 6 feet in height.

Section 12-712. Parking facilities for the Physically Handicapped

1. Location. Parking spaces for the physically handicapped shall be located as close as possible to ramps, walkways, entrances, and elevators. Where feasible, these parking spaces shall be located so that the physically handicapped are not forced to wheel or walk across main traffic lanes or behind parked cars to reach the ramps, and other facilities. The spaces shall be situated in those areas of the parking lots located nearest to each primary building entrance.
2. Each handicapped parking space shall comply with current American Disabilities Act standards.
3. Required Number of Spaces. The following number of parking spaces shall be reserved for the physically handicapped:

<u>Total Parking Spaces in Lot</u>	<u>Required Minimum Number</u>
Up 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 Total
Over 1,000	20, plus 1 for each 100 over 1,000

4. Identification. Parking spaces for the physically handicapped shall be identified by signs, generally located 8 feet above grade. The signs shall state that the space is reserved by law for the physically handicapped. Where these signs are placed flush against buildings or structures, or in other locations not accessible to vehicular or pedestrian traffic, the height may be reduced to 6 feet.
5. Curbs.
 - (a) Where a curb exists between a parking lot and a sidewalk, a horizontally scored ramp or curb cut shall be provided for wheelchair access.
 - (b) The curb cut shall not be less than 4 feet wide and shall have a grade of not more than one foot in 12 feet.

- (c) Curb cuts shall be provided within 30 feet of each accessible entrance to the structure, at all pedestrian walk intersections, and elsewhere to provide reasonably direct circulation within each development.
 - (d) The curb cuts shall not be more than 150 feet apart.
6. Sidewalks.
- (a) Sidewalks shall be scored or textured to indicate the location of doors to blind persons.
 - (b) Exterior sidewalks shall not be obstructed.
 - (c) Exterior sidewalks shall have a side slope not greater than one inch in 4 feet. They shall be at least 4 feet wide and have a grade of not more than one foot in 20 feet.
 - (d) Wherever sidewalks cross driveways, parking lots, or other sidewalks, they shall blend to a common level.
7. Storm Drains. Storm drain grates and similar devices shall not be located within the required access for the physically handicapped.
8. Grade. The grade of parking spaces for the physically handicapped shall not be more than one foot in 20 feet.

Part II Landscaping of Parking Facilities

Section 12-713. Intent

It is intended that the application of the landscape standards set forth below will reduce the visual and environmental impacts of large expanses of parking areas. Breaking up of paved parking areas with plantings will provide improved aesthetics and micro-climatic benefits by reducing heat and glare.

Section 12-714. Sites Affected

1. New sites. No new parking areas shall hereafter be constructed or used unless landscaping is provided as required by the provision of this Article.
2. Existing sites. No parking areas shall be expanded, moved, or removed and/or reconstructed unless the minimum landscaping required by the provision of this Article is provided for the property to the extent of its alteration or expansion, but not for the entire property.
3. Change of use. No use shall be changed to another use for which the Zoning Code requires additional parking over and above that required for the previous use, unless vehicular use

area perimeter landscaping as required by this Article is provided for such additional parking. The provisions of this section shall be effective regardless of whether or not new construction is necessary to meet the parking requirements for the new uses. Where new construction will not be necessary to meet the parking requirements, such additional required parking shall be deemed to be on the perimeter for as much as possible of the existing vehicular use area. Where the previous use had no required parking, perimeter landscaping shall be provided for the entire vehicular use area serving the new use. Interior landscaping shall not be required where only the use of the property is changed and no new construction or reconstruction is proposed.

4. Change of zone. No use of an existing building, structure, or vehicular use area shall be commenced subsequent to a change in zoning unless property perimeter landscaping as required herein has been provided.

Section 12-715. Perimeter Landscaping

1. A ten (10) feet wide buffer yard meeting the Buffer yard C standard shall be required along any perimeter of a vehicle accommodation area that is located adjacent to any property in single family residential use.
2. Any parking lot that is adjacent to a road or public right-of-way shall provide a landscaping area width based upon the following right-of-way width:

60 feet wide or less:	10 foot minimum buffer yard meeting the Buffer yard B standard
More than 60 feet wide:	15 foot minimum buffer yard meeting the Buffer yard C standard
3. The Planning Commission may allow deviations from this requirement when it finds that the site in question exhibits irregular, confining, or otherwise unusual characteristics. In no case shall the required landscape area width be less than 5 feet.
4. Where the pavement width of the parking lot exceeds 60 feet, the buffer yard adjacent to a road or public right-of-way shall be increased by 5 feet for every additional 60 feet of parking lot width perpendicular to the right-of-way to a maximum buffer yard width of 40 feet.
5. Each buffer yard adjacent to a street right-of-way shall meet the planting standard indicated (see Appendix C). In addition, the Planning Commission may require a landscaped berm, fence, wall, or other methods to reduce the visual impact of the parking area.
6. Grass or ground cover shall be planted on all portions of the landscape area not occupied by other landscape material.
7. Special notes on existing natural vegetation:
 - (a) In all cases where significant natural vegetation exists, as determined by the Zoning Inspector, there will be limits of clearing/grading areas established to protect and preserve these natural area. These natural areas will not be disturbed by the

installation of any structures, utilities, storm and sanitary sewers, water lines, sediment and erosion control traps, storm water management systems, signage. Existing landscape material which is proposed to be used to fulfill landscape requirements shall be shown in the required plan.

- (b) In the case where buffers are created by the application of these standards, no structures, utilities, storm and sanitary sewers, water lines, sediment and erosion control traps, storm water management systems, and signage will be permitted.
 - (c) Where pedestrian and bike paths are proposed in the landscape area, such paths shall be meandering in order to preserve the existing trees.
8. Trees required as a part of the parking lot street right-of-way landscaping may be placed on the right-of-way adjoining such vehicular use area when approved by the Planning Commission. Such trees shall be in addition to any street trees required by the subdivision regulations.
 9. Landscaping in Easements. The required landscape area for parking areas may be combined with a utility or other easement only if all landscape requirements can be met. Otherwise, the landscape area shall be in addition to, and separate from, any easement.
 10. In any parking lot perimeter landscaping area all trees shall be set back at least 4 feet from the edge of paving where vehicles overhang.

Section 12-716. Interior Landscaping for Parking Lots

1. For any parking lot containing more than 6,000 square feet of area or 15 or more spaces, interior landscaping shall be provided in addition to the previously required perimeter landscaping. Interior landscaping shall be contained in peninsulas or islands. An interior parking lot landscape island or peninsula is defined as a landscaped area containing a minimum area of 153 square feet having a minimum width of 8.5 feet and a minimum length of 18 feet. There shall be a minimum of 4 feet to all trees from the edge of paving where vehicles overhang. The minimum landscape area permitted shall be 10 percent of the parking area. Each island or peninsula shall be enclosed by appropriate curbing or a similar device at least 6 inches wide and 6 inches in height above the paving surface. For purposes of Subsection 4. below and subject to the limits established in 5. below, up to 4 islands can be combined.
2. Where a parking area is altered or expanded to increase the size to 6,000 or more square feet of area or 15 or more vehicular parking spaces, interior landscaping for the entire parking area shall be provided and not merely to the extent of its alteration or expansion.
3. Landscape area. For each 100 square feet, or fraction thereof, of vehicular use area, 5 square feet of landscaped area shall be provided. The interior landscaping requirement shall be computed on the basis of the "net parking facility." For the purposes of this Section, "net parking facility" shall include parking stalls, access drives, aisles, walkways, dead

spaces, and required separations from structures, but shall not include required street setbacks or access driveways or walkways within such setbacks.

4. Landscape islands or peninsulas - number required:
 - (a) For less than 100 spaces one island or peninsula is required for every 7 parking spaces.
 - (b) For 100 spaces or more, one island or peninsula is required for every 10 spaces.
 - (c) Each 10 parking spaces shall require an interior planting island.
 - (d) All interior parking aisles shall end in a landscape island.
5. Maximum contiguous areas for interior parking lot landscaping. In order to encourage the required landscape areas to be properly dispensed, no required landscape area shall be larger than the following:

350 square feet in parking areas under 30,000 square feet.

1,500 square feet in parking areas over 30,000 square feet.
6. Landscape areas larger than the above are permitted as long as the additional area is in excess of the required minimum, except that landscape areas larger than the maximum permitted may be allowed as required landscaping areas in those cases where significant natural vegetation exists.
7. Minimum plant materials. A minimum of one tree for each 250 square feet or fraction thereof of required landscape or for each 5 spaces of required parking or for each 161 square feet of island or peninsula, whichever is greater, shall be required. The remaining area of the required landscaped area shall be landscaped with shrubs or ground cover not to exceed 2 feet in height, or grass.
8. Landscaping for service structures. All service structures shall be fully screened, except when located in a single-family, agriculture, or industrial zone or when located more than 35 feet above the established grade. Service structures in an industrial zone shall be fully screened when located within 100 feet of any zone other than industrial. For the purposes of this article, service structures shall include propane tanks, dumpsters, air conditioning units and condensers, electrical transformers and other equipment or elements providing service to a building or a site.
 - (a) Location of screening. A continuous planting, hedge, fence, wall, or earth mound shall enclose any service structure or loading zone on all sides unless such structure must be frequently moved, in which case screening on all but one side is required. The average height of the screening material shall be one foot more than the height of the enclosed structure, but shall not be required to exceed 8 feet in height.

Whenever a service structure is located next to a building wall, perimeter landscaping material, or vehicular use area landscaping material, such walls or screening material may fulfill the screening requirement for that side of the service structure if that wall or screening material is of an average height sufficient to meet the height requirement set out in this section. Whenever service structures are screened by plant material, such material may count towards the fulfillment of required interior or perimeter landscaping. No interior landscaping shall be required within an area screened for service structures.

- (b) Protection of screening material. Whenever screening material is placed around any trash disposal unit or waste collection unit that is emptied or removed mechanically on a regular basis, a fixed barrier to contain the placement of the container shall be provided within the screening material on those sides where there is such material. The barrier shall be at least 18 inches from the material and shall be of sufficient strength to prevent possible damage to the screening when the container is moved or emptied. The minimum front opening of the screening material shall be 12 feet to allow service vehicles access to the container.
9. Interior landscaping for parking areas shall be installed and continuously maintained by the owner. The developer shall provide a binding 2-year maintenance agreement that details how the interior landscaping will be maintained including:
- (a) Watering, and
 - (b) A replacement planting provisions for plants lost.
10. Landscape material include deciduous trees (either retained or planted by the developer) that have or will have when fully mature a trunk at least 12 inches in diameter. Each deciduous tree shall be presumed to shade a circular area having a radius of 15 feet with the trunk of the tree as the center, and there must be sufficient trees so that, using this standard, 20 percent of the vehicle accommodation area will be shaded. No paving may be placed within 12 ½ feet (measured from the center of the trunk) of any tree retained to comply with this section and new trees planted to comply with this section shall be located so that they are surrounded by at least 200 square feet of unpaved area. Vehicle accommodation areas shall be laid out and detailed to prevent vehicles from striking trees. Vehicles will be presumed to have a body overhang of three feet, six inches.
11. Plan submission and approval. Whenever any property is affected by these parking area landscape requirements, the property owner or developer shall prepare a landscape plan for approval by the Town.
12. Unnecessary paving or irregular paving plans are strongly discouraged and, if incorporated in a site plan, shall be subject to approval by the Zoning Inspector.
13. Alternative parking area landscaping design may be considered by the permitting officials in cases where unique topography and site constraints dictate such alternative. The

innovative use of planting design and materials is encouraged and will be evaluated on the intent demonstrated to fulfill the stated objectives of this Code.

Article 8. Signs

Section 12-800. Definitions

For purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them in this section:

A-Frame Sign. A free standing sign usually hinged at the top, or attached in a manner, and widening at the bottom to form a shape similar to the letter “A”. Such signs are usually designed to be portable, hence they are not considered permanent signs.

Banner, Flag, Pennant or Balloon. Any cloth, bunting plastic, paper, or similar material used for advertising purposes attached to or pinned on or from any structure, staff, pole, line, framing, or vehicle, including captive balloons and inflatable signs but not including official flags of the United States, the State of Maryland, and other states of the nation, counties, municipalities, official flags of foreign nations and nationally or internationally recognized organizations.

Billboard. A structure which is erected by an advertising company for the purpose of the placement of a sign for hire. Each such space for hire shall be considered a specific billboard regardless of whether or not the face is incorporated into the ground structure.

Erect. The build, construct, attach, hang, place, suspend or affix.

Ground Sign. Any billboard or sign erected, constructed or maintained for the purpose of displaying outdoor advertising by means of poster, picture or pictorial and reading matter when such sign is supported by one or more uprights placed on or affixed in the ground and not attached to any part of a building.

Illuminated Sign. Any sign which has characters, letters, figures, designs or outline illuminated by a light source as part of the sign proper.

Marquee Sign. Any sign affixed to a marquee or canopy over the entrance to a building, extending wholly or in part across the sidewalk and supported from the building.

Portable Sign. A sign that is not permanently to a structure or the ground.

Post Sign. Any letter, word, model, sign, device or representation use in the nature of an advertisement or announcement, extending over the sidewalk beyond the building line.

Projecting Sign. For the purpose of this Article, are divided into two classes as follows:

1. Projecting signs affixed to the building and which extend over the sidewalk, and
2. Flat signs attached in a rigid manner and lying parallel to the building wall but projecting beyond the property line.

Rolling Sign. Any sign which is portable in nature mounted on a movable chassis without having a fixed location.

Roof Sign. Any sign erected, constructed or maintained upon the roof of any building.

Sign. Any sign, billboard, commercial sign or illuminated sign or any other lettering of device, the intent of which is to display, illustrate or advertise the interest of any person, when it is placed out of doors in view of the general public. For purposes of this Article a sign is defined as any device designed to inform or attract the attention of persons not on the premises on which the sign is located provided that the following shall not be included in the application of the regulations herein:

1. Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants of premises not having commercial connotations;
2. Flags and insignias of any government except when displayed in connection with commercial promotion;
3. Legal notices; identification, information, or directional signs erected or required by governmental bodies;
4. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights; and
5. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

Sign Illumination. External lighting by means of a light source not a part of the sign proper, whether or not such light source is attached to the structure of the sign.

Time/Temperature Sign. An electronic or mechanical device which shows time and/or temperature, but contains no business identification or advertising.

Wall Sign. Any painted sign or poster on any surface or plane that may be affixed to the front, side or rear wall of any building.

Section 12-801. Exempted Signs

The following classes of signs shall be exempted for the provisions of this Article relating to registration, payment of permit fees and structural requirements; provided, that such exemption shall not be construed so as to relieve the owner of the sign from responsibility for its erection and maintenance in a safe manner:

1. All signs not exceeding six (6) square feet advertising the sale, rent or lease of real estate and located upon the property to which such sign refers. Such sign shall not be a hazard to traffic safety. Such signs shall be affixed to a post in the ground or to the wall so advertised.

Such signs shall be removed within thirty (30) days after the sale or rental of the property. Only one (1) sign shall be allowed per lot or building;

2. Signs advertising the name of the merchant and his business, when painted upon the windows of such establishment;
3. Signs erected on church property, giving the name of the church, the time of services and similar information;
4. Signs of charitable, benevolent or religious associations or fraternal or nonprofit associations, located on the premises or grounds of such associations;
5. Signs of political parties and candidates seeking public office; provided that such signs are removed within fifteen (15) days after the election;
6. Professional signs denoting the name and profession or calling of persons pursuing livelihood such as minister of the gospel, teacher, lawyer, physician, or dentist; provided, that such sign does not exceed the size and type permitted by the ethical standards of the profession or calling, and in no case exceeds two (2) square feet.
7. Traffic or other municipal signs, legal notices, railroad crossing signs, danger and such temporary emergency or non-advertising signs as may be approved by the Zoning Inspector.
8. Memorial signs or tablets, names of buildings and the date of erection, when cut into any masonry surface of when constructed of bronze or any other incombustible material.
9. Special decorative displays used for holidays, public demonstrations or promotions of civic welfare or charitable purposes, when authorized by the Mayor or Zoning Inspector when there is no commercial advertising; and
10. One sign denoting the architect, engineer and contractors when placed upon work under construction and when not exceeding twenty square feet in area. Such signs shall be removed with ten (10) days after the completion of such construction.

Section 12-802. Sign Permit Required

1. No person shall erect a sign or billboard within the Town and no person shall repair, alter, relocate or maintain any existing sign or billboard within the Town unless and until a permit for such sign or billboard has been issued by the Zoning Inspector.
2. No permit required by this Article shall be granted until after an application has been filed with the Zoning Inspector showing the plans and specifications of the proposed structure, and its proposed location with respect to property lines, nor until the provisions of this Article relating to such structure have been complied with. Each such application shall be accompanied by the required fee. The Zoning Inspector may prescribe suitable regulations

not inconsistent with the provisions of this Article concerning the form and contents of all applications for the various types of permits required.

3. The Zoning Inspector may revoke any permit issued by him/her pursuant to this Article upon failure of the holder thereof to comply with any of the provisions of this Article.

Section 12-803. General Regulations

Any sign erected, placed, attached, altered, reconstructed or modified after the adoption or amendment of this Code shall conform to the following regulations:

1. No flashing or rotating signs, or tethered inflatable signs, such as soda cans, merchandise, logos, etc., shall be permitted in any district.
2. No sign shall be fastened to, and supported by, or on the roof of a building; and no projecting sign shall extend over or above the roof or a parapet wall of a building.
3. All real estate signs advertising property for sale shall be removed within thirty (30) days following the sale of the property.
4. Public service, civic organization and political signs shall be permitted, provided:
 - (a) The signs are unlighted or indirectly lighted;
 - (b) The sign area is less than fifteen (15) square feet;
 - (c) The signs meet all applicable state and federal regulations;
 - (d) Political signs shall be removed not later than fifteen (15) days following the election. No political signs shall exceed 16 square feet of surface area.
 - (e) Temporary sale signs are permitted in commercial and industrial zones without obtaining a permit if the business does not exceed the overall maximum sign area allowed for the property under this Code. If the property owner seeks to exceed the maximum allowable signage, then the Planning Commission may grant a temporary permit for such use. Sign must be removed fifteen (15) days after the event. If the sign is not removed after fifteen (15) days, the Town shall send a notice of violation of the provisions of this subsection to the property owner. If, after twenty-four (24) hours after the service of notice, the sign has not been removed, the property owner shall be liable for penalty under this Code.
5. Every sign shall have good scale and proportion in its design and in its visual relationship to buildings and surroundings.
6. Every sign shall be designed as an integral architectural element of the building and site to which it principally relates.

7. The colors, materials, and lighting of every sign shall be restrained and harmonious with the building and site to which it principally relates.
8. The number of graphic elements on a sign shall be held to the minimum needed to convey the sign's major message and shall be composed in proportion to the sign face.
9. Each sign shall be compatible with the signs on adjoining premises and shall not compete for attention.
10. Identification signs of a prototype design and corporation logos shall conform to the criteria for all other signs.

Section 12-804. Ground Signs

1. All ground signs for which a permit is required under this Article shall have a surface or facing of incombustible material; provided, that combustible structural trim may be used thereon.
2. All letters, figures, characters or representations in cut-out, irregular form, maintained in conjunction with, attached to or superimposed upon any sign, shall be safely and securely built or attached to the sign structure and shall comply with all the requirements of this Article.
3. No person shall erect any ground sign the total height of which is greater than forty (40) feet above the level of the street upon which the sign faces, or above the adjoining ground level if such ground level is above the street level.
4. Location.
 - (a) No ground sign shall be near than two (2) feet to any other sign, building or structure
 - (b) No ground sign shall be nearer the street than the building line established by law or ordinance.
 - (c) All ground signs shall conform to the provisions and the requirements of this Article.
5. All ground signs shall be securely built, constructed and erected upon posts and standards designed by standard engineering practices, and shall not be supported and braced by timbers or metal rods.
6. All posts or wood shall be treated to protect them from moisture by creosoting or other approved method when they rest upon or enter into the ground.

7. All ground signs, the premises surrounding such signs, shall be maintained by the owner thereof in a clean, sanitary and inoffensive condition, and free and clear of all obnoxious substances, rubbish and weeds.
8. Temporary ground signs advertising the future use or development of property on which such signs are located may be erected, subject to the provisions of this Article; provided, that such signs shall be erected only under the provisions of a temporary, six months renewable permit. No such sign shall exceed eight (8) feet in length or four (4) feet in height. Such signs shall be removed within thirty (30) days of completion of such development.
9. Renewable permits for ground signs shall be denied by the zoning inspector in the event that the sign has not been kept in proper repair or has damaged the public health and welfare by providing a harboring place for rodents or reptiles or a screen for unauthorized dumping grounds refuse. Such signs unfit for a renewal permit shall be ordered removed within thirty days after expiration of the permit, subject to the provisions of this Article for the removal of signs by the Zoning Inspector.
10. Temporary ground directional signs to subdivisions under development are permitted in a residential area; provided, that permission of the owner of the property upon which the sign is erected is obtained, and that there are no objections to such sign by adjoining property owners. Such directional signs shall be no larger than twenty (20) square feet in area. Such signs are subject to the same restrictions as temporary ground signs.

Section 12-805. Roof Signs

1. Roof signs shall display no advertising matter except pertaining to the business conducted in the building upon which the sign is placed, and shall not be placed on the roof of any building so as to prevent the free passage from one part to any other part thereof with any opening on such roof. No such sign shall project beyond the exterior wall of the building.
2. Every roof sign shall be constructed entirely of an incombustible material. The uprights supports and braces shall be constructed entirely of metal, and shall be securely anchored or otherwise fastened to supported so that it will not constitute a menace to persons or property. All roof signs shall be so constructed or erected as to stand wind pressure of not less than thirty (30) pounds per square foot of area subjected to such pressure. No roof sign shall exceed fifty (50) square feet of area nor shall it exceed ten feet in height above the roof line or parapet. Every such sign and all supports, braces, guides and anchors thereof shall be kept in good repair.
3. The Zoning Inspector shall order the removal of any sign that is not maintained in accordance with the provision of this Section.

Section 12- 806. Wall Signs

1. No wall sign shall extend beyond the building line more than eighteen (18) inches; except, that if the sign is illuminated the light reflectors may project six (6) feet beyond the building line.
2. No wall sign shall exceed forty (40) square feet in area and such sign shall be made of incombustible materials and shall be safely and adequately attached to such buildings.

Section 12-807. Projecting Signs

1. All projecting signs shall be made of sheet metal or other non-combustible material.
2. No projecting sign shall extend above the roof line.
3. Every projecting sign shall be constructed and braced to withstand a horizontal wind pressure of not less than thirty (30) pounds for every square foot of surface exposed, and shall be securely attached to the building wall in an approved manner.
4. No projecting sign shall extend more than four (4) feet six (6) inches from the building line, including attachment irons and the like, unless such sign is less than four (4) feet six (6) inches in height, in which case the maximum projection shall be six (6) feet six (6) inches from the building line.
5. No sign projecting to more than six (6) inches from the building line shall be erected directly above or below a sign projecting six (6) feet, unless there is a space of not less than six (6) feet, separating such signs.
6. No projecting signs shall extend downward nearer than eight (8) feet to the ground or pavement.

Section 12-808. Post Signs

1. No post sign shall extend downward nearer than ten (10) feet to the ground or pavement, unless such sign is so located on the premises where there is no walk or drive-in traffic. Such excepted sign shall not extend downward nearer than six (6) feet six (6) inches to the ground level.
2. All post signs shall be constructed of sheet metal or other noncombustible material.
3. Post signs shall be constructed and braced to withstand a horizontal wind pressure of not less than thirty (30) pounds for every square foot of surface exposed and shall be securely attached to the post or posts in an approved manner.
4. No post sign erected on private property shall extend more than four (4) feet six (6) inches from the building line, including attachment irons and the like, unless the sign is less than

four (4) feet six (6) inches in height, in which case the maximum projection shall be six (6) feet six (6) inches from the building line.

5. No post sign shall exceed twenty-five (25) feet in height.

Section 12-809. Marquees and Marquee Signs

1. No marquee or marquee sign shall be erected which does not comply with this Article and any other requirement of this Code.
2. Marquees and marquee signs may extend to a point two (2) feet back of the curb line, but no such marquee or marquee sign shall be less than eleven (11) feet in the clear above the level of the sidewalk.
3. There may be placed thereon an illuminated sign which may extend the entire length and width of the marquee, provided, that such sign does not extend more than nine (9) feet above nor one (1) foot below such marquee. Under no circumstances shall the sign or signs have a vertical width greater than nine (9) feet.
4. No additional signs shall be attached to a marquee.

Section 12-810. Sign Illumination and Illuminated Signs; Flashing Signs Prohibited

1. Goose neck reflectors and lights shall be permitted on ground signs, roof signs, wall signs, post signs and marquee signs; provided, that the reflectors shall be provided with proper glass lenses concentrating the illumination upon the area of the sign so as to prevent glare on the street or adjacent property.
2. Business signs may be illuminated, but if located in the vicinity of a traffic control signal no red illumination shall be used thereon.
3. All illuminated signs and sign illumination shall be subject to applicable provisions of this Code and of all laws and electrical and building codes which may be in force within the Town of Rising Sun.
4. The application for a permit for the erecting of a sign or other advertising structure in which wiring and connections are to be used shall be submitted by the Zoning Inspector to such official or officials having inspection duties in connection therewith under this Article or an law, electrical code, ordinance or regulation in force in the Town of Rising Sun, and the applicant shall pay any required inspection fee.
5. It shall be unlawful for any person to erect or maintain within the Town any sign the illumination of or for which alternatively flashes on and off or which alternatively increases and decreases in the intensity of illumination.

Section 12-811. Commercial Signs

No commercial sign or billboard, as defined by this Article, shall be erected within the Town limits.

Section 12-812. Rolling Signs

1. Rolling signs may be employed for a period no longer than thirty (30) days within one calendar year after permit from the Zoning Administrator.
2. The maximum size of a rolling sign may be no greater than 4' by 8' per side, and the sign may be double-sided.

Section 12-813. Obstruction of Windows, Doors, Fire Escapes, Etc., Prohibited

No sign of any description shall be installed, erected, constructed or maintained in such a manner as to obstruct any fire escape or any window or door, nor shall any sign be attached in any manner to any fire escape.

Section 12-814. Obstruction of Traffic and Traffic Signs Prohibited

1. No sign or advertising shall be erected at or near the intersection of any streets in such a manner as to obstruct free and clear vision; or any location where by reason of its position, shape, or color it may interfere with or obstruct the view of, or be confused with, any authorized traffic sign, signal or device.
2. No sign shall make use of the words "stop", "look", "danger", or any other word or phrase of similar character in such a manner as to interfere with, mislead or confuse traffic.
3. No beacon ray or similar type of lighting device shall be permitted.

Section 12-815. Display of Obscene, Etc., Matter Prohibited

No person shall display upon any sign or other advertising structure any obscene, indecent or immoral matter.

Section 12-816. Miscellaneous Requirements

1. No permit shall be issued for any sign except as prescribed in this Article.
2. No sign shall be maintained in such state of disrepair so as to be unsightly by reason of paint or by partial destruction or dilapidated condition thereof.
3. Signs which contain or consist of banners, posters, pennants, ribbons, streamers, and strings of light bulbs, are prohibited, except as permitted below:

- (a) Charitable banners will be permitted for a 14 day period at approved locations with the issuance of a permit by the Zoning Administrator.
 - (b) Grand opening banners will be permitted for a 14 day period with the issuance of a permit by the Zoning Administrator.
4. Temporary Signs - Portable signs with maximum area of six (6) square feet are permitted with the issuance of a permit by the Zoning Administrator. Each business may be issued one permit per calendar year good for thirty (30) consecutive days.
 5. No off-premises signs may be permitted in any district.
 6. No sign may be located so that it substantially interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads.
 7. Signs that revolve or are animated or that utilize movement or apparent movement to attract the attention of the public are prohibited. Without limiting the foregoing, banners, streamers, animated display boards, pennants, and propellers are prohibited, but signs that only move occasionally because of wind are not prohibited if their movement (i) is not a primary design feature of the sign, and (ii) is not intended to attract attention to the sign. The restriction of this subsection shall not apply to signs indicating the time, date, or weather conditions.
 8. No sign may be erected so that by its location, color, size, shape, nature, or message it would tend to obstruct the view of or be confused with official traffic signs or other signs erected by governmental agencies.
 9. Freestanding signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is virtually no danger that either the sign or the supportive structure may be moved by the wind or other forces of nature and cause injury to persons or property.

Section 12-817. Maintenance of Signs

1. All signs and all components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair. With respect to freestanding signs, components (supporting structures, backs, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the natural environment.
2. If a sign other than a billboard advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is not longer operating and shall, within 30 days after such abandonment, be removed by the sign owner, owner of the property where the sign is located, or other party having control over such sign.

3. If the message portion of a sign is removed, leaving only the supporting "shell" of a sign or the supporting braces, anchors, or similar components, the owner of the sign or the owner of the property where the sign is located or other person having control over such sign shall, within 30 days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign. This subsection shall not be construed to allow the replacement of a nonconforming sign. Nor shall this subsection be construed to prevent the changing of the message of a sign.
4. The area within 10 feet in all directions of any part of a freestanding sign shall be kept clear of all debris and all undergrowth more than five inches in height.

Section 12-818. Unlawful Cutting of Trees or Shrubs

No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy, or remove any trees, shrubs, or other vegetation located:

1. Within the right-of-way of any public street or road, unless the work is done pursuant to the express written authorization of the Town.
2. On property that is not under the ownership or control of the person doing or responsible for such work, unless the work is done pursuant to the express authorization of the person owning the property where such trees or shrubs are located;
3. In any area where such trees or shrubs are required to remain under a permit issued under this Code.

Section 12-819. Existing Signs

1. All signs which have been lawfully erected and maintained prior to the effective date of this Code shall be deemed as legal and lawful signs under the provisions of this Article; provided that the Zoning Inspector does not find any such sign to be in a state of disrepair or to constitute a safety hazard.
2. No existing ground sign, roof sign, wall sign, projecting sign, post sign or marquee sign shall be enlarged, rebuilt, structurally altered or relocated except in accordance with the provisions of this Code, and not until a permit therefore has been issued by the Zoning Inspector.
3. The issuance of a permit shall not relieve the owner or leasee of the premises from the duty of maintaining safely any of such structures.

Section 12-820. Enforcement

1. The Zoning Inspector shall cause to be taken down all signs which are unsafe, insecure, or a menace to the public, or which have been constructed or erected or are being maintained in violation of the provisions of this chapter or are not registered with the Zoning Inspector

after first having given ten (10) days' notice in writing to the owner of or person maintaining such sign by personally serving him with notice or by leaving such notice at the place of business in connection with which the sign is displayed, with some person found therein.

2. In case such sign is maintained by a person engaged in the business of erecting and maintaining signs such notice may be served by addressing and mailing such notice to the last known address of such person.
3. No person shall maintain or display on or in connection with any premises owned, occupied or used by him any sign in violation of this Article.
4. Any sign installed, erected or maintained in violation of the terms of this Article shall be an unlawful sign. The Zoning Inspector shall take down all signs which are unlawful by first giving ten (10) days' written notice to the owner or person maintaining the signs. Such notice may be served by addressing the place of business in connection with which such sign is used or displayed or by addressing a letter to the owner or person maintaining such sign and mailing the same to his last known address.
5. The Zoning Inspector shall remove any sign of immediate danger or hazard to persons or property, without notice. No person shall maintain or permit to remain upon any premises owned, leased of occupied or used by him, with notice thereof, any unsafe sign or insecure sign liable to injure any person or property.
6. Any property owner within the corporate limits of the Town where a business has ceased or is terminated shall be responsible for the removal of all signs, posts, and standards and the building and grounds shall be restored to their original condition within thirty (30) days after notification by the Zoning Official of the Town.
7. All expenses incurred by the Zoning Inspector in taking down or removing any sign under this Article shall be charged to the person responsible for such sign and shall constitute a lien on the property upon which such sign was installed as well, which shall be enforceable as a lien for taxes.

Section 12-821. Signs, Number and Surface Area

1. For purpose of determining number of signs, a sign shall be considered a single display surface or display device containing elements organized, related, and composed to form a unit.
2. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.
3. The surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of regular geometric forms comprising all of this display

area of the sign including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.

4. In the event that a sign is composed of individual letters applied to the wall of a building, the area of the sign shall be taken as the area two (2) feet around each letter and space in between each letter.
5. No more than one (1) sign attached to each building or portion thereof.
6. Where a building has frontage on more than one street or public highway, one (1) attached sign shall be permitted for each street frontage. In no event shall the total area of all attached signs exceed the square footage of the zone in which it is erected.
7. In addition, a free standing or attached sign may be erected provided that it lists only the names of the businesses housed within the premises and provided that it conforms to the zoning classification in which it is erected.

Section 12-822. Permitted Signs

1. In the A-R, R-1, R-2, R-3, R-O and MH districts the following on-site signs are permitted:
 - a. One name plate not exceeding two (2) square feet in area which indicates the name of the occupant.
 - b. One unlighted sign, not exceeding four (4) square feet in area which indicates the prospective sale or rental of property on which it is located.
 - c. One unlighted sign not exceeding two (2) square feet in area which identifies a permitted non-residential use.
 - d. One on-site indirectly illuminated sign not to exceed fifteen (15) square feet in area identifying an apartment structure having a minimum of one hundred (100) feet of street frontage, the maximum height of the sign shall be six (6) feet.
 - e. One on-site indirectly illuminated sign not to exceed thirty (30) square feet in area shall be permitted in conjunction with a building of a public or semi-public nature. The maximum height of the sign shall be six (6) feet.
 - f. One sign, not exceeding fifteen (15) square feet in area is permitted in conjunction with an approved special exception use except where signage is provided for in other sections of this Code.
 - g. One ground sign, not exceeding (15) fifteen square feet in area, located at the entrance of and identifying a major subdivision or planned unit development.
2. In the LC district the following on-site signs are permitted:

- (a) Unlighted real estate sign not to exceed fifteen (15) square feet in area.
- (b) One indirectly lit freestanding sign not exceeding nine (9) square feet in area or one directly lit projecting sign extending not more than seventy two (72) inches from the front of the building. Signs may not be larger than nine (9) square feet in area and must be at least seven (7) feet from the ground. The sign shall advertise only the business conducted in the building to which it is attached. Corner lots having a minimum of 100 feet of street frontage may install one indirectly lit freestanding sign not exceeding twenty-four (24) square feet in area in lieu of preceding signage. Additionally, freestanding sign must be set back ten (10) feet from the property line.
- (c) One indirectly lit flat wall sign, not projecting more than nine (9) inches from the side of a building. The sign area is not to exceed one (1) foot of area per linear foot of street frontage or 60 square feet, whichever is less.
- (d) No plastic signs are allowed except approved banners or pennants.
- (f) In addition to the freestanding sign permitted in b. above, one sandwich board or pedestal sign provided:
 - (1) Only one sandwich board or pedestal sign shall be allowed for any single building; provided, however, that where more than one (1) business occupies a building, each business may have a sandwich board or pedestal sign;
 - (2) Notwithstanding f(1), a minimum separation of twenty (20) feet shall be maintained between sandwich boards or pedestal signs;

Sandwich boards or pedestal signs on public or private property shall not exceed twenty-four (24) inches in width and thirty-six (36) inches in height; provided, however, that a minimum unobstructed sidewalk width of forty-two (42) inches shall be maintained;

No sign shall be placed in a manner which obstructs the vision clearance at a street intersection; and

Sandwich boards or pedestal signs located within a public right-of-way shall be placed within that portion of the public right-of-way which abuts the building containing the business or use, provided an encroachment permit has been secured from the Zoning Administrator.

- (g) A-Frame Signs. A-frame signs are permitted for retailed businesses that 1) primarily sell perishable goods; or 2) are not visible from a public street and have no options available to provide signage visible from a public street. A-frame signs shall meet the following requirements;

- (1) each business shall not have more than one (1) A-frame sign;
 - (2) A-frame signs shall be placed on private property and shall be located on the same parcel as the business which qualifies for said sign;
 - (3) A-frame signs shall be removed during non-business hours; and
 - (4) The area of an A-frame sign shall not exceed ten (10) square feet.
- (h) An awning sign may be permitted by the Zoning Administrator under the following conditions:
- (1) No sign shall project from an awning.
 - (2) Awning graphics may be painted or affixed flat to the surface of the front or sides, shall indicate only the name and/or address of the enterprise or premises.
 - (3) Awning graphics shall be a single line of lettering not exceeding six (6) inches in height, but if over three (3) inches in height, shall be debited against the permitted wall sign surface area.
 - (4) No awning sign shall be internally illuminated.
- (i) Projecting Signs
- (1) A wall-mounted sign perpendicular to the building surface.
 - (2) If flat, each face shall not exceed ten (10) sq. ft.
 - (3) The total area of a three dimensional sign shall be determined by enclosing the largest cross-section of the sign in an easily recognizable geometric shape and computing its area which shall not exceed nine (9) sq. ft.
 - (4) Such sign shall be hung at right angles to the building and shall not project closer than two (2) feet to the curb line.
 - (5) The supporting framework shall be in proportion to the size of such sign.
 - (6) Signs which overhang a public way (including sidewalks) shall be covered by a public liability insurance policy which names the Town as the insured party.

- (7) The top of the sign may be suspended in line with one of the following, whichever is the most successful application of scale, linear continuity, and visibility as determined by the Zoning Administrator:
 - (i) suspended between the bottom sills of the second story windows and the top of the doors and windows of the ground floor; or,
 - (ii) the lowest point of the roof of a one story building.
- (8) Projecting signs shall have a minimum clearance of eight (8) feet above grade when located adjacent to or projecting over a pedestrian way. If projecting over an alley or driveway, the clearance must be at least thirteen (13) feet.
- (9) Total signage not to exceed ten (10) square feet of area for each ten (10) linear feet of street frontage.
- (10) Signs must pertain to goods or services sold on the premises.
- (11) Signs must not rise above roof level.

3. In the CC district the following on-site signs are permitted:

- (a) Unlighted real estate signs, total sign area not to exceed forty (40) square feet.
- (b) One detached on-site sign not to exceed fifteen (15) square feet in area for each twenty (20) linear feet of street frontage; however, such sign shall not exceed eighty (80) square feet in area.
- (c) Flat signs not to exceed fifteen (15) square feet in area for each twenty (20) linear feet of street frontage, however such signs shall not exceed a maximum of 30 square feet or 20 percent of the wall on which it is located.
- (d) Signs must not rise above roof level.

4. Signs permitted in the CID and LI districts shall be limited to the following:

- (a) Unlighted real estate signs not to exceed forty (40) square feet in area.
- (b) A flat sign not to exceed fifteen (15) square feet in area for each twenty (20) linear feet of street frontage; however, such signs shall not exceed a maximum of one hundred (100) square feet or twenty (20) percent of the wall on which it is located.
- (c) One on-site, detached sign not to exceed fifteen (15) square feet in area for each twenty (20) linear feet of street frontage; however, such signs shall not exceed one hundred (100) square feet in area.

Article 9. Screening, Shading, and Environmental Standards

Part I Buffers

Section 12-900. Purpose

1. One of zoning's most important functions is the division of land uses into districts which have similar character and contain compatible uses. All uses permitted in any district have generally similar nuisance characteristics. Buffer yards will operate to minimize the negative impact of any future use on neighboring uses.
2. The buffer yard is a combination of setback and a visual buffer or barrier and is a yard or area together with the planting required thereon. Both the amount of land and the type and amount of planting specified for each buffer yard requirement of this Code are specified and are designed to ameliorate nuisances between adjacent zoning districts to ensure a desired character along public streets and roads. The planting units required of buffer yards have been calculated to ensure that they do, in fact, function as "buffers."
3. Buffer yards shall be required to separate different zoning districts from each other in order to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas, or to provide spacing to reduce adverse impacts of noise, odor, or danger from fires or explosions. Mature woodlands are considered the best buffers and should be used whenever possible.

Section 12-901. Location of Buffer yards

Buffer yards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line. Buffer yards shall not be located on any portion of an existing or dedicated public or private street or right-of-way. Buffer yards shall not be located within a yard required in a single family attached (townhouse) development or planned unit development.

Section 12-902. Determination of Required Buffer yard

To determine the type of buffer yard required on a parcel or between two parcels or between a parcel and a street, the following procedure shall be used:

1. Identify whether any portion or property line of the site constitutes a zoning district boundary. If it does, determine the zoning on both sides of the property.
2. Determine whether the land on the adjoining property is vacant or developed or whether a plat of the subdivision has been approved.
3. Classify any street adjacent to the proposed use as a local, collector, or arterial street.

4. Determine the buffer yard required on each boundary (or segment thereof) of the subject parcel by referring to the Tables of Required Buffer yards.
5. Determine if the proposed development is a use which has buffer yards required to separate that use from certain uses. Then determine the buffer yard required between such uses by referring to the Tables of Required Buffer yards.

Section 12-903. Responsibility for Buffer yards

1. When a proposed use adjoins a vacant parcel for which a buffer yard is required by the presence of a zoning boundary, that use shall at the time of development provide one-half (0.5) of the buffer which is required by the Tables of Required Buffer yards.
2. The second use to develop shall, at the time it develops, provide all additional plant material and/or land necessary to provide the total buffer yard required between those two (2) uses. If the adjoining use had developed without a buffer yard, the second use will be responsible for installing the total buffer yard.
3. Existing plant material and/or land located on the preexisting (first developed) land use which meets the requirements of this Code may be counted as contributing to the total buffer yard required between it and the second (adjacent) land use to develop.

Section 12-904. Tables of Required Buffer yards

REQUIRED BUFFER YARDS BETWEEN ADJACENT ZONING DISTRICTS												
ZONE	A-R	R-1	R-2	R-3	MH	RO	LC	CC	CID	LI	PUD	
A-R	--	B	B	B	D	B	C	D	E	E	C	
R-1	B	--	B	B	D	B	C	D	E	E	C	
R-2	B	B	--	C	D	B	C	D	E	E	B	
R-3	B	B	C	--	D	B	C	D	E	E	B	
MH	D	D	D	D	--	D	C	D	E	E	D	
RO	B	B	B	B	D	--	B	C	D	E	B	
LC	C	C	C	C	C	B	--	B	D	B	B	
CC	D	D	D	D	D	C	B	--	C	B	D	
CID	E	E	E	E	E	D	C	C	--	B	D	
LI	E	E	E	E	E	E	B	B	B	--	E	
PUD	C	C	B	B	D	B	B	D	D	E	--	

REQUIRED STREET BUFFERS	FUNCTIONAL CLASSIFICATION		
	ZONING DISTRICTS	ARTERIAL	COLLECTOR
A-R, R-1, R-2, R-3, MH, PUD	D	C	B
RO, LC	B	B	B
CC,	C	C	C
CID, LI	C	C	D

Section 12-905. Buffer yard Requirements

Illustrations graphically indicating the specification of each buffer yard are contained in Appendix C.

Section 12-906. Buffer yard Use

A buffer yard may be used for passive recreation or storm water management. It may contain pedestrian, bike, or equestrian trails provided that: (a) no plant material is eliminated, (b) the total width of the buffer yard is maintained, and (c) all other regulations of the Code are met. (d) In no event, however, shall swimming pools, tennis courts or other such uses be permitted in buffer yards. The Planning Commission may allow substitution or reduction of the buffer yard if it finds that the required buffer yard will obstruct the view of a driver or that the buffer yard is incompatible with the existing streetscape.

Section 12-907. Ownership of Buffer yards

Buffer yards may remain in the ownership of the original developer (and assigns) of a land use, or they may be subjected to deed restrictions and subsequently be freely conveyed, or they may be transferred to any consenting grantees, such as adjoining landowners, the Town, or a homeowner's association, provided that any such conveyance adequately guarantees the protection of the buffer yards for the purposes of this Code.

Section 12-908. Buffer yards Which Exceed Minimum Requirements

Where the buffer yard required between a land use and vacant land turns out to be greater than that buffer yard which is required between the first use and the subsequently developed use, the following options apply:

1. The subsequent use may provide one half (0.5) of the buffer required by this Section. The existing use may expand its use into the original buffer area, provided that the resulting total buffer yard between the two uses meets the buffer yard requirements of this Section.
2. The existing use may enter into agreements with abutting landowners to use its existing buffer to provide some or all of the required buffer yard of both land uses. The total buffer shall equal the requirements of this Section. Provided that such an agreement can be negotiated, the initial use may provide the second use some or all of its required buffer yard and/or extra land on which it might develop. The existing use may reduce its excess buffer

by transferring part or all of the excess buffer to the adjoining landowner to serve as its buffer. Any remaining excess buffer area may be used by the existing use for expansion of that use or for transfer by it to the adjoining landowner to expand that adjoining use.

Section 12-909. Contractual Reduction of Buffer yards

When a land use is proposed adjacent to vacant land, and the owner of that vacant land enters into a contractual relationship with the owner of the land that is to be developed first, a reduced buffer may be provided by that first use, provided that: the contract contains a statement by the owner of the vacant land of an intent to develop at no greater than a specified land use intensity class; and an agreement by that vacant landowner to assume all responsibility for additional buffer, if needed by the subsequent development of a less intense use than had been agreed upon, is transferred to the owner of the vacant (second in time to be developed) land.

Part II Shading

Section 12-910. Town Findings and Declaration of Policy: Shade Trees

1. The Town finds that:
 - (a) Trees are proven producers of oxygen, a necessary element for human survival,
 - (b) Trees appreciably reduce the ever increasing environmentally dangerous carbon dioxide content of the air and play a vital role in purifying the air we breathe,
 - (c) Trees transpire considerable amounts of water each day and thereby purify the air much like the air-washer devices used on commercial air conditioning systems,
 - (d) Trees have an important role in neutralizing waste water passing through the ground from the surface to ground water tables and lower aquifers,
 - (e) Trees, through their root systems, stabilize the ground water tables and play an important and effective part in soil conservation, erosion control, and flood control,
 - (f) Trees are an invaluable physical, aesthetic, and psychological counterpoint to the urban setting, making urban life more comfortable by providing shade and cooling the air and land, reducing noise levels and glare, and breaking the monotony of human developments on the land, particularly parking areas, and
 - (g) For the reasons indicated herein, trees have an important impact on the desirability of land and therefore on property values.
2. Based upon the findings set forth in Subsection 1., the Town declares that it is not only desirable but essential to the health, safety, and welfare of all persons living or working

within the Town's planning jurisdiction to protect certain existing trees and, under the circumstances set forth in this article, to require the planting of new trees in certain types of developments.

Section 12-911. Required Trees Along Dedicated Streets

Along both sides of all newly created streets that are constructed in accordance with Town street standards, the developer shall at a minimum either plant or retain sufficient trees so that between the paved portion of the street and a line running parallel to and 35 feet from the centerline of the street, there is for every 35 feet of street frontage at least an average of one deciduous tree that has or will have when fully mature a trunk at least 12 inches in diameter. When trees are planted by the developer pursuant to this section, the developer shall choose trees that meet the standards set forth in Appendix B.

Section 12-912. Retention and Protection of Large Trees

1. Every development shall retain all existing trees 18 inches in diameter or more unless the retention of such trees would unreasonably burden the development.
2. No excavation or other subsurface disturbance may be undertaken within the drip line of any tree 18 inches in diameter or more, and no impervious surface (including, but not limited to, paving or buildings) may be located within 12 ½ feet (measured from the center of the trunk) of any tree 18 inches in diameter or more unless compliance with this subsection would unreasonably burden the development. For purposes of this subsection, a drip line is defined as a perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground.
3. The retention or protection of trees 18 inches in diameter or more as provided in Subsections 1. and 2. unreasonably burdens a developer if, to accomplish such retention or protection, the desired location of improvements on a lot or the proposed activities on a lot would have to be substantially altered and such alteration would work an unreasonable hardship upon the developer.
4. If space that would otherwise be devoted to parking cannot be so used because of the requirements of Subsections 1. or 2., and, as a result, the parking requirements set forth herein cannot be satisfied, the number of required spaces may be reduced by the number of spaces "lost" because of the provisions of Subsections 1. and 2., up to a maximum of 15 percent of the required spaces.

Section 12-913. Shade Trees in Parking Areas

1. Vehicle accommodation areas that are required to be paved must be shaded by deciduous trees (either retained or planted by the developer) that have or will have when fully mature a trunk at least 12 inches in diameter. When trees are planted by the developer to satisfy

the requirements of this subsection, the developer shall choose trees that meet the standards set forth in Appendix B.

2. Each tree of the type described in Subsection 1. shall be presumed to shade a circular area having a radius of 15 feet with the trunk of the tree as the center, and there must be sufficient trees so that, using this standard, 20 percent of the vehicle accommodation area will be shaded.
3. No paving may be placed within 12 ½ feet (measured from the center of the trunk) of any tree retained to comply with Subsection 1., and new trees planted to comply with Subsection 1. shall be located so that they are surrounded by at least 200 square feet of unpaved area.
4. Vehicle accommodation areas shall be laid out and detailed to prevent vehicles from striking trees. Vehicles will be presumed to have a body overhang of three feet, six inches.

Part III Environmental Standards for Sensitive Areas

Section 12-914. Environmental Standards for all Subdivisions and Development Requiring Site Plan Approval

1. Perennial Stream no-disturbance buffer
 - (a) A one-hundred (100) foot natural buffer from all perennial streams shall be required for all development. Permanent or temporary stormwater and/or sediment control devices shall not be permitted in this Buffer.
 - (b) This buffer requirement may be reduced to no less than seventy-five (75) feet by the Planning Commission for the following:
 - (1) If evidence is provided that the design, construction and use of the site will provide the same or better protection of water quality as the 100' buffer, and if evidence is provided that said development will meet all other applicable requirements, as required.
 - (2) Road crossings, if disturbance is minimized.
 - (3) Other public or community facilities provided disturbance is minimized in so far as possible.
2. Intermittent Stream no-disturbance buffer
 - (a) A fifty (50) foot buffer from all intermittent streams shall be required for all development. Permanent or temporary storm water management and sediment control devices shall not be permitted in this buffer.

- (b) This buffer requirement may be waived by the Planning Commission for the following:
 - (1) Road crossings, if disturbance is minimized.
 - (2) Other public or community facilities provided disturbance is minimized in so far as possible.
- 3. Sensitive Soil no-disturbance buffer. The one-hundred (100) foot perennial stream buffer shall be expanded to include contiguous 100 year floodplain and non-tidal wetlands. In addition, the one-hundred (100) foot perennial stream buffer shall be expanded to include hydric soils, highly erodible soils and soils on slopes greater than fifteen percent (15%) that are contiguous with the perennial stream, any 100 year flood plain adjacent to the stream, or any nontidal wetlands adjacent to the stream to a maximum distance of three hundred (300) feet.
- 4. Non-tidal Wetland buffer. A twenty-five (25) foot setback from all non-tidal wetlands shall be required for all development around the extent of the delineated non-tidal wetland except as permitted by the U.S. Army Corp of Engineers and the State of Maryland, Department of Natural Resources, Non-tidal Wetland Division.
- 5. Steep Slopes. No structure or impervious surface shall occur on any slope with a grade of fifteen (15) percent or more. A minimum fifty (50) foot buffer shall be established between development and the crest of slopes in excess of twenty-five (25) percent.
- 6. Habitats of Rare, Threatened and Endangered Species. Development shall avoid these areas as described by the Maryland DNR, Natural Heritage Program.

Article 10. Administration and Enforcement, Zoning Certificates Zoning/Occupancy Permits, and Applications for Building Permits

Section 12-1000. Administration and Enforcement

1. There is hereby established the Office of Zoning Inspector. It shall be the duty of the Zoning Inspector to administer and cause the enforcement of the provisions of this Code. All departments, officials and public employees of Rising Sun which are vested with the authority to issue permits or licenses shall conform to the provisions of this Code and shall not issue any permit or license for an use, building, structure, purpose which would be in conflict with the provisions of this Code. Any permit or license, issued in conflict with the provisions of this Code, shall be null and void. If the Zoning Inspector shall find that any of the provisions of this Code are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Code to insure compliance with or to prevent violation of its provisions.
2. The Zoning Inspector shall report to the Planning and Zoning Commission on all permits issued from his office, at each regularly scheduled meeting of the Commission. The Zoning Inspector shall carry out the directives of the Planning and Zoning Commission.

Section 12-1001. Zoning Certificate Required

No building or other structure shall be erected, moved, added to, or structurally altered, or use of land be changed without a certificate therefor, issued by the Zoning Inspector. No Zoning Certificate/Occupancy Permits shall be issued except in conformity with the Provision of this Code, except after written order from the Board of Appeals.

Section 12-1002. Application for Zoning Certificate

1. All applications for zoning certificates shall be accompanied by site plans in duplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Zoning Inspector, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping Units, or rental Units in the building is designed to accommodate; condition existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this Code. Prior to inspection, the proposed building location must be staked in accordance with the application drawing.

2. One copy of the plans shall be returned to the applicant by the Zoning Inspector, after he shall have marked such copy either as approved or disapproved and attested to the same by this signature on such copy. The second copy of the plans similarly marked, shall be retained by the Zoning Inspector.

Section 12-1003. Occupancy Permits for New, Altered or Non-Conforming Uses

1. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, changed, converted, or wholly or partly altered or enlarged in its use or structure until a occupancy permit shall have been issued therefor by the Zoning Inspector, stating that the proposed use of the building or land conforms to the requirements of this Code.
2. No non-conforming structure or use shall be maintained, renewed, changed, or extended until a occupancy permit shall have been issued by the zoning Inspector. The occupancy permit shall state specifically wherein the non-conforming use differs from the provisions of this Code. If non-conformities are created by amendment of this Code, owners or occupants of non-conforming uses or structure shall have three (3) months to apply for occupancy permits. Failure to make such application within three (3) month shall be presumptive evidence that the property was conforming at the time of enactment or amendment of this Code.
3. No permit for erection, alteration, moving, or repair of any building shall be issued until an application has been made for a occupancy permit; the permit shall be issued in conformity with the provisions of this Code upon completion of the work.
4. A temporary occupancy permit may be issued by the zoning Inspector for a period not exceeding (6) months during alterations or partial occupancy of a building pending its completion, provided that such temporary permit may require such conditions and safeguards as will protect the safety of the occupants and the public.
5. The Zoning Inspector shall maintain a record of all occupancy permits and copies shall be furnished upon request to any person.
6. Failure to obtain a occupancy permit shall be in violation of this Code and punishable under Article 20 of this Code.

Section 12-1004. Expiration of Zoning Certificates

1. If the work described in any zoning certificate has not begun within one (1) year from the date of issuance thereof, said certificate shall expire, it shall be canceled by the Zoning Inspector, and written notice thereof shall be given to the persons affected.
2. If the work described in any zoning certificate has not been substantially completed within two (2) years of the date of issuance, unless work is satisfactorily proceeding thereof, said permit shall expire and be canceled by the Zoning Inspector, and written notice thereof shall be given to the persons affected, together with notice that further work as described

in the canceled certificate shall not proceed unless and until a new zoning certificate has been obtained.

Section 12-1005. Construction and use to be as Provided in Application, Plans, Certificates, and Zoning Occupancy Permits

Zoning certificates or zoning occupancy permits issued on the basis of site plans and applications approved by the Zoning Inspector authorize only the use, arrangements, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction differing with that authorized shall be deemed a violation of this Code, and punishable as provided in Article 20 hereof.

Section 12-1006. Application for Building Permits

1. Applications will be submitted in triplicate and accompanied by a site plan to the Zoning Inspector for approval by the Planning and Zoning Commission.
2. Proposed work shall be defined as any change to the external appearance of a structure or building or any significant internal changes including: new dwellings, commercial and industrial buildings, roofs, (only when completely replaced or the pitch is changed) porches, garages, patios, commercial fences, dwelling conversions, renovations, swimming pools, and satellite dish antennas.
3. All external structural modifications and improvements shall conform with the existing building and surrounding properties.
4. One copy of the application shall be returned to the applicant marked either approved or disapproved. The applicant will then submit the approved application to the County for the issuance of a building permit.
5. Approved applications for building permits are valid for a period of one year. If the proposed work has not been started within one year the approved application becomes null and void.

Section 12-1007. Permit Application Requirements and Procedures

1. All applications for permits shall be accompanied by such plans and information as the Town of Rising Sun deems to be necessary to determine compliance and provide for enforcement of this Zoning Code. The application materials listed in Appendix A shall be the minimum. Additional information may be required.
2. Site Plans Required:
 - (a) Minor Site Plan. A minor site plan shall be filed for a single-family dwelling, a duplex, a residence with an accessory apartment, any accessory building, an

addition or change of a commercial or industrial structure, or for a special exception use which does not require a building permit.

Upon determination by the Planning Commission, upon recommendation by the Zoning Inspector, in those above cases where a field inspection indicates that the scope of the proposed building, addition, accessory use, or special exception is of such a nature that the provisions for the handling of natural and storm water, sediment control, off-street parking, set-backs, water and sewerage, and other requirements cannot be adequately addressed with a minor site plan, a major site plan shall be required.

- (b) Major Site Plan. All applications for building permits, other than those accompanied by a minor site plan, or those that are considered minor or major subdivisions (see definitions), shall be accompanied by a major site plan.
- (c) General Development Plan.
 - (1) A general development plan is a site plan by which, at the early stages of development design, the Planning Commission may consider, approve, or restrict major aspects of the development without requiring an undue amount of final design work on the part of the developer. The general development plan is less detailed and specific than a major site plan in terms of exact arrangement of buildings, parking areas, open spaces, access points, and any other site design features. No building permits can be issued based upon a general development plan.
 - (2) General development plans shall be required as follows:
 - (a) All applications for zoning map amendments shall be accompanied by a general development plan.
 - (b) General development plans shall be required to permit more than one principal structure and its accessory structures on a lot or parcel of land.
- d. Grading Permits. Requirements for grading permits shall be as required by the Cecil County Soil Conservation Service and the Cecil County Office of Inspections and Permits.
- e. Subdivision Plat. If the permit involves the subdivision of land, an approved subdivision plat shall be required as provided in Subdivision Regulations.
- f. Sign Permits. Requirements for sign permits shall be as provided in Article .

- g. Storm water Management Plan. A permit may not be issued for any parcel or lot unless a storm water management plan meeting all the requirements of the Cecil County Storm water Management Ordinance has been approved.
 - h. Forest Conservation. Projects that ultimately require approval of subdivision, sediment control, site plan approval or grading permits must comply with the requirements of the Rising Sun Forest Conservation Ordinance (Chapter 14, Code of Ordinances, Town of Rising Sun, Maryland).
 - i. All walls, including retaining walls, shall have plans sealed by a Maryland licensed architect or engineer.
3. The following additional requirements shall be applicable to site plans required under this section:
- (a) Compliance with applicable established design criteria, construction standards, and specifications for all improvements as may be required by the Planning Commission and this Zoning Code. The Planning Commission may require that the proposed development comply with some or all of the applicable design requirements contained in the Rising Sun Subdivision Regulations.
 - (b) The building permit shall not be issued unless and until the Maryland Department of Transportation has approved the site plan as it relates to access point design details and parking lot circulation layout on a state highway.
 - (c) Other Approvals. If this Zoning Code requires approval by another agency of certain site plan features, such approval shall be obtained prior to issuance of a building permit.
 - (d) Development Plan as Site Plan. In any case, where the Planning Commission has approved a detailed final development plan showing essentially the same information as required above for the property seeking a building permit, no separate site plan shall be required to be prepared. The applicant shall be required to supply such supplementary information as necessary to comply with all requirements of this Section.
 - (e) Any or all of the information required for a minor or major site plan may be waived if the Planning Commission finds that it is not needed to make a determination of zoning compliance.
 - (f) The basic information required with building permit applications is shown in Appendix A.

Section 12-1008. As-Built Site Plan

Upon satisfactory completion of required improvements as shown on an approved site plan or a section thereof, the developer shall submit to the Zoning Inspector 4 copies of the "as built" site plan, certified by the engineer before occupancy of any building, for the review and approval for conformity with the approved site plan by the appropriate Town departments. The Zoning Inspector shall not process the occupancy permit until the appropriate "as built" site plan has been reviewed and approved by the appropriate agencies. As-built site plans should indicate any deviations from site improvements shown on final approved site plan.

Section 12-1009. No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled

Issuance of a special exception or zoning permit authorizes the recipient to commence the activity resulting in a change in use of the land or (subject to obtaining a building permit) to commence work designed to construct, erect, move, or substantially alter buildings or other substantial structures or to make necessary improvements to a subdivision. However, except as otherwise provided in this Code, the intended use may not be commenced, no building may be occupied, and in the case of subdivisions, no lots may be sold until all of the requirements of this Code and all additional requirements imposed pursuant to the issuance of a special exception permit have been complied with.

Section 12-1010. Who May Submit Permit Applications

1. Applications for zoning, special exception, sign permits, other permits, or minor subdivision plat approval will be accepted only from persons having the legal authority to take action in accordance with the permit or the minor subdivision plat approval. By way of illustration, in general this means that applications should be made by the owners or lessees of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this Code, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendees).
2. The Zoning Inspector shall require an applicant to submit evidence of his/her authority to submit the application in accordance with Subsection 1. whenever there appears to be a reasonable basis for questioning this authority.

Section 12-1011. Applications To Be Complete

1. All applications for zoning, special exception, sign permits, or other permits must be complete before the permit-issuing authority is required to consider the application.
2. An application is complete when it contains all of the information that is necessary for the permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this Code.

3. In this Code, detailed or technical design requirements and construction specifications relating to various types of improvements (e.g., streets, sidewalks, etc.) are set forth in other specifications adopted by the Town and/or in one or more of the appendices to this Code. It is not necessary that the application contain the type of detailed construction drawings that would be necessary to determine compliance with these appendices, so long as the plans provide sufficient information to allow the permit-issuing authority to evaluate the application in the light of the substantive requirements set forth in this text of this Code.

However, whenever this Code requires a certain element of a development to be constructed in accordance with the detailed requirements set forth in one or more of these appendices, then no construction work on such element may be commenced until detailed construction drawings have been submitted to and approved by the Inspector. Failure to observe this requirement may result in permit revocation, denial of final subdivision plat approval, or other penalty as provided herein.

4. The presumption established by this Code is that all of the information set forth in the Appendix A is necessary to satisfy the requirements of this section. However, it is recognized that each development is unique, and therefore the permit-issuing authority may allow less information or require more information to be submitted according to the needs of the particular case. For applications submitted to the Board of Appeals, the applicant may rely in the first instance on the recommendations of the Inspector as to whether more or less information than that set forth in the Appendix A should be submitted.

Section 12-1012. Authorizing Use or Occupancy Before Completion of Development Under Zoning Permit

1. In cases when, because of weather conditions or other factors beyond the control of the zoning-permit recipient (exclusive of financial hardship), it would be unreasonable to require the zoning-permit recipient to comply with all of the requirements of this Code prior to commencing the intended use of the property or occupying any buildings, the Inspector may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of this Code are concerned) if the permit recipient provides a performance bond or other security satisfactory to the Zoning Inspector to ensure that all of the requirements of this Code will be fulfilled within a reasonable period (not to exceed 12 months) determined by the Zoning Inspector.
2. With respect to subdivisions in which the developer is selling only undeveloped lots, the Planning Commission may authorize final plat approval and the sale of lots before all the requirements of this article are fulfilled if the subdivider provides a performance bond from a local lending source or other security satisfactory to the Town to ensure that all of these requirements will be fulfilled within not more than 12 months after final approval.

Section 12-1013. Completing Developments In Phases

1. As a prerequisite to taking advantage of constructing the development in phases, the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this Code that will be satisfied with respect to each phase or stage.
2. If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as part of his application for development approval, the developer shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the permit-issuing authority, no land may be used, no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved.

Section 12-1014. Expiration Of Permits

1. Zoning, sign, and other permits shall expire automatically if, within six (6) months after the issuance of such permits:
 - (a) The use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use, or
 - (b) Less than 10 percent of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed on the site. With respect to phased development, this requirement shall apply only to the first phase.
2. If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period of 6 months, then the permit authorizing such work shall immediately expire.
3. The permit-issuing authority may extend for a period up to 6 months the date when a permit would otherwise expire pursuant to Subsections a. or b. if it concludes that (i) the permit has not yet expired, (ii) the permit recipient has proceeded with due diligence and in good faith, and (iii) conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to six months upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.
4. For purposes of this section, the permit within the jurisdiction of the Board of Appeals is issued when such board votes to approve the application with or without conditions (written minutes of such Board action will state conditions in full) and issue the permit. A permit within the jurisdiction of the Zoning Inspector is issued when the earlier of the following takes place:

- (a) A copy of the fully executed permit is delivered to the permit recipient, and delivery is accomplished when the permit is hand-delivered or mailed to the permit applicant; or
- (b) The Zoning Inspector notifies the permit applicant that the applicant has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions, such as having the permit executed by the property owner so it can be recorded if required.

Section 12-1015. Effect of Permit on Successors and Assigns

1. Zoning, special exception, sign, and other permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable, however, so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:
 - (a) No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit, and
 - (b) The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued.
2. Whenever a zoning, special exception, or variance permit is issued to authorize development, nothing authorized by the permit may be done until the record owner of the property signs a written acknowledgment that the permit has been issued so that the permit may be recorded in the Rising Sun Town Hall and indexed under the record owner's name as grantor.

Section 12-1016. Amendments to and Modifications of Permits

1. Insignificant deviations from the permit (including approved plans) issued by the Board of Appeals or the Inspector are permissible and the Inspector may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact on neighboring properties, the general public, the environment or those intended to occupy or use the proposed development.
2. Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the permit-issuing authority. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee.

For purposes of this section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the environment, the general public, or those intended to occupy or use the proposed development.

3. All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Board of Appeals, new conditions may be imposed, but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.
4. The Inspector shall determine whether amendments to and modifications of permits fall within the categories set forth above in Subsections 1., 2., and 3.
5. A developer requesting approval of changes shall submit a written request for such approval to the Inspector, and that request shall identify the changes. Approval of all changes must be given in writing.

Section 12-1017. Maintenance of Common Areas, and Facilities

The recipient of any zoning, special exception, sign, or other permit, or his successor, shall be responsible for maintaining all common areas, improvements, or facilities required by this Code or any permit issued in accordance with its provisions, except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the Town. As illustrations, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

Section 12-1018. Records of Zoning Inspectors

The Zoning Inspector shall keep records of all zoning permits issued under this Code; maintain permanent and current records related to the Code, including zoning maps, amendments, special exceptions, variances, appeals, and planned unit development site plans; and make annual reports and recommendations to the Planning Commission and Town Commissioners on matters pertaining to this Code.

Section 12-1019. Structures And Uses To Be As Provided In Building Permits, Plans, And Certificates of Occupancy

Building permits or certificates of occupancy issued on the basis of plans and applications approved by the Building Inspector authorize only the use, arrangement, and construction set forth in such permits, plans, and certificates, and no other. The use, arrangement or construction at variance with that authorized shall be deemed a violation of this Zoning Code.

Article 11. Board of Appeals

Section 12-1100. Board of Appeals Created

(This section modified and amended by ORD 2012-01 adopted 02-14-12)

In accordance with Chapter 2 of the Town Code, there shall be a Board of Zoning Appeals whose Powers and Duties shall be as outlined in the Town's Zoning Code and in accordance with article 66B titled Land Use, of the Annotated Code of Maryland

Section 12-1101. Powers and Duties

1. The Board of Appeals shall hear and decide:
 - (a) Appeals from any order, decision, requirement, or interpretation made by the Zoning Inspector or Planning Commission provided in Section 12-1103.
 - (b) Applications for Special Exception Uses, as provided in Section 12-1104.
 - (c) Applications for variances as provided in Section 12-1105
 - (d) Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines, as provided in Section 12-1106.
 - (e) Any other matter the Board is required to act upon by any other Town ordinance.
2. The Board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this Code.

Section 12-1102. Stay of Proceedings

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

Section 12-1103. Appeals

1. An appeal from any final order or decision of the Zoning Inspector or Planning Commission may be taken to the Board of Appeals by any person aggrieved. An appeal is taken by filing with the Inspector and the Board of Appeals a written notice of appeal specifying the grounds therefor. A notice of appeal shall be considered filed with the Inspector and the Board of Appeals when delivered to the Town Administrator, and the date and time of filing shall be entered on the notice by the Zoning Inspector.

2. An appeal must be filed within 30 days after the date of the decision or order appealed from.
3. Whenever an appeal is filed, the Inspector shall forthwith transmit to the Board of Appeals all the papers constituting the record relating to the action appealed from.
4. An appeal stays all actions by the Inspector seeking enforcement of or compliance with the order or decision appealed from, unless the Inspector certifies to the Board of Appeals that (because of facts stated in the certificate) a stay would, in his opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed except by order of the Board of Appeals or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the Inspector.
5. The Board of Appeals may reverse or affirm (wholly or partly) or may modify the order, requirement or decision or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the board shall have all the powers of the officer from whom the appeal is taken.
6. An appeal from any final order or decision of the Planning Commission or Board of Appeals shall be taken to the Circuit Court in the manner provided by law of Maryland and particularly Article 66B, Annotated Code of Maryland. The appeal must be filed within 30 days after the date of the decision or order appealed.

Section 12-1104. Special Exceptions: Conditions Governing Applications: Procedures

1. Intent
 - (a) The development and execution of this Code are based upon the division of the Town into districts within which the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.
 - (b) The intent of this Section is to establish procedures and minimum standards to be used as guidelines for the consideration and authorization of those uses classified as special exceptions under the respective District regulations.
 - (c) The granting of a special exception does not exempt the applicant from complying with all other requirements of this Code or of the law.
2. Initiation of Special Exceptions

Any property owner or other person with an enforceable legal interest in a property may file an application to use such land for one or more of the special exceptions provided in the zoning district in which the land is located.

3. Application for Special Exception

Such application for special exception shall be filed with the Zoning Inspector on a form prescribed by the Planning Commission. The application shall be accompanied by such plans and/or data as necessary, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed use will conform to the standards hereinafter set forth. Such application shall be forwarded from the Zoning Inspector to the Planning Commission for recommendation to the Board of Appeals for review within 45 days of receipt of the application by the Zoning Inspector. The Board of Appeals shall, within 90 days of receipt of application from the Zoning Inspector, render a decision on the application.

4. Hearing on Application

(a) The Board of Appeals shall hold a public hearing on each application for a special exception at such time and place as shall be established by the Board of Appeals. The hearing shall be conducted and a record of such proceedings shall be preserved in such a manner as the Board of Appeals shall, by rule, prescribe from time to time.

(b) Notice is required as provided in Section 12-1101.

5. Authorization

For each application for a special exception, the Board of Appeals shall normally, within 90 days of receipt of the application, conduct its public hearing and report its findings and decisions, including the stipulations or additional conditions and guarantees deemed necessary for the protection of the public interest.

6. Standards - General

No special exception shall be approved by the Board of Appeals unless such Board shall find:

(a) That the establishment, maintenance, and operation of the special exception will not be detrimental to or endanger the public health, safety, convenience, morals, order or general welfare.

(b) That the special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

- (c) That the exterior architectural appeal and functional plan of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district, as to cause a substantial depreciation in the property values within the neighborhood.
- (d) That adequate utilities, water, sewer or septic system, access roads, storm drainage and/or other necessary public facilities and improvements have been or are being provided.
- (e) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (f) That the proposed special exception is not contrary to the objectives of the current Comprehensive Plan for the Town of Rising Sun.
- (g) That the special exception shall, in all other respects, conform to the applicable regulations of the district in which it is located or to the special requirements established for the specific use.
- (h) Conditions and Guarantees. Prior to the granting of any special exception, the Board of Appeals shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the special exception as is deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified in Article 6. In all cases in which special exceptions are granted, the Board of Appeals shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such proof shall be filed with the board on or before March 15 of each year. The first filing shall not be made unless and until at least 12 months have elapsed since the date of the grant of the special exception.

7. Reconsideration Of Board Action

- (a) Whenever the Board of Appeals disapproves an application for a special exception permit or a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective Board for a period of not less than one year unless the applicant clearly demonstrates that:
 - (1) Circumstances affecting the property that is the subject of the application have substantially changed, or
 - (2) New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the Inspector within the time period for an appeal to the Court. However, such a request does not extend the period within which an appeal must be taken.

- (b) Notwithstanding Subsection (a), the Board of Appeals may at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

8. Complaints

Notice of complaints received by any representative of the Town concerning the operation of any special exceptions shall be transmitted promptly to the Board which shall take appropriate action as provided by law. The complainant shall be notified of the action taken.

9. Revocation

- (a) Failure to Comply with Conditions. Whenever the Board shall find, in case of any permit heretofore or hereafter granted pursuant to the provisions of this Article that any of the terms, conditions, or restrictions upon which such permit was granted are not being complied with, the Board is authorized, after due notice to all parties concerned and granting full opportunity for a public hearing, to suspend or revoke such permit or take other action as it deems necessary to ensure compliance. The Board is authorized to request and obtain investigations and reports as to compliance from such Town or state agencies or administrative officers as may be appropriate.
- (b) Abandonment, etc. Whenever the Board shall determine that a special exception appears to have been abandoned, that an approved special exception is not initiated within one year after the date of approval, that its annual proof referred to above has not been filed within 45 days of its due date, or that all of the terms and conditions of its grant are not being complied with, the Inspector shall notify the board and the Town attorney's office. Upon receipts of notice of such determination by the Board, the board shall issue an order to show cause why such special exception should not be revoked. Notice thereof shall be given to the party to whom the special exception has been granted and to all parties who would be entitled to receive notice of a new application for special exception concerning the property. The applicant shall have 60 days from the date of written notice of expiration to file an appeal of said notice.

10. Standards for Specific Special Exceptions

Certain buildings, structures, and uses of land developed as special exceptions are of such substantially different character from other special exceptions that they require specific and additional standards to guide the decision of the Board of Appeals.

Section 12-1105. Variances

1. An application for a variance shall be submitted to the Board of Appeals by filing a copy of the application with the Zoning Inspector in the Town office. Applications shall be handled in the same manner as applications for zoning permits and special exceptions.
2. A variance may be granted by the Board of Appeals if it concludes that strict enforcement of the Code would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of the Code will be observed, public safety and welfare secured, and substantial justice done. It may reach these conclusions if it finds that:
 - (a) If the applicant complies strictly with the provisions of the Code, he can make no reasonable use of his property;
 - (b) That special conditions or circumstances exist that are unique to the subject property or structure and that a strict enforcement of the provisions of this Code would result in unwarranted hardship which is not generally shared by owners of property in the same land use classification;
 - (i) The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public,
 - (ii) The hardship relates to the applicant's land, rather than personal circumstances,
 - (iii) The hardship is unique, or nearly so, rather than one shared by many surrounding properties,
 - (iv) The hardship is not the result of the applicant's own actions, and
 - (v) That strict enforcement of the provisions of this Code would deprive the property owner of rights commonly shared by other owners of property in the area.
 - (c) That the granting of a variance will not confer upon an applicant any special privilege that would be denied to other owners of like property and/or structures within the Zoning District.
 - (d) That the variance request is not based upon conditions or circumstances which are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming which are related to adjacent parcels.
 - (e) That greater profitability or lack of knowledge of the restrictions shall not be considered as sufficient cause for a variance.
 - (f) That the proposed variance is consistent with the Town of Rising Sun Comprehensive Plan.

- (g) The variance will neither result in the extension of a nonconforming situation nor authorize the initiation of a nonconforming use of land.
- 3. In granting variances, the Board of Appeals may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.
- 4. A variance may be issued for an indefinite duration or for a specified duration only.
- 5. The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this Code.

Section 12-1106. Interpretation

- 1. The Board of Appeals is authorized to interpret the zoning map and to pass upon disputed questions of lot or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the Zoning Inspector, Planning Commission or Town Administrator, they shall be handled as provided in Section 12-901.
- 2. An application for a map interpretation shall be submitted to the Board of Appeals by filing a copy of the application with the Inspector in the Town office. The application shall contain sufficient information to enable the Board to make the necessary interpretation.
- 3. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:
 - (a) Boundaries indicated as approximately following the centerline of alleys, streets, highways, streams, or railroads shall be construed to follow such centerline,
 - (b) Boundaries indicated as approximately following lot lines, and Town boundary lines shall be construed as following such lines, limits or boundaries,
 - (c) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as following such shorelines,
 - (d) Where a district boundary divides a lot or where distances are not specifically indicated on the Official Zoning Map, the boundary shall be determined by measurement, using the scale of the Official Zoning Map,
 - (e) Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

4. Interpretations of the location of floodway and floodplain boundary lines may be made by the Inspector as provided in applicable regulations.

Section 12-1107. Decisions of the Board of Appeals

1. Burden of Proof in Appeals and Variances
 - (a) When an appeal is taken to the Board of Appeals in accordance with Section 12-901, the Inspector shall have the initial burden of presenting to the Board sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.
 - (b) The burden of presenting evidence sufficient to allow the Board of Appeals to reach the conclusions set forth in Subsection 12-903,2 as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.
2. Board Action on Appeals and Variances
 - (a) With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of facts that support the motion. If a motion to reverse or modify is not made or fails to receive the majority vote necessary for adoption, then a motion to uphold the decision appealed from shall be in order. This motion is adopted as the Board's decision if supported by a majority of the board's membership (excluding vacant seats).
 - (b) A motion to deny a variance may be made on the basis that any one or more of the criteria set forth in Subsection 12-903,2, are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion is adopted as the board's decision if supported by a majority of the Board's membership (excluding vacant seats).

Section 12-1108. Postponement of Hearings

- 1 Requests for postponement shall be filed in writing with the Town Administrator not less than 10 days prior to the date of the hearing, and shall be accompanied by a sum of money sufficient to pay the cost of advertising the postponement and the rescheduled hearing. The granting of such requests shall be at the discretion of the Chairman of the Board.

2. Requests for postponement filed later than 10 days prior to the date of a scheduled hearing, shall, in addition to the other requirements set forth in subsection a. above, be supported by an affidavit of the party making the request or some other creditable person. The granting of such request shall be at the discretion of the Board in cases of extreme hardship or upon good cause shown.
3. The Board may, upon its own initiative, postpone a scheduled hearing at any time.
4. The Board may continue a hearing at another time and/or date once such hearing has been started; however, the Board shall announce the date and hour of continuance of such hearing while in session.

Section 12-1109. Effects of Denial

1. If any application or request is disapproved by the Board, thereafter the Board shall not accept application for substantially the same proposal, on the same premises, until after one (1) year from the date of such disapproval.
2. If an appeal to the Board is perfected and the public hearing date set and public notice given, and thereafter the applicant withdraws the appeal, he shall be precluded from filing another application for substantially the same proposal, on the same premises, until after one (1) year from the date of withdrawal.

Section 12-1110. Hearing Required on Appeals and Applications

1. Before making a decision on an appeal or an application for a variance, special exception, or a petition from the planning staff to revoke a special exception, the Board of Appeals shall hold a hearing on the appeal or application.
2. Subject to Subsection 3., the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.
3. The Board of Appeals may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.
4. The Board may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. The Board shall announce the date and hour of continuance of such hearing while in session.
5. Notice of Hearing

(This section modified and amended by ORD 2012-02 adopted 02-14-12)

The Inspector shall give notice of any hearing required by Section 1 above as follows:

- (a) The inspector shall publish notice of the time and place of the public hearing, together with a summary of the proposed regulation, restriction, or boundary, in at least one newspaper of general circulation in Rising Sun once each week for two (2) successive weeks.
- (b) Notice of such hearings shall be posted on the subject property and at the Town Office.
- (c) Notice shall be mailed to all adjacent property owners, whose property boundary lines are within 500 lineal feet of the subject property involved in the hearing. Such notice shall be mailed out at least 10 days prior to the hearing date.
- (d) Notice shall be given to the appellant or applicant and any other person who makes a written request for such notice by mailing to such persons a written notice before the hearing.
- (e) The notice required by this section shall state the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

Section 12-1111. Evidence

The provisions of this section apply to all hearings for which a notice is required by Section 12.1101.

1. All persons who intend to present evidence to the board, rather than arguments only, shall be sworn.
2. All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.

Section 12-1112. Modification of Application at Hearing

1. In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of Appeals, the applicant may agree to modify his application, including the plans and specifications submitted.
2. Unless such modifications are so substantial or extensive that the Board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Board may approve the application with the stipulation that the permit

will not be issued until plans reflecting the agreed upon changes are submitted to the planning staff.

Section 12.1113. Record

1. A tape recording or by legal stenographer shall be made of all hearings required by Section 6, and such recordings shall be kept for at least two years. Accurate minutes shall also be kept of all such proceedings, and a transcript will be made.
2. Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the Town for at least two years.

Section 12-1114. Written Decision

1. Any decision made by the Board of Appeals regarding an appeal or variance or issuance or revocation of a special exception shall be reduced to writing and served upon the applicant or appellant and all other persons who make a written request for a copy.
2. In addition to a statement of the Board's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the Board's findings and conclusions, as well as supporting reasons or facts, whenever this Code requires the same as a prerequisite to taking action.

Article 13. Appeals from the Board of Appeals

Any person or persons, or any board, taxpayer, or department of the Town aggrieved by any decision of the Board of Appeals may seek review by the Circuit Court of such decision, in the manner provided by the laws of Maryland and particularly by Article 66 B. Title 2, Annotated Code of Maryland.

Article 14 Duties of Zoning Inspector, Board of Appeals Town Commissioners, and Courts on Matters of Appeal

1. It is the intent of this Code that all questions of interpretation and enforcement shall be first presented to the Zoning Inspector (and Planning Commission) and that such questions shall be presented to the Board of Appeals only on appeal from the decision of the Zoning Inspector and Planning Commission and that course from the decisions of the Board of Appeals shall be to the courts as provided by law and particularly by Article 66B, Title 2, Annotated Code of Maryland.
2. It is further the intent of this Code that the duties of the Town Commissioners in connection with this Code shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this Code. Under this Code the Town Commissioners shall have only; the duties of (1) considering and adopting or rejecting proposed amendments or the repeal of this Code, as provided by law, and (2) of establishing a schedule of fees and charges as stated in Article 12.

Article 15 Schedule of Fees, Charges and Expenses

1. The Town Commissioners shall establish by Resolution a schedule of fees, charges, and expenses, and a collection procedure, for zoning certificates, zoning occupancy permits, appeals, variances, special exceptions, amendments, and other matters pertaining to this Code,. The schedule of fees shall be posted in the offices of the Zoning Inspector and may be altered or amended from time to time by the Town Commissioners, either upon recommendation of the Planning Commission, or upon their own motion.
2. No certificate, permit, special exception, or variance shall be issued unless or until such costs, changes, fees, or expenses have been paid in full, nor shall any action be taken on proceeding before the Board of Appeals unless or until preliminary charges and fees have been paid in full, nor shall any action be taken on proceeding before the Board of Appeals unless or Until preliminary charges and fees have been paid in full.

Article 16 Amendments

1. The regulations, restrictions and boundaries set forth in this Code may from time to time be amended, supplemented, changed, or repealed by the Town Commissioners.
2. Any proposed amendment, supplement or change shall be referred by the Town Commissioners to the Planning Commission for an investigation and recommendation. The Planning Commission shall cause such investigation to be made as it deems necessary and may require the submission of all pertinent data and information by any person concerned; may hold such public hearings as provided by its own rules; and shall submit its report and recommendations to the Commissioners within a reasonable length of times.
3. After receiving the recommendations of the Planning Commission, the Town Commissioners shall hold a public hearing in relation to the proposed amendment, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days' notice of the time, place and nature of such hearing shall be published in a paper of general circulation in the community and in the case of a change in classification of a particular piece of property, said property shall be posted.
4. No change in or departure from the proposed amendment as recommended by the Planning Commission shall be made unless the same be resubmitted to said Planning Commission for its further recommendation. No amendment, supplement, or change shall be made contrary to the recommendations of the Planning Commission except by unanimous vote of the Town Commissioners.
5. In case, however, of a protest against such change signed by the owners of twenty (20%) percent or more of the lots including in such proposed changed, or of those either immediately adjacent in the rear thereof extending one hundred and seventy-five (175) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three fourths (3/4) of all the members of the Town Commissioners. The provisions relative to public hearings and official notice shall apply equally to all changes and amendments.
6. In reaching a decision on zoning amendments, the Town Commissioners shall make findings of fact in each specific case including, but not limited to, the following matters: population change, adequacy of public facilities, present and future transportation patterns, compatibility with existing and proposed development for the area, the recommendations of the Planning Commission, relation to the Comprehensive Plan, fiscal impact upon Town government, and the suitability of the property in question to the uses permitted under the existing and proposed zoning classifications; 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. It shall be the responsibility of the applicant to delineate the boundaries of the neighborhood and to identify the change in the character of the neighborhood or the alleged mistake in the existing zoning classification.

7. Whenever a petition requesting an amendment, supplement, or change has been denied by the Town Commissioners, such petition, or one substantially similar, shall not be reconsidered sooner than one (1) year after the previous denial.
8. Whenever an application requesting a change in classification for a piece of property has been granted for a particular usage, the applicant must commence the construction of structures intended for such usage, or the occupancy and intended use of the premises if such structure is located on the property at the time of the application within a period of one (1) year or the classification will revert to the former classification prior to the granting thereof; additionally, and deviation in usage from the specific usage granted by the Commissioners shall be deemed a violation of this Code.
9. Conditional Rezoning - Upon the zoning or rezoning of any land or lands pursuant to the provisions of Article 66 B. 4.01 (b) "Grants of Powers"; the Town of Rising Sun, guided by the Comprehensive Development Plan of the Town of Rising Sun, adopted on May 1, 1973, may impose such additional restrictions, conditions or limitations as may be deemed appropriate to preserve, improve, or protect the general character and design of the lands and improvements to be zoned or rezoned to assure conformity with the intent of this Code and the Comprehensive Development Plan of the Town of Rising Sun.

Article 17. Provisions of Code Declared to be Minimum Requirements

In their interpretation and application, the provisions of this Code shall be held to be minimum requirements, adopted for the promotion of the public health , safety, morals or general welfare. Wherever the requirements of this Code are at variance with the requirements of this Code are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards, shall govern.

Article 18. Complaints and Civil Enforcement Regarding Violations

1. Whenever a violation of this Code occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the cause and basis thereof shall be filed with the Zoning Inspector. The Zoning Inspector shall record properly such complaint, immediately investigate, and take action thereon as provided by this Code.
2. The Mayor and Council of Rising Sun, the Board of Appeals, the Planning Commission, the Zoning Inspector, or any person whose property is affected by any violation of these regulations or any order validly issued hereunder, including abutting or adjacent property owners, whether or not specially damaged, may maintain an action in the Circuit Court for Cecil County for an injunction enjoining the erection, construction, reconstruction, alteration, extension, enlargement, repair or use of buildings or other structures and land otherwise than in conformity therewith.

Article 19. Applications for Annexations and Rezoning

1. All applications submitted for annexation or rezoning shall be accompanied by a general development plan showing the subject property and the proposed use to the property to be annexed or rezoned.
2. All annexation applications shall be reviewed by the Rising Sun Planning and Zoning Commission for conformity to the Codes and the Comprehensive plan for the Town of Rising Sun.
3. The Planning and Zoning Commission will make a recommendation to the Town council for approval or disapproval of the application including the appropriate zoning classification(s) for the land proposed to be annexed to the Town.

Article 20. Penalties for Violation

1. It shall be considered a municipal infraction for any person or corporation to violate any provision of this Chapter, or to erect, construct, alter or repair, convert, or maintain any building or structure, sign, or land in violation of any written statement or plan submitted and approved hereunder.
2. It shall be considered a municipal infraction for any owner, tenant, or occupant of a building, structure, sign or land or part thereof, which is in violation of this Chapter, or any architect, builder, contractor, subcontractor, agent, servant, person or corporation, knowingly to assist or further the commission of any violation of this Chapter. There shall be a rebuttable presumption that the defendant was violating the Chapter knowingly.
3. In the event that any person is found to have committed a municipal infraction hereunder, each infraction shall be punishable by a fine of up to \$500.00 for each single violation. In addition to said fine, the Town may request during the adjudication of the infraction that the defendant abate the violation, or in the alternative to permit the Town to abate the violation at the defendant's expense. Each day such violation continues shall be a separate offense.
4. The authority for municipal infractions is as provided in Article 23A§3 of the Annotated Code of Maryland and enforcement shall be as provided therein. In addition and/or in lieu of pursuing a municipal infraction, the Town may seek injunction relief as a means of enforcing the provisions of this Chapter.
5. The imposition of a fine or penalty for any violation of or non-compliance with this Code shall not excuse the violation or non-compliance or permit it to continue, and all such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time.
6. Any structure or improvement constructed, reconstructed, enlarged, altered, or relocated in non-compliance with this Code shall be declared by the commissioners to be a public nuisance and abatable as such.

Article 21. Separability Clause

Should any section or provision of this Code be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Code as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

Article 22. Repeal of Conflicting Codes

All ordinances and resolutions or parts of ordinances and resolutions in conflict with this Zoning Code, or inconsistent with the provisions of this Code, are hereby repealed to the extent necessary to give this Code to give this Code full force and effect.

Article 23. Definitions

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this Code. To amplify and clarify all provisions of this Code, the following rules shall apply:

1. Words used in the present tense shall include the future tense; words used in the singular number shall include the plural number, and the plural number shall include the singular number, unless the obvious construction of the wording indicates otherwise.
2. The word "shall" is mandatory and not discretionary.
3. The word "may" is permissive.
4. The word "lot" shall include the words "piece", "parcel" and "plots"; the word "building" includes all other structures of every kind regardless of similarity to buildings; and the phrase "used for" shall include the phrase "arranged for" and "occupied for".
5. All "measured distances" shall be to the nearest "integral foot". If a fraction is one-half foot or less, the "integral foot" next above shall be taken.

Accessory Apartment. (See Section 12-604)

Accessory Use or Structure---A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Adult Bookstore/Adult Entertainment Center— An establishment the principal use of which is to offer for sale or viewing books, related paraphernalia, magazines, printed material, films, tapes, peep shows and live acts which depict, describe or relate to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below) or an establishment with a segment or section devoted to the sale or display of such material.

Specified Sexual Activities are defined as:

- a. Human Genitals in a state of sexual stimulation or arousal;
- b. Acts of human masturbation, sexual intercourse or sodomy;
- c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Specified Anatomical areas are defined as:

- a. Less than completely and opaquely covered: (a) human genitals, pubic region, (b) buttock, and (c) female breast below a point immediately above the top of the areola; and

- b. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

Agriculture--The use of land for the purpose of farming, dairying, pasturing, agriculture, horticulture, floriculture, viticulture, fish culture, and animal and poultry husbandry. The processing, packaging or manufacture of agricultural products is not included.

Alteration -- Any change in the total floor area, use adaptability or external appearance of an existing structure.

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

Amend or amendments -- Any repeal, modification or addition to a regulation; any new regulation; any change in the number, shape, boundary or area of a zone; or any repeal or abolition of any map, part thereof or addition thereto.

Antenna -- Equipment designed to transmit or receive electronic signals.

Apartment--A suite of rooms to live in with a minimum square footage of 375 sq. ft., including a living room, one bedroom, kitchen, and bathroom.

Base Flood -- The flood having a one percent chance of being equaled or exceeded in any given year. Also known as the 100-year flood.

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

Bed and Breakfast Home -- "Bed and breakfast home" or "tourist home" means a single-family, owner-occupied dwelling that is used not more than twelve days in any month for the lodging of up to four transient guests for monetary compensation at any one time, none of whom remain for more than seven consecutive nights each, and that provide no food or beverage service for the transient guests other than for breakfast provided in the area of the dwelling that are generally used by the resident family for the consumption of food.

Billboard. (See Sign.) -- A structure on which is portrayed information which directs attention to a business commodity, service or entertainment not necessarily related to the other uses permitted on the premises upon which the structure is located, not including painted walls.

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

Boarding House -- A residential use consisting of at least one dwelling unit together with two or more rooms that are rented or are designed or intended to be rented but, individually or collectively, do not constitute separate dwelling units. A rooming house or boarding house is distinguished from a bed and breakfast home or a tourist home in that the former is designed to be occupied by longer term residents (at least month-to-month tenants) as opposed to overnight or weekly guests.

Building -- A structure designed to be used as a place of occupancy, storage, or shelter.

Building, Accessory -- A minor building that is located on the same lot as a principal building and is used incidentally to a principal building or houses an accessory use.

Building, floor area of -- The total number of square feet area in a building, excluding cellars, uncovered steps, and uncovered porches, but including the total floor area of accessory buildings on the same lot.

Building or Structure Height of--The vertical distance from the average finished grade to the highest point of the coping of a flat roof, the deck line of a mansard roof, the mean height level between eaves and ridge for gable, hip, and gambrel roofs, top of the fence, or the highest point on other structures.

Building line -- A line beyond which the foundation wall and/or any porch, vestibule, or other portion of a building shall not project except as may otherwise be provided for in this Code.

Build-to Line -- A line which dictates the placement of a building or structure from the street right-of-way line on which the building fronts. On a corner lot, there shall be a build-to line on both sides of the lot which have street frontage. In the case of Traditional Neighborhood Development, the front porch shall be placed on the build-to line. Whenever a building does not front on a right-of-way, the build-to line shall be measured from the edge of the pavement of an access way in front of or on the side of the building. In the case of an interior lot, the build-to line shall be measured from the widest front yard lot line.

Building, Main -- The principal structures housing the principal use on the lot.

Building Permit -- A permit issued by the Building Inspector.

Building, Principal -- The primary building on a lot or a building that houses a principal use.

Canopy -- A roof-like structure of a permanent nature which may be free-standing or projected from a wall of a building or its supports.

Cargo Trailer and Closed Body Trucks -- A vehicle with a cargo storage space of at least 20 feet in length in which material is stored and/or from which commercial operations and sales activities are conducted.

Commission -- The Town of Rising Sun Planning Commission.

Condominium -- A form of ownership consisting of an undivided interest in common with other owners in a portion of a parcel of real property, together with separate interest in space in a building, such as a townhouse, apartment or office, established pursuant to Maryland law. A condominium may include, in addition, a separate interest in other portions of such real property.

Convalescent, Nursing or Rest Home -- Any institution however named, whether conducted for charity or for profit, which is advertised, announced or maintained for the express or implied purpose of caring for two or more non-related persons admitted thereto for the purpose of nursing care given because of prolonged illness or defect or during the recovery from injury or disease, and includes any and all of the procedures commonly employed in waiting on the sick, such as administration of medicine, preparation of special diets, giving of bedside care, application of dressing and bandages, and the carrying out of treatments prescribed by duly licensed practitioner of medicine.

Conservation Easement -- A non-possessory interest in land that restricts the manner in which the land may be developed in an effort to conserve natural resources for future use.

Convenience Store -- A one-story, retail store containing less than 4,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). It is designed to attract, and depends upon a large volume of, stop-and-go traffic. Illustrative examples of convenience stores are those operated by the "High's," "7-11," and "Dash In" chains.

Day Care Center--A business, usually but not limited to an in home occupation which is licensed by the county and/or State of r the purpose of caring for children and/or adults during the day.

Day Care Home -- A residence in which care is given to a child in place of parental care, for less than 24 hours a day, in a residence other than the child's, for which the day care provider is paid. No more than two children under age two and no more than six children, including the provider's own, may be provided for.

Dedication -- The transfer of property from private to public ownership as may be required to provide for the public health, safety, or welfare.

Deed Restriction -- A private legal restriction and/or covenant on the use of land, contained within a deed of property or otherwise formally recorded in the Land Records of Cecil County, Maryland. These restrictions or covenants are designed to control the use of specific property and enforcement of these is through private civil action. Deed restrictions are not enforced by the Town, unless it is the Town that records said deed restrictions.

Density -- The number of dwelling units that may be constructed per acre or per square foot of a zoned lot area.

Developer -- A person who is responsible for any undertaking that requires a zoning permit, conditional-use permit, sign permit, site plan, or subdivision approval.

Development -- The subdivision of land; construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure, installation of a sign; and any mining, landfill or land disturbance, such as grading, paving, and excavation.

District -- A part, zone, or geographic area within the municipality within certain zoning regulations.

Disturbed Area -- Any man-made disturbance to existing vegetation and/or soil, including the area of a site where natural cover has been removed and/or grading has occurred for the construction of buildings, placement of septic systems or shared facilities, drives, roads, parking areas, etc., and not replaced.

Drive-in establishment -- A place of business being operated for the retail sale of food and other goods, services, or entertainment. It is designed to allow its patrons to be served or accommodated while remaining in their automobiles or allows the consumption of any food or beverage obtained from a carry-out window in automobiles or elsewhere on the premises.

Driveway -- That portion of the vehicle accommodation area (parking lot) that consists of a paved travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

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

Dwelling, Attached -- One family dwelling on a permanent foundation, the walls on two sides of which are in common with the walls of adjoining dwellings and are party walls.

Dwelling Conversion--The conversion of a single family dwelling to include apartment(s).

Dwelling, Multi-Family -- A detached building or semidetached building designed for or used by more than two (2) families or housekeeping units.

Dwelling, Single-Family -- A detached building designed for or used by one family or housekeeping unit.

Dwelling, Semi-Detached - A one family dwelling with one wall in common with only one adjacent dwelling.

Dwelling, Two-Family -- A detached building designed for or used by not more than two (2) families or housekeeping units.

Elderly or Handicapped People --

1. People who are 62 years of age or over.
2. Families where either the husband or wife is 62 year of age or older.

3. Handicapped people under 62 years of age if determined to have physical impairments which (1) are expected to be of long continued and indefinite duration, (2) substantially impede the ability to live independently, and (3) are of such a nature that the ability to live independently could be improved by more suitable housing conditions.

Family--One or more persons occupying a single housekeeping unit and using common cooking facilities; no such family shall contain over five (5) persons unless all members are related by blood or marriage .

Fence or Wall--Any structure regardless of composition, except a living fence, that is erected maintained for the purpose of enclosing land, dividing land into distance portions, or preventing intrusion or escape.

Floodplain --Those areas defined by soil types designated by the U.S. Conservation Service, such being principally a natural water course or retention area of generally wetland and contiguous to a historical floodway.

Floodway -- The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. As used in this Code, the term refers to that area designated as a floodway on the " Flood Insurance Rate Map" prepared by the Federal Emergency Management Agency, a copy of which is on file in the Town Hall.

Front Porch -- An unenclosed structure with a roof attached to the front of a dwelling unit, or in the case of a corner lot, to either or both sides of the dwelling which have street frontage. A front porch shall have a minimum depth of seven (7) feet and a minimum width of fourteen (14) feet. The front porch is intended to provide cover and shade as well as a change in the scale of a building, in order to serve as a transition from the height of the dwelling to the front yard, sidewalk, and street.

Infill Development -- The construction of a new building within an existing neighborhood on an existing block, typically residential in use, which is intended to be placed on a build-to line or average setback line to be located in the same arrangement as the other buildings on the block, in order to maintain the same streetscape appearance.

Home Occupation -- A home occupation is an activity carried out for financial gain in a residential dwelling and is subordinate to the residential use of the property.

Garage, private -- A garage used for storage purposes only and having a capacity of not more than four (4) vehicles.

Garage, service -- A building, or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.

Garage, storage -- A building, or portion thereof, designed or used exclusively for storage of motor-driven vehicles and where motor-driven vehicles are not equipped, hired, or sold.

Garden Apartments -- Multi-family housing units that may share a common outside access. Ownership is not a factor in this type of unit, which may be either rental or condominium.

Gas Sales -- Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail and where, in addition, minor repair work may be performed, such as ignition service, tire repair, repair and replacement of minor parts, such as pumps and filter, brake service, and the like. "Gas sales" does not include a repair or body shop, but shall include self-service filling stations and any convenience store accessory to or associated with such gas sales.

Golf Course -- An area publicly or privately owned, on which the game of golf is played, containing at least nine (9) holes; together with such necessary and usual accessory uses as a club house, caretakers' dwellings, dining and refreshment facilities, and other such uses, provided that the operation of such facilities is incidental and subordinate to the operation of a golf course.

Golf Driving Range -- A limited area on which golf players do not walk, but onto which they drive golf balls from a central driving tee.

Governing Body -- The Mayor and Town Commissioners of Rising Sun, Maryland.

Greenway -- An area of unbroken open space managed primarily for conservation purposes such as protection of sensitive natural features, farmland, scenic views, and other unique features. A greenway may be left in a natural state or include trails or pathways. Components of greenbelts or greenways may include parks, wildlife areas, forest and historic sites. A pedestrian corridor shown on the Transportation Element of the Rising Sun Comprehensive Plan.

Greenway, Active -- An interconnected system of public right-of-ways, privately held recreational connector routes or navigable drainage corridors passing through possibly multi-component scenic, sensitive and/or otherwise important landscape features.

Greenway, Passive -- Public or privately held parcels involving quality open space, wildlife corridor, green infrastructure, wetland, woodland, agricultural land, otherwise environmentally or historically sensitive and/or otherwise important areas interconnected and linked with like areas containing similar components.

Gross Floor Area -- The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

Group Home, in general - A facility providing housing facilities and/or rehabilitation in a single family dwelling for not more than eight (8) persons, including support personnel, for persons who need specialized housing, treatment and/or counseling service because of delinquency or criminal rehabilitation, such as a criminal half-way house, current addiction to or illegal use of a controlled substance, or a type of mental illness that involves behavior related to violent felony crime or persons who are physically or mentally handicapped or infirm. Residents are provided service and supervision by licensed operators in accordance with federal, state and local laws, regulations and requirements. Treatment and counseling shall be limited to the residents of the dwelling. The

residents of a group home shall not include any person who, during the term of residence at such facility, commits a violent act or causes substantial physical damage to the property of others, and any such person must be removed from such facility.

Group Home, private -- "Group home" means a residence in which individuals who have been or are under treatment for a mental disorder may be provided care or treatment in a homelike environment. A **large** private group home admits at least nine but not more than sixteen individuals; a **small** private group home admits at least four but not more than eight individuals.

Group Home/Halfway House -- A home for not more than eight people who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct, together with not more than two people providing supervision and other services to such persons, all of whom live together as a single housekeeping unit.

Group Home/Handicapped or Infirm Home -- A residence within a single dwelling unit for at least four but not more than eight people who are physically or mentally handicapped or infirm, together with not more than two persons providing care or assistance to such persons, all living together as a single housekeeping unit. Persons residing in such homes, including the aged and disabled, principally need residential care rather than medical treatment.

Hospital -- A building or group of buildings having room facilities for one or more abiding patients, used for providing services for the in-patient medical or surgical care of sick or injured humans and which may include related facilities such as laboratories, out-patient departments, training facilities, central service facilities, and staff offices, providing, however, that such related facility must be incidental and subordinate to the main use and must be an integral part of the hospital operation.

Hotel -- A building in which lodging or boarding are provided for more than 20 people, primarily transient, and offered to the public for compensation, and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. A hotel may include restaurants, taverns or club rooms, public banquet halls, ballrooms, and meeting rooms.

Hydric Soils -- Soils that are wet frequently enough to periodically produce anaerobic conditions, thereby influencing the species composition or growth, or both, of plants on those soils.

Intermediate Care Home -- A facility maintained for the purpose of providing accommodations for not more than seven occupants needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm.

Intermediate Care Institution -- An institutional facility maintained for the purpose of providing accommodations for more than seven persons needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm.

Intermittent Stream -- A stream in which surface water is absent during part of the year. Intermittent streams may be found on the most recent U.S.G.S. 7.5 Minute Quadrangle published by the United States and shall be identified in the field and accurately drawn on all development plans.

Junk Yard--Any land or building or part thereof used for the abandonment, sale, storage, collecting, or baling of paper, rags, scrap metals, other scrap or discarded materials, or for the abandonment, demolition, dismantling, storage, salvaging or sale of automobiles or other vehicles not in running condition, or machinery, or parts thereof.

Kennel -- A commercial operation that (1) provides food and shelter and care of animals for purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian), or (2) engages in the breeding of animals for sale, or (3) any place where more than two adult animals (over 6 months) are kept for a boarding or other fee, or (4) any place where more than five adult animals are kept for any purpose.

Land Clearing -- Any activity that removes the vegetative ground cover.

Livestock Market -- A commercial establishment wherein livestock is collected for sale and auctioned off.

Lot--For zoning purposes, as covered by this Code, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, and may consist of:

1. a single lot or record;
2. a portion of a lot of record;
3. combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.
4. a parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Code.

Lot Area -- The total area circumscribed by the boundaries of a lot, except that when the legal instrument creating a lot shows the boundary of the lot extending into a public street right-of-way, then the lot boundary for purposes of computing the lot area shall be the street right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and 30 feet from the center of the traveled portion of the street.

Lot Coverage -- The computed ground area occupied by all buildings and other impervious surfaces within a lot.

Lot Depth -- The mean horizontal distance between the front lot line and rear lot line of a lot, measured within the lot boundaries.

Lot Frontage--The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements of corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under Yards in this section.

Lot Lines -- The property lines bounding the lot.

Lot Line, Front -- That boundary of a lot which is along an existing dedicated public street. All lots shall have frontage on an improved public street. In the case of a corner lot, both boundaries along a public way shall be considered front lot lines.

Lot Measurements

Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

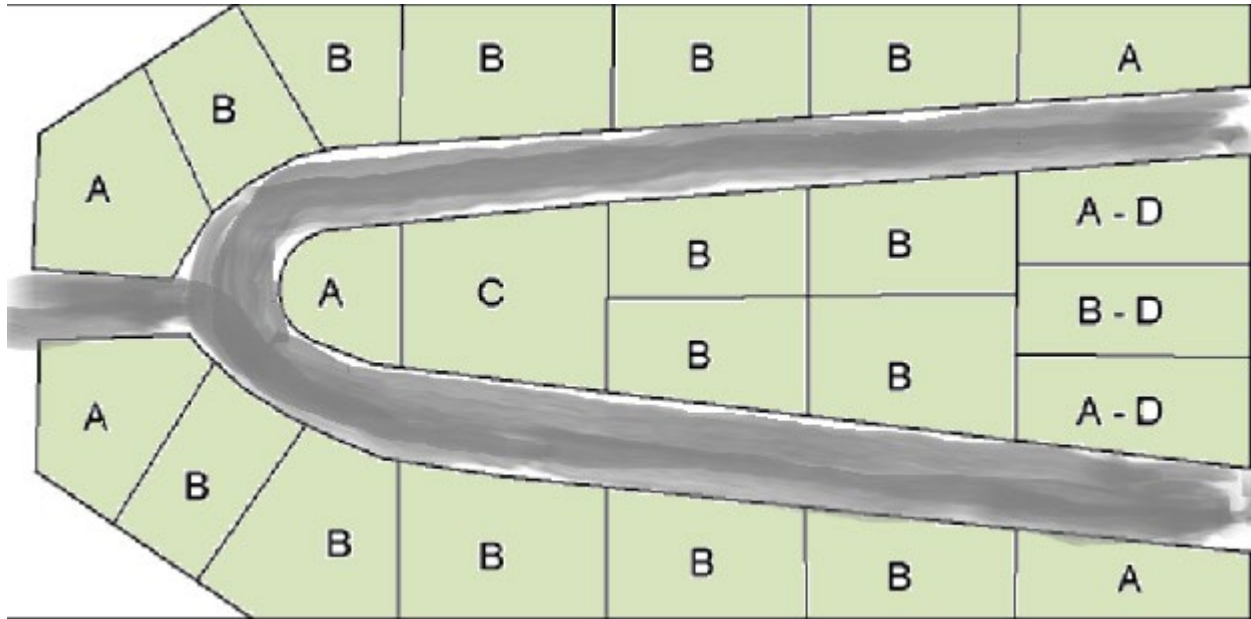
Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided however the width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than 80 percent of the required lot width except in the case of cul-de-sac, where the 80 percent requirements shall not apply.

Lot Line, Rear -- Any boundary of a lot which is not a front lot line nor a side lot line.

Lot Line, Side -- Any boundary of a lot which is not a front lot line nor a rear lot line.

Lots of Record--A lot which is part of a subdivision recorded in the office of the Clerk of Circuit Court, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Lot Types-- The diagram which follows illustrates terminology used in this Code with reference to corner lot, interior lots, reversed frontage lots and through lots:



In the diagram above,

A = Corner lot, defined as a lot located at the intersection of two or more streets.

B = interior lot, defined as a lot other than a corner lot with only one frontage on a street other than an alley.

C = through lot, defined as a lot other than a corner lot with frontage on more than one street other than an alley. Through lots with frontage on two streets may be referred to as double frontage lots.

D = reversed frontage lot, defined as a lot to which frontage is at right angles or approximately right angles to the general pattern in the area involved. A reversed frontage lot may also be a corner lot or an interior lot (see A-D and B-D in the diagram).

Lot Width -- The horizontal distance between the side lot lines of a lot measured at the front and rear setback lines. The front and rear setback lines shall be at least the minimum required by the Zoning Code, but may be greater.

Low-Volume Traffic Generation -- Uses such as furniture stores, carpet stores, major appliance stores, etc. that sell items that are large and bulky, that need a relatively large amount of storage or display area for each unit offered for sale, and that therefore generate less customer traffic per square foot of floor space than stores selling smaller items.

Manufacture, Manufacturing -- The process of converting of raw, unfinished materials or products, or either of them, into articles or substances of different character, or for use for different purpose.

Marquee -- A roof-like structure of a permanent nature which projects from the wall of a building or its supports and may overhang the public way.

Mobile Home -- A dwelling unit that: (1) is not constructed in accordance with the standards set forth in the Town's building code applicable to site-built homes, and (2) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and (3) exceeds 40 feet in length and eight feet in width.

Mobile Home, Class A -- A mobile home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following additional criteria:

- The home has a length not exceeding four times its width, which may be calculated using the measurements of a carport or an enclosed porch;
- The pitch of the home's roof has a minimum vertical rise of one foot for each five feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction;
- The exterior siding consists of wood, hardboard, or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
- A continuous, permanent masonry foundation, unpierced except for required ventilation and access, is installed under the home; and
- The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

Mobile Home, Class B -- A mobile home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy the criteria necessary to qualify the house as a Class A mobile home.

Mobile Home Park--Any site owned in its entirety by one owner or group of owners designed to accommodate the renting or leasing of mobile homes or spaces for mobile homes to other individuals or families.

Mobile Home Subdivision--Any site designed to accommodate the sale of mobile home lots with or without mobile homes already placed upon said lots, to various individuals or other parties.

Modular Home -- A dwelling unit composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two sections transported to

the site in a manner similar to a mobile home, or a series of panels or room sections transported on a truck and erected or joined together on the site.

Motel, Motor Court, Motor Hotel, Lodge, or Inn -- The same as "Hotel" except it is designed to accommodate any number of guests, the building or buildings are designed primarily to serve tourists traveling by automobile, and ingress and egress to rooms need not be through a lobby or office.

Motor Vehicle Sales -- Storage and display for sale of more than one (1) motor vehicle or any type of trailer provided the trailer is unoccupied.

Neighborhood -- A section of Rising Sun generally forty (40) acres in size, which is predominately residential; an area which may be defined by a 1/4 mile radius or 5-minute walk from a civic amenity, which serves as an anchor such as a park, school, church, library, or similar use.

Neighborhood Park -- An open space from seven thousand five hundred (7,500) square feet to four (4) acres in size, it is specifically intended to serve as a civic amenity in a traditional neighborhood and typically it is located at the center of activity in the neighborhood. Furthermore, it is intended to help anchor and give identity to the neighborhood as well as to serve as a contiguous common area. The neighborhood park should have a length to width ratio no greater than three (3) to one (1), which may include active and passive recreational uses and should be designed to encompass and protect existing groves of trees and other natural features.

Neighborhood, Essential Services -- Any utility facility needed to provide basic services such as water, sewer, telephone, and cable television to the individual users.

Non-Tidal Wetlands -- An area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation, and is determined according to the Corps of Engineers Wetland Delineation Manual, 1987, as amended.

Nursing Care Home -- A facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to not more than eight persons.

Nursing Care Institution -- An institutional facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to more than eight persons.

Office, General -- An office for the use of (1) professional people such as doctors, lawyers, accountants, etc., or (2) general business offices such as insurance companies, trade associations, manufacturing companies, investment concerns, banks and trust companies, real estate companies, etc., but not including any kind of retail or wholesale store or warehouse, except as otherwise provided herein.

Office Park -- A development on a tract of land that contains a number of separate office buildings, supporting uses and open space designated, planned, constructed and managed on an integrated and coordinated basis

Office, Professional, Non-residential -- A single-family structure used for professional office purposes by any member of a recognized profession, such as, but not limited to, doctors, lawyers, architects, accountants, veterinarians and engineers but not including medical or dental clinics or veterinarian clinics. Professional offices do not include general business offices, such as the offices of insurance companies, trade associations, manufacturing companies, investment concerns, banks or real estate companies.

Office, Professional, Residential -- Rooms and/or buildings used for office purposes by not more than one (1) member of any recognized profession, including doctors, dentists, lawyers, accountants, engineers, veterinarians, etc., but not including medical or dental clinics or veterinary clinics, provided that such use shall be incidental to and subordinate to residential use and not one involving a commercial enterprise. Such use shall preclude manufacturing or sale of any hardware product, except those remedial devices that are prescribed as a direct result of the specific service rendered on the premises and that devices cannot be obtained by the client from any commercial establishment.

Off-Street Parking Area -- Space provided for vehicular parking not on a street or roadway.

Open Space, Useable -- That area within the boundaries of a lot that is intended to provide light and air, and is designed for either scenic or recreational purposes. Open space shall, in general, be available for entry and use by the residents or occupants of the development, but may include a limited proportion of space so located and treated as to enhance the amenity of the development by providing landscaping features, screening for the benefit of the occupants or those in neighboring areas, or a general appearance of openness.

- Open space may include, but not be limited to, buffers and buffer yards, lawns, decorative planting, walkways, active and passive recreation areas, children's playgrounds, fountains, swimming pools, wooded areas, and watercourses. Open space shall not include driveways, parking lots or other vehicular surfaces, any area occupied by a building, nor areas so located or so small or so circumscribed by buildings, driveways, parking lots, or drainage areas, as to have no substantial value for the purpose stated in this definition.

Outdoor Advertising Business--Provision for outdoor displays or display space on a lease or rental basis only.

Pedestrian Trail or Way – Walking paths, e.g., sidewalks, greenway, designed and constructed to accommodate foot traffic.

Parapet -- The extension of the main walls of a building above the roof.

Parking Area, Lot, or Structure -- A structure, or an off-street area for parking or loading and unloading, whether required or permitted by this Zoning Code, including driveways, access ways, aisles, and maneuvering areas, but not including any public or private street right-of-way.

Parking Area Aisles -- A portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

Parking, Floor Area -- The floor area of a structure as defined herein less storage and warehouse areas used principally for non-public purposes of said structure. Any basement or cellar space used for retailing shall be included in the parking floor area for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.

Parking Space -- A portion of the vehicle accommodation area set aside for the parking of one vehicle. At a minimum each parking space shall measure 9' x 18'.

Perennial Stream -- A stream containing surface water throughout an average rainfall year. Perennial streams may be found on the most recent U.S.G.S. 7.5 Minute Quadrangle published by the United States and shall be identified in the field and accurately drawn on all development plans.

Person -- An individual, trustee, executor, other fiduciary, corporation firm, partnership, association, organization, or other entity acting as a unit.

Pharmacy -- A place where drugs and medicines are prepared and dispensed.

Physiographic Features -- The soils, topography, land slope and aspect, and local climate that influence the form and species composition of plant communities.

Planned Unit Development -- A development constructed on a tract of at least five acres under single ownership, planned and developed as an integral unit, and consisting of single-family detached residences combined with either two-family residences or multi-family residences, or both, all developed in accordance with the provisions contained herein.

Premises -- A lot, together with all buildings and structures thereon.

Private Clubs and Lodges--Any building which serves as a meeting place for a selected membership, together with recreation and dining facilities which are not open to the general public.

Property Lines -- The lines bounding a zoning lot, as defined herein.

Public Way -- Any sidewalk, street, alley, highway, or other public thoroughfare.

Public Water and Sewerage Systems -- A water or sewerage system owned and operated by a municipality or county or an authority or owned and operated by the governing body and permitted by the State of Maryland, and subject to special regulations.

Recreational Camp or Resort--Any area of land or water on which accommodations for temporary occupancy after located or may be placed, including hotels, cabins and tents, and which is primarily used for recreational purposes and retains an open-air or natural character.

Recreation Facility -- A place designated and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities.

Redevelopment -- The process of developing land that is or has been developed.

Regulations -- The whole body of regulations, text, charts, tables, diagrams, maps, notations, references, and symbols, contained or referred to in this Code.

Residence, commercial apartment -- A multi-family residence located above the principal commercial use.

Residence, Duplex -- A two-family residential use in which the dwelling units share a common wall (including without limitation the wall of an attached garage or porch) and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance.

Residence, Multi-Family -- A residential use consisting of a building containing three or more dwelling units. For purposes of this definition, a building includes all dwelling units that are enclosed within that building or attached to it by a common floor or wall (even the wall of an attached garage or porch).

Residence, Multi-Family Apartments -- A multi-family residential use other than a multi-family conversion or multi-family townhouse.

Residence, Multi-Family Conversion -- A multi-family residence containing not more than four dwelling units and results from the conversion of a single building containing at least 2,000 square feet of gross floor area that was in existence on the effective date of this provision and that was originally designed, constructed and occupied as a single-family residence.

Residence, Multi-Family Townhouses -- A multi-family resident use in which each dwelling unit shares a common wall (including without limitation the wall of an attached garage or porch) with at least one other dwelling unit and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance.

Residence, Primary with Accessory Apartment -- A residential use having the external appearance of a single-family residence but in which there is located a second dwelling unit that comprises not more than 25 percent of the gross floor area of the building nor more than a total of 750 square feet.

Residence, Single-Family Detached, More Than One Dwelling Per Lot -- A residential use consisting of two or more single-family detached dwelling units on a single lot.

Residence, Single-Family Detached, One Dwelling Unit Per Lot -- A residential use consisting of a single detached building containing one dwelling unit and located on a lot containing no other dwelling units.

Residence, Two-Family -- A residential use consisting of a building containing two dwelling units. If two dwelling units share a common wall, even the wall of an attached garage or porch, the dwelling units shall be considered to be located in one building.

Residence, Two-Family Apartment -- A two-family residential use other than a duplex, two-family conversion, or primary residence with accessory apartment.

Residence, Two-Family Conversion -- A two-family residence resulting from the conversion of a single building containing at least 2,000 square feet of gross floor area that was in existence on the effective date of this provision and that was originally designed, constructed and occupied as a single-family residence.

Retail Store -- Stores selling one kind or various kinds of goods, as distinct from services, such as, but not limited to, drug stores, grocery stores, department stores, camera shops, book stores, and record shops.

Restaurants

1. **Restaurant, standard** - A food serving establishment whose principal business is the sale of food and the principal method of operation is its service when ordered from a menu to seated customers at a table, booth or counter inside the establishment. A snack bar or refreshment stand at a public or nonprofit community swimming pool, playground or park, operated solely for the convenience of its patrons shall not be considered a restaurant.
2. **Restaurant, fast food** - an establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and wrapped or presented so that it can readily be eaten outside or inside the premises.
3. **Restaurant, fast food cafeteria** - any establishment where ready-to-eat food is available upon a short waiting time and served to customers on a tray through a cafeteria line for consumption at a table, booth or counter inside the establishment.
4. **Restaurant, fast food carry-out** - any establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and packaged or presented so it can readily be eaten away from the premises as there are no facilities for on premises consumption of food.
5. **Restaurant, drive-in or drive-thru** - any establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and packaged or presented so that it can be readily eaten inside the premises and whose method of operation is also to serve customers in motor vehicles either at a drive-thru window or while parked.

Right of Way -- A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, and bridges.

Road -- All ways used to provide motor vehicle access to (1) two or more lots or (2) two or more distinct areas or buildings in unsubdivided developments.

Rooming House -- (See Boarding House).

Satellite Dish (Receive-Only Earth Station) -- A device or instrument, designed or used for the reception of television or other electronic communications signal broadcast or relayed from an earth satellite, typically up to twelve feet in diameter, in the shape of a shallow dish or parabola.

Seat -- For the purpose of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units installed or indicated, or each twenty-four (24) lineal inches of benches, pews, or space for loose chairs.

Sensitive Areas -- Environmental protection areas identified in the Economic Growth and Resource Protection Act of 1992 for which special standards, designed to protect these areas from the adverse effects of development, have been included in this Code. These areas include the following:

1. Streams and their buffers;
2. 100-year floodplain;
3. Habitats of threatened and endangered species;
4. Steep slopes; and
5. Any other areas determined by the Town.

Setback -- The minimum distance by which any building or structure must be separated from the property boundary or right-of-way line of the street or highway upon which it fronts. The minimum setback shall be as established in this Code. A greater setback may be permitted.

Shelter Homes--A facility housing more than two (2) unrelated persons besides the family occupants where minimum care services are given. This includes elderly persons, veteran patients and other similar situations.

Sign -- Any device that (1) is sufficiently visible to persons not located on the lot where such device is located to accomplish either of the objectives set forth in subdivision (2) of this definition; and (2) is designed to attract the attention of such persons or to communicate information to them. Any sign, billboard, commercial sign or illuminated sign or other lettering or device, the intent of which is to display, illustrate or advertise the interest of any person, when it is placed out of doors in view of the general public.

Sign, Freestanding -- A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure having a principal function other than the support of a sign. A sign that stands without supporting elements, such as a "sandwich sign," is also a freestanding sign.

Sign, Nonconforming -- A sign that, on the effective date of this Code, does not conform to one or more of the regulations set forth in this Code.

Sign, Off-Premises -- A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other activity that is conducted, sold, or offered at a location other than the premises on which the sign is located.

Sign Permit -- A permit issued by the Planning Commission that authorizes the recipient to erect, move, enlarge, or substantially alter a sign.

Sign, Temporary -- A sign that (1) is used in connection with a circumstance, situation, or event that is designed, intended or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign, or (2) is intended to remain on the location where it is erected or placed for a period of not more than 15 days and not more than 30 days in a given year. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary. All existing temporary signs shall abide by this Code with the date of adoption.

Special Events -- Circuses, fairs, carnivals, festivals, or other types of special events that (1) run for longer than one day but not longer than two weeks, (2) are intended to or likely to attract substantial crowds, and (3) are unlike the customary or usual activities generally associated with the property where the special event is to be located

Special Exception--A special exception is a use that would not be appropriate generally or without restriction throughout the zone, but which, if controlled as to number, area, location, or relation to the neighborhood would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zones as special exceptions is made in the Zoning Code.

Steep Slopes -- Any slope with a grade of 15 percent or more.

Street Line--The right-of-way line of a street.

Storage -- The keeping, either indoors (including inside a cargo trailer) or outdoors, of equipment, vehicles, or supplies used in the conduct of a trade, business, or profession. Storage does not include the overnight parking in residential zones of a single vehicle weighing no more than two and one-half (2.5) tons gross vehicle weight which, although used primarily for business, trade, or professional purposes, also provides daily transportation to and from work.

Structure--Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include: buildings, walls, fences, billboards, and poster panels. The term "structure", for the purpose of this Code, does not include a mobile home.

Street -- A public street or a street with respect to which an offer of dedication has been made.

Street, Arterial -- A major street in the Town's street system that serves as an avenue for the circulation of traffic onto, out, or around the county and carries high volumes of traffic.

Street, Collector -- A street whose principal function is to carry traffic between minor, local, and sub-collector streets and arterial streets but that may also provide direct access to abutting properties. It serves or is designed to serve, directly or indirectly, more than 100 dwelling units and is designed to be used or is used to carry more than 800 trips per day.

Street, Cul-de-sac -- A street that terminates in a vehicular turn around.

Street, Local -- A street whose sole function is to provide access to abutting properties. It serves or is designed to serve at least 10 but not more than 25 dwelling units and is expected to or does handle between 75 and 250 trips per day.

Street, Marginal Access (Service Road) -- A service road or street that is parallel to and adjacent to an arterial street and that is designed to provide access to abutting properties so that these properties are somewhat sheltered from the effects of the through traffic on the arterial street and so that the flow of traffic on the arterial street is not impeded by direct driveway access from a large number of abutting properties.

Street, Minor -- A street whose sole function is to provide access to abutting properties. It serves or is designed to serve not more than nine dwelling units and is expected to or does handle up to 75 trips per day.

Street, Sub-collector -- A street whose principal function is to provide access to abutting properties but is also designed to be used or is used to connect minor and local streets with collector or arterial streets. Including residences indirectly served through connecting streets, it serves or is designed to serve at least 26 but not more than 100 dwelling units and is expected to or does handle between 250 and 800 trips per day.

Structure -- A construction extending above grade with a fixed location on the ground, or attached to something having a fixed location on the ground, including but not limited to buildings, walls, carports, fences, towers, tanks, and billboards. A manufactured home, even though it may be moved from time to time, is considered to be a structure.

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

Subdivision, Major -- Any subdivision other than a minor subdivision.

Subdivision, Minor -- A subdivision that does not involve any of the following: (1) the creation of more than a total of three lots; (2) the creation of any new public streets, (3) the extension of a public water or sewer systems, or (4) the installation of drainage improvements through one or more lots to serve one or more other lots.

Television or satellite dish -- A device or equipment used for the receiving of television or radio programming which is a subordinate use or structure customarily incidental to and located upon the same lot as the main structure, in either a side or rear yard.

Temporary Emergency, Construction or Repair Residence -- A residence (which may be a mobile home) that is (1) located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied for a period not exceeding six (6) months by the persons displaced by such disaster, or located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such construction site.

Tourist Home -- A dwelling where only lodging is provided for compensation for up to fourteen persons (in contradistinction to hotels and boarding houses) and open to transients.

Tower -- Any structure whose principal function is to support an antenna.

Townhouse -- One of a group of attached, single-family dwellings which are designed as single structures, with each dwelling unit separated by firewalls, fire separations, or similar party wall. No more than six (6) dwelling units shall be attached.

Tract -- A lot (see definition). The term tract is used interchangeably with the term lot, particularly in the context of subdivisions, where one "tract" is subdivided into several "lots".

Traditional Neighborhood -- A neighborhood with a customary pattern or style, manifested by the grid or modified grid system of streets and alleys, sidewalks, dwellings placed on a build-to line, front porches, shade trees, and typically with parking garages accessible from an alley.

Trailer--Any vehicle or portable structure designed for temporary occupancy; or which contains holding tanks for waste disposal, or can operate independently of sewer, water and electrical systems; including travel trailers, pick-up campers, bus campers, tent campers, tents or other temporary vehicles, which require installation to utility systems.

Trailer Parks--Any site designed to accommodate trailers.

Travel Trailer -- A structure that (1) is intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle) and (2) is designed for temporary use as sleeping quarters but that does not satisfy one or more of the definitional criteria of a mobile home.

Tributary Streams -- Perennial and intermittent streams in the Critical Area that are so noted on the most recent U.S. Geological Survey 7.5' topographic quadrangle maps (scale 1:24,000) or on more detailed maps or studies at the discretion of the jurisdictions.

Unit--A dwelling space designed for and occupied by a single family, consisting of one or more individuals permanently living together and using certain rooms and housekeeping facilities in common. Example: An apartment building may contain a number of dwelling units.

Use -- The activity or function that actually takes place or is intended to take place on a lot.

Use, permitted -- A use which may be lawfully established in a particular district or districts provided it conforms with all regulations, requirements, and standards of such district.

Use, Principal -- A use listed in the Table of Permissible Uses.

Utility Facilities -- Any above-ground structures or facilities (other than buildings, unless such buildings are used as storage incidental to the operation of such structures or facilities) owned by a governmental entity, a nonprofit organization, a corporation, or any entity defined as a public utility for any purpose by Maryland law and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas oil, or electronic signals.

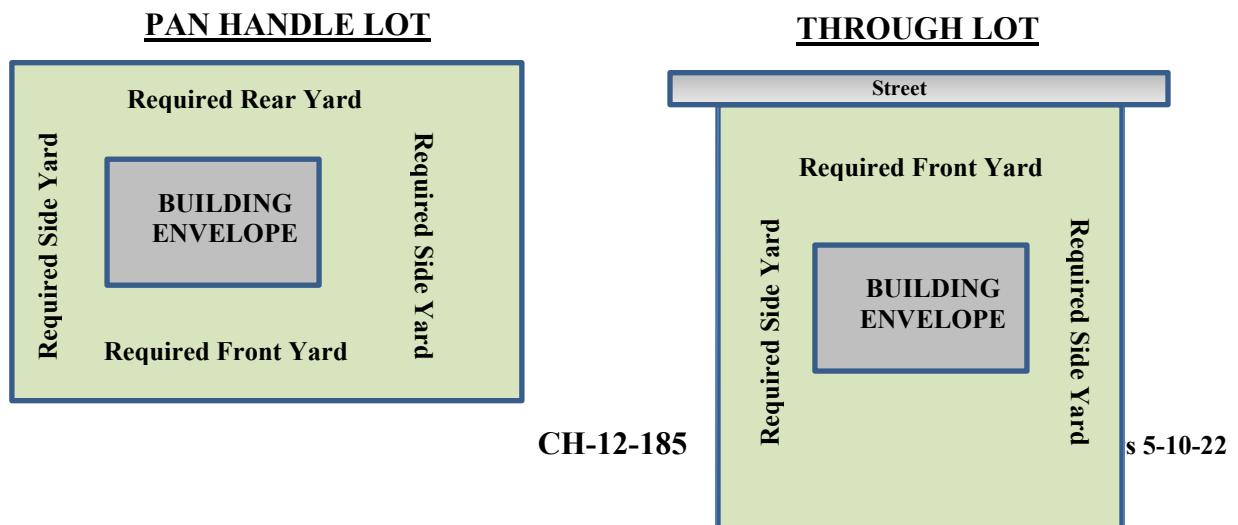
Variance--A variance is a relaxation of the terms of the Zoning Code where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the Code would result in unnecessary and undue hardship. As used in this Code a variance is authorized only for height, area, and size of structure, of size of yards and open spaces; establishment of expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zone or adjoining zones.

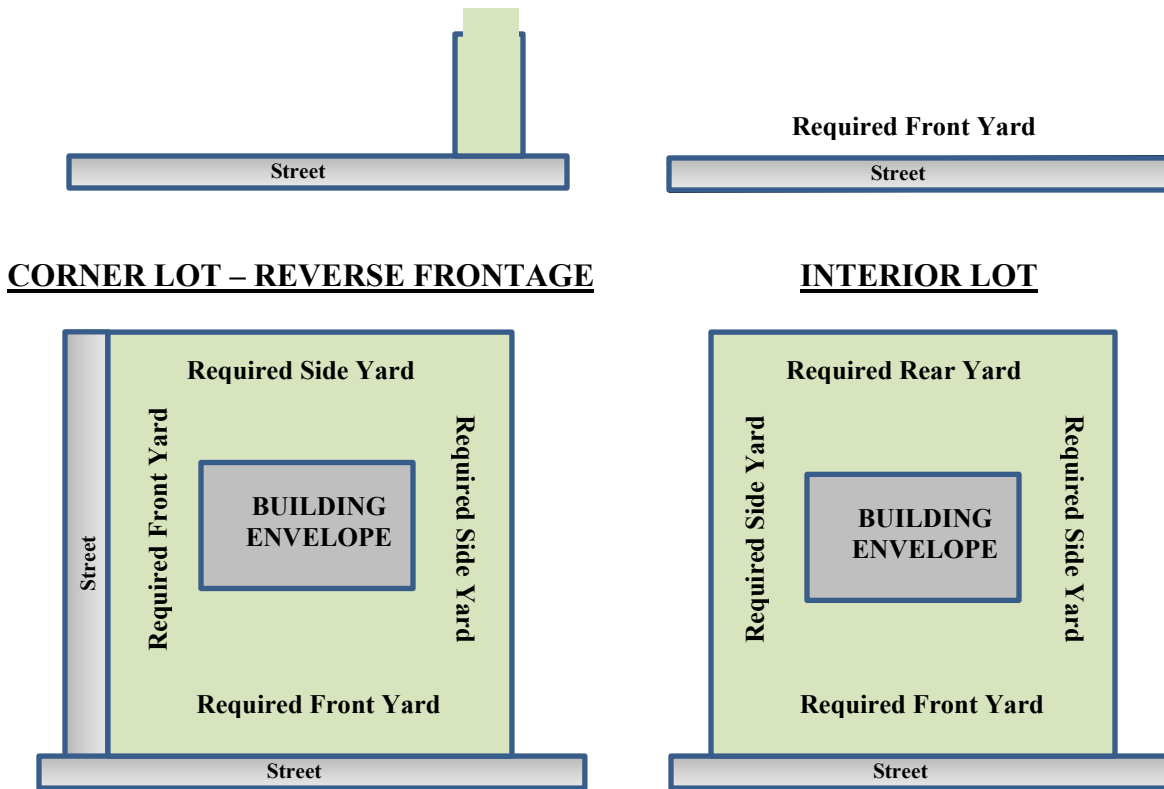
Vehicle Accommodation Area -- That portion of a lot that is used by vehicles for access, circulation, parking, and loading and unloading. It comprises the total of circulation areas, loading and unloading areas, and parking areas.

Wayside Stand, Roadside Stand, Wayside Market -- Any structure designed and used for the sale of agricultural or horticultural produce, livestock, or merchandise produced by the owner or his or her family on their farm.

Wholesale Sales -- On-premises sales of goods primarily to customers engaged in the business of reselling the goods.

Yard -- A required open space of a lot outside the building envelope unoccupied and unobstructed by any structure from 30 inches above the general ground level of the graded lot upward, provided, however, that fences and walls may be permitted in yard subject to height limitations indicated herein. A "yard" extends along a lot line and to a minimum depth or minimum width specified in the yard requirements for the zoning district in which such zoning lot is located. See Figure 1.





(Figure 1)

Yard, front -- A yard extending along the full length of the front lot line of the zoning lot. In the case of a corner lot, both yards extending along the public streets shall be considered front yards. In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height of 30 inches, and no hedge or other vegetation will be permitted which materially impedes vision across such yard between the height of 36 inches and ten (10) feet.

In the case of through lots, unless the prevailing front yard pattern on adjoining lots, indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the zoning administrator may waive the requirement for the normal front yard and substitute therefore a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for the front yard in the zone shall be provided on the other frontage.

In the case of corner lots with more than two frontages, the zoning inspector shall determine the front yard requirements, subject to the following limitations:

- (1) at least one front yard shall be provided having the full depth required generally in the zone;

(2) no other front yard in such lot shall have less than half the full depth required generally.

Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost points of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear yard lines shall be parallel to each other whenever possible.

Yard, rear -- A yard extending along the full length of the rear lot line between the side lot lines and between the rear set back line and the rear lot line of the zoning lot. In the case of corner lots with normal frontage, the rear yard shall extend from the inner side yard line of the side yard adjacent to the interior lot, to the rear line of the half-depth front yard.

Yard, side -- A yard extending along a side lot line measured from the front yard to the rear yard. Side yard set back regulations may also apply to structures located within the front or rear yards.

In the case of through lots, side yards shall extend from the rear lines of the front yards required. In the case of corner lots with normal frontage, there will be only one side yard, adjacent to the interior lot.

In the case of corner lots with reverse frontage, the yards remaining after the full and half-depth front yards have been established shall be considered to be the side yards.

Width of required side yards shall be measured at right angles to a straight line adjoining the ends of front and rear lot lines on the same side of the lot. The inner side yard line of a required side yard shall be parallel to the straight line so established.

Yard, interior side -- A side yard which is located immediately adjacent to another zoning lot or to an alley separating such yard from another zoning lot.

Yard, transitional -- That yard which must be provided on a zoning lot in a business-commercial district which adjoins a zoning lot in a residential district.

APPENDIX A BASIC INFORMATION REQUIRED WITH ZONING AND BUILDING PERMIT APPLICATIONS

NOTE: All plats and plans must be clear and legible. Incomplete plats will be returned to the applicant for completion and re-submission.

DEVELOPMENT STAGE						
Item#	DESCRIPTION	Sketch/ Concept Plan	Minor Site Plan	General Developer Master Plan	Major Site Plan	
					Prelim.	Final
I. PROJECT-PLAT INFORMATION						
1.	Name, address of owner, applicant, developer and lienholder, date of application.	X	X	X	X	X
2.	Name and address of engineer, land surveyor architect, planner, and/or landscape architect, as applicable, involved in document preparation.	X	X	X	X	X
3.	Date of survey.		X		X	X
4.	Seal, signature and license number of engineer, land surveyor, architect, and/or landscape architect, as applicable involved in document preparation. Each sheet must have a surveyor's seal.		X		X	X
5.	Title block denoting name and type of application, tax map sheet, block and lots, parcel, and street location.	X	X	X	X	X
6.	A vicinity map at a specified scale (no smaller than 1"=200') showing location of the tract with reference to surrounding properties, streets, landmarks, streams, etc. Show all of the property owned according to the Tax Map(s) if only part of the property is to be developed.	X	X	X	X	X
7.	Existing and proposed zoning of tract and adjacent property.	X	X	X	X	X
8.	Adjacent property owners, names, Liber and Folio.	X	X	X	X	X
9.	Title, north arrow and scale (1"=100').		X		X	X
10.	Appropriate signature block for planning director, planning commission chairman, and the health department.		X		X	X
11.	Appropriate certification blocks.		X			X
12.	Certification and dedication by the owner or owners to the effect that the subdivision as shown on the final plat is made with his or her consent and that it is desired to record same.		X			X
13.	Monumentation, location and description.		X			X
14.	Standardized sheets 18"x24" (final - black ink on mylar).		X		X	X

Notes:

X = item required at indicated development stage

Item#	DESCRIPTION	Sketch/ Concept Plan	Minor Site Plan	General Developer Master Plan	Major Site Plan	
					Prelim.	Final
I. PROJECT-PLAT INFORMATION						
15.	Metes and bounds survey showing dimensions, bearings, curve, data, length of tangents, radii, arc, chords, and central angles for all centerlines and rights-of-way, and centerline curves on streets, datum and benchmark, primary central points approved by the Town Engineer. (Boundary of proposed subdivision can be a deed plot).		X		X	X
16.	Acreage of tract to the nearest thousandth of an acre.	X	X	X	X	X
17.	Date of original and all revisions.	X	X	X	X	X
18.	Size and location of any existing or proposed structures with all setbacks dimensioned (for concept plan, GDP general location but not setbacks). Include storm drains, culverts, retaining walls, fences, storm water management facilities, sediment and erosion structures.	X	X	X	X	X
19.	Number of dwelling units.	X	X	X	X	X
20.	Location, dimensions, bearings, names of any existing or proposed roads or streets. The location of pedestrian ways, driveways. Right of way widths. (for GDP, concept plans, general locations).	X	X	X	X	X
21.	All proposed lot lines (width and depth) and area of lots in square feet, number of lots, lot numbers.		X		X	X
22.	Location and type of utilities.		X		X	
23.	Copy and/or delineation of any existing or proposed deed restrictions or covenants.		X		X	
24.	References to protective covenants governing the maintenance of undedicated public spaces or reservations.		X			X
25.	Location and size of proposed Natural Park areas, play grounds and other public areas.	X		X	X	X
26.	Any existing or proposed easement (drainage and utility) or land reserved for or dedicated to public use*. Location, dimensions of proposed reservations, right of ways, open space, buffers, forested areas along with means by which these areas will be permanently maintained.	X	X	X	X	X
27.	Statement of owner dedicating streets, right-of-way, and any sites for public use.		X			X
28.	Development stages or phasing plans (for GDP and concept plans, general phasing). Sections numbered by phase.	X		X		
29.	Total number of off-street parking spaces including ratio and number of units per space.	X	X	X	X	
30.	List of required regulatory approvals/permits.	X	X	X	X	X

Notes:

X = item required at indicated development stage

Item#	DESCRIPTION	Sketch/ Concept Plan	Minor Site Plan	General Developer Master Plan	Major Site Plan	
					Prelim.	Final
I. PROJECT-PLAT INFORMATION						
31.	List of variances required or requested.	X	X	X	X	X
32.	Requested or obtained design waivers or exceptions.	X	X	X	X	X
33.	Payment of application fees.	X	X	X	X	X
34.	Total area of the site that will be temporarily and/or permanently disturbed.		X		X	
II. SETTING-ENVIRONMENTAL INFORMATION						
35.	All existing streets, water courses, flood plains wetlands, or other environmentally sensitive areas on or adjacent to the site.	X	X	X	X	
36.	Existing rights-of-way and/or easements on or immediately adjacent to the tract.	X	X	X	X	X
37.	Topographical features of subject property from USGS map or more accurate source at 2'-5' intervals, 50' beyond the boundary, with source stated on maps.	X		X	X	
38.	Field delineated or survey topo.		X			X
39.	General areas of >15% slope shaded and identified as steep slopes.	X	X	X		
40.	Slope analysis of >15% slopes. These areas shall be shaded and identified as steep slopes.				X	X
41.	Forest Stand Delineation (See Zoning Code).		X		X	
42.	Existing system of drainage of subject site and adjacent sites and of any larger tract or basin of which it is a part.		X		X	X
43.	A 100 Year Flood Plain based on FEMA maps.	X	X	X	X	X
44.	Tidal and non-tidal wetland delineation based on NWI maps and field review.	X	X	X	X	
45.	Non-tidal wetlands identification based on field delineation/determination.					X
46.	Location of sensitive areas and their Buffers (Zoning Code).	X	X	X	X	X
47.	Location and width of Buffer yards.	X	X	X	X	X
48.	Soil types based on Cecil County Soil Survey.		X		X	
49.	Traffic Impact Study, as required.				X	
50.	Statement of effect on school district and school bus service, as required.				X	

Notes:

X = item required at indicated development stage

Item#	DESCRIPTION	Sketch/ Concept Plan	Minor Site Plan	General Developer Master Plan	Major Site Plan	
					Prelim.	Final
I. PROJECT-PLAT INFORMATION						
The following additional information items are required in the areas designated Critical Areas						
51.	Location of the Critical Area District boundary and Critical Area designation.	X	X	X	X	X
52.	Number of acres in the Critical Area.	X	X	X	X	
53.	Mean high waterline and landward edge of tidal wetlands.	X	X	X	X	
54.	Location of existing forested areas to be disturbed by construction. Planting plan approved by the Maryland Forest Service (final).	X	X	X	X	
55.	The known locations of HPA's, the habitat of any threatened or endangered species, and the habitat of any Species in Need of Conservation (see Port Deposit Critical Area Program). Habitat Protection Plan reviewed by the Maryland Fish, Heritage and Wildlife Administration.	X	X	X	X	X
56.	The location of the Critical Area Buffer and the expanded Buffer, as required.	X	X	X	X	X
57.	Hydric and highly erodible soils based on the Cecil County Soil Survey.	X	X	X	X	
58.	Natural Park management plan, if applicable.					X
59.	Shore erosion protection plan, if applicable.					X
60.	Environmental assessment.		X	X	X	
61.	Statement of consistency with the Critical Area Program.	X	X	X	X	
III. PLATS, IMPROVEMENT PLANS, AND CONSTRUCTION INFORMATION						
62.	Subdivision Plat meeting requirements of Port Deposit Subdivision Regulations.		X			X
63.	Grading and drainage plans including roads, drainage ditches, sediment basins, and berms.		X		X	X
64.	Existing and proposed contour intervals as follows:		X		X	X
	Less than 5% slope = 1 foot					
	5 to 15% slopes = 2 feet or less					
	>15% = as required for construction					
65.	Proposed street grades, typical cross sections and profiles, right-of-way widths, pedestrian ways, total area of roads.		X		X	X
66.	Existing and proposed utility infrastructure plans and profiles including sanitary sewer, water, storm drainage and storm water management, as appropriate in the case of minor subdivisions.		X		X	X

Notes:

X = item required at indicated development stage

Item#	DESCRIPTION	Sketch/ Concept Plan	Minor Site Plan	General Developer Master Plan	Major Site Plan	
					Prelim.	Final
I.	PROJECT-PLAT INFORMATION					
67.	Grades and sizes of sanitary sewers and waterlines.		X		X	X
68.	Direction and distance to water and sewer if not available on or adjacent to the site with invert and elevation of sewer.		X		X	
69.	Certification from electric and telephone utilities of adequate facilities to serve proposed development.		X		X	
70.	Location of fire hydrants.				X	X
71.	Construction details as required by Code.		X			X
72.	Storm water Management Plan.		X		X	X
73.	Soil Erosion and Sediment Control Plan.		X		X	X
74.	Lighting plan and details, as required.					X
75.	Landscape plan and details, including required Buffer yards.		X		X	X
76.	Forest Conservation Plan (see Section 311).				X	X
77.	Proposed street names.				X	X
78.	New block and lot numbers.				X	X
79.	Solid waste management plan.				X	X
80.	Preliminary architectural plan and elevations.				X	X
81.	Required County, State, and/or Federal or approvals, e.g., State Highway Administration, County Public Works, Army CORPS of Engineers, DNR Wetlands Permit/License, MDOE Quality Certification, MDOE sanitary construction permit, local Health Department approvals.		X			X
82.	Public works agreement and surety instruments.					X

Notes:

X = item required at indicated development stage

APPENDIX B GUIDE FOR LANDSCAPING

B-1: Guide for Protecting Existing Trees

Article 9 provides for the retention and protection of large trees when land is developed. To better ensure the survival of existing trees, the developer should heed the following guidelines (in addition to the mandatory requirements of Article 9):

- (1) Protect trees with fencing and armoring during the entire construction period. The fence should enclose an area 10 feet square with the tree at the center.
- (2) Avoid compaction of the soil around existing trees due to heavy equipment. Do not pile dirt or other materials beneath the crown of the tree.
- (3) Keep fires or other sources of extreme heat well clear of existing trees.
- (4) Repair damaged roots and branches immediately. Exposed roots should be covered with topsoil. Severed limbs and roots should be painted. Wherever roots are destroyed, a proportional amount of branches must be pruned so the tree doesn't transpire more water than it takes in. Injured trees must be thoroughly watered during the ensuing growing year.
- (5) Prune all existing trees that will be surrounded by paving to prevent dehydration.

B-2: Standards for Street and Parking Lot Trees

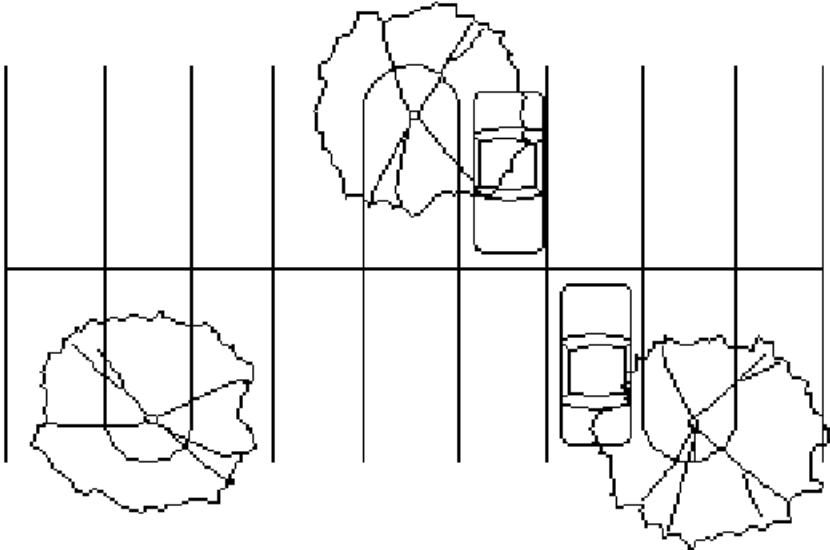
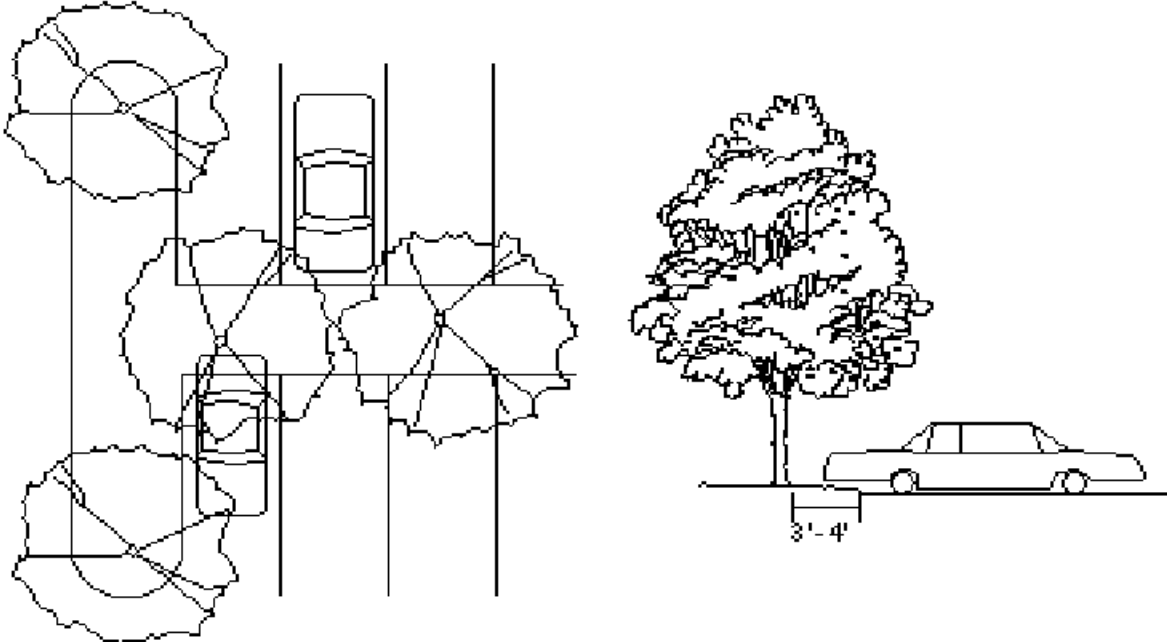
Native species are preferred for all planting situations. Trees planted in compliance with the requirements of Article 9 shall have most or all of the following qualities. The trees recommended in Section B-9 represent the best combinations of these characteristics.

- (1) Hardiness
 - (a) Resistance to extreme temperatures.
 - (b) Resistance to drought.
 - (c) Resistance to storm damage.
 - (d) Resistance to air pollution.
 - (e) Ability to survive physical damage from human activity.
- (2) Life Cycle
 - (a) Moderate to rapid rate of growth.
 - (b) Long life.
- (3) Foliage and Branching
 - (a) Tendency to branch high above the ground.
 - (b) Wide spreading habit.
 - (c) Relatively dense foliage for maximum shading.

(4) Maintenance

- (a) Resistance to pests.
- (b) Resistance to plant diseases.
- (c) Little or no pruning requirements.
- (d) No significant litter problems.

B-3: Typical Parking Lot Planting Islands



B-4: Guide for Planting Trees

The trees recommended in Section B-9 have minimal maintenance requirements. However, all trees must receive a certain degree of care, especially during and immediately after planting. To protect an investment in new trees, the developer should ensure that the following guidelines are followed when planting:

Selection. Select trees well adapted to the microclimates of individual planting sites. A poor tree match dooms the tree from the start no matter how much care is taken in planting.

Planting Times. The best times for planting are early spring and early fall. Trees planted in the summer run the risk of dehydration.

Drainage. Prior to planting, test soil drainage. If water does not drain out of a sample planting hole within a few hours, consider installing drainage in the bottom of the hole to drain away excess water. Also consider raising or berming the planting site, or adding several inches of good quality topsoil in the planting hole and the surrounding area, but do not simply amend the soil in the planting hole - water movement will be detrimentally altered. If none of the above is possible, select a more water tolerant tree species (red maple, sycamore, bald cypress, willow oak river birch, etc. - avoid trees like dogwoods that don't like "wet feet").

The Planting Hole. The planting hole that is dug should be wide and shallow. A flat, pancake-shaped hole that approximates the shallow, horizontal root growth that the tree will produce is recommended. In average soil, dig the hole only as deep as the root ball, and in heavy clay soil, to enhance drainage, dig the hole an inch or two shallow. Loose soil should not be put beneath the root ball in order to avoid having the tree end up planted too deep as the soil beneath it settles or compacts. The exposed top of the ball can be covered with mulch. Whenever possible, hole walls should gradually taper up to grade, rather than being straight, to more closely approximate where root growth will occur.

Soil Additives. Adding water-absorbing polymers (hydrogels, super slupers, etc.) to the backfill soil has not proven beneficial in the majority of the landscape research that has been conducted with regard to tree planting. The same is true to adding organic amendments (peatmoss, compost, etc.). In general the only substitute for backfilling with the existing soil, unamended, is backfilling with better quality topsoil.

Planting Near Sidewalks, Driveways, and Other Areas. Plant all trees at least 3 ½ feet from the end of head-in parking spaces to prevent damage from car overhangs. When planting near sidewalks, driveways and other areas where tree root surfacing can cause damage or be a maintenance problem, consider installing one of the physical root redirecting barriers being marketed, or try the herbicide treated landscape fabric now available for this purpose (Biobarrier). No long term research has yet been published on the use of these tree redirecting materials, so their long term effect on trees is not yet known.

Balled and Burlapped Trees. When planting balled and burlapped trees, closely inspect the material used to wrap the root ball. Many synthetic materials (nylons, etc.) are being used, as well as burlaps treated to retard their degradation. When in doubt as to whether or not these materials will degrade underground, do not leave them intact. Remove the pinning nails or lacing, and roll back the top several inches. Make vertical slits in several places around the ball. You do not want a wrapping material that won't degrade to restrict root growth.

Wire Baskets. Research has shown that the wire baskets used to protect root balls, whether galvanized or not, are degrading only very slowly underground due to low oxygen. No long term root girding or damage has been found, however, so it does not appear that the baskets need to be removed. If the top loops of the wire basket will be at ground level or slightly above, it will be advisable to remove this section to keep equipment from hanging up in the loops.

Ropes. Be sure to remove all ropes, whether jute or nylon, that have been tied around the trunk. Again, degradation is slow or nonexistent, resulting in trunks being girded.

Containers. Be sure to remove all plastic containers from the root balls of container-grown or containerized trees. If trees have been grown or potted into fiber pots, break away the top several inches of the fiber pot. Many fiber pots are being coated with extra materials to extend their shelf life, but this can slow degradation below ground and retard root extension.

Root Care in Container Plants. When a container is removed, if roots are found circling around the outside of the root ball, cut them in a few places to remove the possibility of the curling root eventually girding the trunk. Select trees grown in pots with vertical ribs rather than ones with straight walls or horizontal ribs as the vertical ribs help reduce root circling.

Fertilizer. Fertilizer can be added to the backfill if it is a slow release form - Osmocote, Woodace briquettes, tree spikes, etc. The caution in the past against adding fertilizers at planting time was a result of not having slow release fertilizers available - agronomic fertilizers that were and still can be used in landscaping have the potential to burn, and should not be added.

Watering. Good follow-up watering is important to help establish a tree's root system. Several water reservoir devices are available, but may be too expensive or cumbersome to justify using.

Mulching. Trees should be mulched, but not over mulched, when planted. Two or three inches of organic mulches, such as shredded or chunk pine bark, or inorganic mulches, such as volcanic rock, is adequate. Keep mulches from touching the trunks of trees. With organic mulches, excessive mulch piled against tree trunks can hold too much moisture against the bark and lead to disease problems. It also may become a habitat for rodents that will feed on the bark. With inorganic mulches, if the tree is in a windy location and the trunk moves considerably, the bark may become abraded by the inorganic mulch.

Landscape Fabrics for Weed Control. The use of black plastic beneath mulch around trees is not recommended because air and water exchange is blocked. For added weed control try one of the landscape fabrics that has proven more weed root penetration resistant (Dalen's Weed-X, DeWitt's Pro 5, Weed Barrier, etc.) but do not pile too much mulch (not over two inches) atop the fabric or weeds will simply grow in the mulch layer.

Tree Staking. Don't automatically stake all trees, especially small ones. If a tree is in a windy location, or has a crown, stake for a maximum of one year. Try to stake so that the tree has a slight amount of flex rather than being held rigidly in place. Use guying or attaching material that will not damage the bark. If the stakes are to be left in place longer than one year to serve as a barrier against equipment, be sure to remove the guying to prevent trunk girdling. A variety of protective devices are available for trunk protection if that is an important consideration.

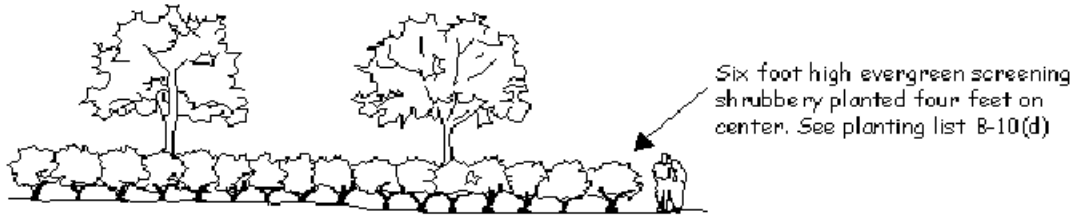
Tree Wraps. The use of tree wraps and other protection materials that are applied directly to the trunk is currently under investigation. If a material is applied (paper, fabric, burlap, strips, etc.), remove it after one year. If materials are wrapped onto the trunk, wrap from the base of the tree upward so that water is shed off the wrap, not funneled under it.

Tags and Labels. Remove tags and labels from the trees to prevent them from girdling the trunk.

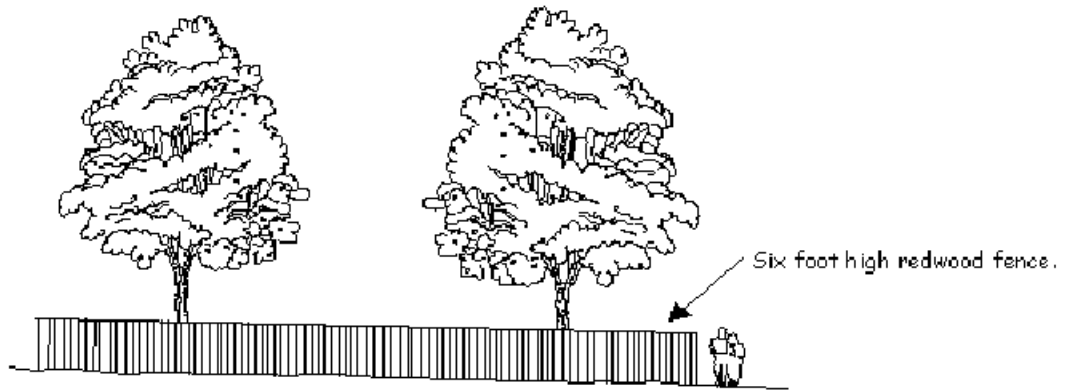
Post Planting Care. Conscientious post planting care, especially watering, structural pruning and fertilizing, is a must for street and parking lot trees.

B-5: Typical Opaque Screens

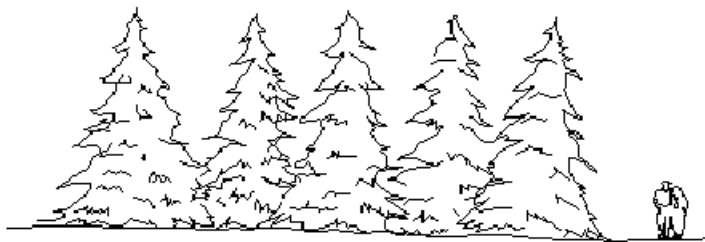
Small trees planted 30 feet on center. See planting list B-10 (a).



Large trees planted 40 feet on center. See planting list B-10 (c).

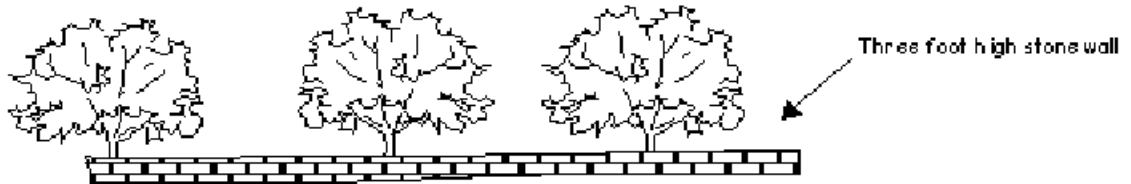


Tall evergreen trees, stagger planted, with branches touching the ground. See planting list B-19 (b).

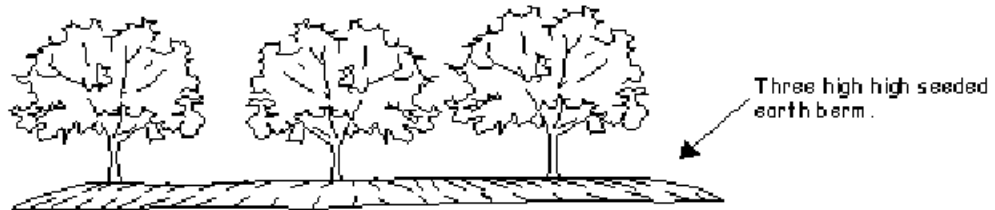


B-6: Typical Semi-Opaque Screens

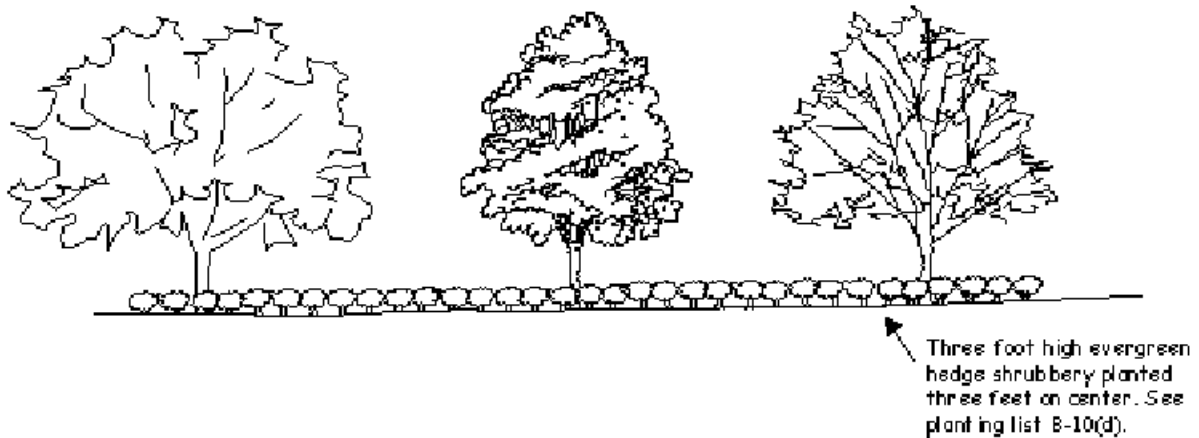
Small trees planted 30 feet on center. See planting list B-10(a).

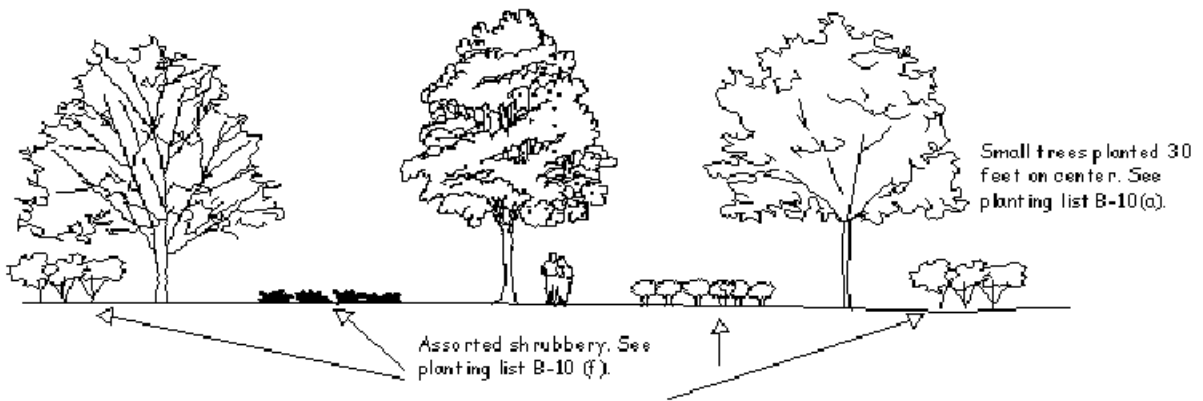
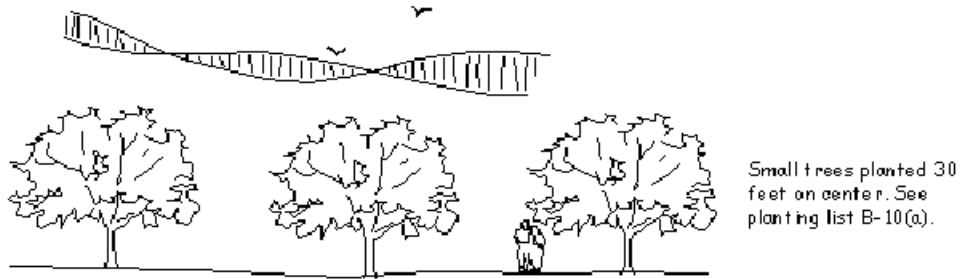


Small trees planted 20-30 feet on center on top of a berm. See planting list B-10(a).



Large trees planted 40 feet on center. See planting list B-10(c).





B-7: Typical Broken Screens

B-8: Guide for Planting Shrubs

Shrubs planted for screening purposes should be given a proper culture and sufficient room in which to grow. Many of the guidelines for tree planting listed in Section B-4 also apply to shrubs. However, because specific requirements vary considerably between shrub types, this appendix does not attempt to generalize the needs of all shrubs. For detailed planting information on individual species, refer to:

Manual of Woody Landscape Plants by Michael Dirr

B-9: Lists of Recommended Trees and Shrubs

The following lists indicate plantings which will meet the screening and shading requirements of Article 9 of the development ordinance. The lists are by no means comprehensive and are intended merely to suggest the types of flora which would be appropriate for screening and shading purposes. Plants were selected for inclusion on these lists according to four principal criteria; (i) general suitability for the climate and soil conditions of this area, (ii) ease of maintenance, (iii) tolerance of urban conditions, and (iv) availability from area nurseries. When selecting new plantings for a particular site, a developer should first consider the types of plants which are thriving on or near that site. However, if an introduced species has proven highly effective for screening or shading in this area, it too may be a proper selection.

Sections B-10 through B-15 contain descriptions of some of the trees and shrubs listed here.

(a) Small Trees for Partial Screening

- | | |
|-------------------------|-----------------------------|
| (1) River Birch | (8) American Holly |
| (2) American Hornbeam | (9) Golden Rain Tree |
| (3) Eastern Redbud | (10) Crape Myrtle |
| (4) Flowering Dogwood | (11) Sourwood |
| (5) Washington Hawthorn | (12) Caroline Cherry-Laurel |
| (6) Russian Olive | (13) Callery Pear |
| (7) Mountain Silverbell | |

(b) Large Trees for Evergreen Screening

- (1) Deodar Cedar
- (2) Southern Magnolia
- (3) Carolina Hemlock

(c) Large Trees for Shading

- | | |
|-----------------------|------------------------|
| (1) Norway Maple | (7) Sycamore |
| (2) Red Maple | (8) Eastern Red Oak |
| (3) Ginkgo | (9) Willow Oak |
| (4) Honeylocust | (10) Scarlet Oak |
| (5) Sweet Gum | (11) Laurel Oak |
| (6) London Plane-Tree | (12) Littleleaf Linden |

(d) Small Shrubs for Evergreen Screening

- | | |
|--------------------------|----------------------------|
| (1) Glossy Abelia | (6) Convexa Japanese Holly |
| (2) Warty Barberry | (7) India Hawthorn |
| (3) Wintergreen Barberry | (8) Azaleas/Rhododendrons |
| (4) Dwarf Horned Holly | (9) Japanese Yew |
| (5) Little Holly | |

(e) Large Shrubs for Evergreen Screening

- | | |
|-------------------------|--------------------------|
| (1) Hedge Bamboo | (6) Japanese Privet |
| (2) Thorny Elaengus | (7) Fortune Tea Olive |
| (3) Burford Holly | (8) Red Photinia |
| (4) Yaupon Holly | (9) Laurentinus Viburnum |
| (5) Laurel or Sweet Bay | |

(f) Assorted Shrubs for Broken Screens

- | | |
|------------------------|--------------------------|
| (1) Japanese Barberry | (7) Drooping Leucothoe |
| (2) Fringetree | (8) Winter Honeysuckle |
| (3) Border Forsythia | (9) Star Magnolia |
| (4) Vernal Witch Hazel | (10) Northern Bayberry |
| (5) Common Witch Hazel | (11) Judd Viburnum |
| (6) Pfitzer Juniper | (12) Doublefile Viburnum |

B-10: Small Trees for Partial Screening

The following trees are recommended for use in all types of screens. Though smaller than the trees listed in planting lists B-11 and B-12, each of these trees will reach a height of at least 20 feet.

- (1) River Birch (***Betula nigra***). Height 20-40 feet; Spread: 8-16 feet. The River Birch is a native tree which usually grows along stream banks. In landscape design, it is adaptable to either high or low locations, but still requires a lot of moisture. This tree has an interesting papery bark and a graceful branching habit. It has no special pest or maintenance problems.
- (2) American Hornbeam (***Carpinus carolinia***). Height 20-30 feet; Spread: 15-20 feet. This native tree has a natural yet refined appearance. It is slow growing, but at maturity it serves as an excellent small shade tree. Its fluted muscular trunk is an interesting feature. In the wild, the American Hornbeam is common in moist rich soil, yet, when used in landscape design, it is soil tolerant and does not require an unusual amount of water. It has no pests and no special maintenance problems.

B-11: Large Trees for Evergreen Screening

The following trees are ideal for screening large scale areas such as shopping centers and industrial sites. They are also effective in combination with other smaller screening plants. Both are moderate to fast growers. They are not considered to be shade trees.

- (1) Deodar Cedar (***Cedrus deodara***). Height: 40-150 feet; Spread: 30 feet +. The Deodar Cedar is a useful and attractive evergreen. It should be allowed plenty of room in order to assume its beautiful natural form. Its pendulous branches should be allowed to touch the ground. It prefers relatively dry soils, grows rapidly, and is easy to maintain. "True Cedars" such as the Deodar are not native to North America, but they have become quite popular in the South as a landscape tree.
- (2) Southern Magnolia (***Magnolia grandiflora***). Height: 40-60 feet; Spread: 25 feet +. Magnolias are striking trees which serve well as screens when their branches are allowed to grow to the ground. Generally, this tree does well in city conditions, but it should be planted in quite rich acidic soils and it requires a lot of moisture. Furthermore, magnolias require ample space for growth. If planted in full sunlight, they will grow rapidly. Because it drops large waxy leaves, seed pods, and flowers, the magnolia may present a litter problem.

B-12: Large Trees for Shading

The following trees may be used for screening, but they are recommended especially for shading streets and parking lots. Unless otherwise noted, they will grow rapidly. Each species will attain a mature spread of at least 30 feet.

- (1) Red Maple (***Acer rubrum***). Height: 40-50 feet; Spread 25 feet +. This tree is an example of a maple which is not recommended where there will be high concentrations of air pollution. However, with its excellent shading characteristics and beautiful colors, it should not be ignored. This tree grows rapidly, but, unlike the Norway Maple, it does not become brittle with age. The Red Maple is a native tree which is usually found in moist, even swampy areas, but it adapts well to a variety of situations. Although subject to maple insects and diseases, it is usually a long-lived tree.
- (2) Honeylocust (***Gleditsia triacanthos***). Height: 50-75 feet; Spread: 25 feet +. Its open, spreading form and feathery leaves may give the Honeylocust a frail appearance, but it is in fact a quite sturdy tree, notable for its resistance to storm damage. It is a native tree which is drought resistant and adaptable to city conditions. Grass and shrubs thrive beneath a Honeylocust because it casts light shade. This tree is especially useful for its ability to be transplanted at a relatively advanced age. Accordingly, it may be used for immediate effect in a landscape design. The Honeylocust has its pests and diseases, but it is fairly hardy. Thornless and fruitless varieties such as "Moraine" are recommended.

B-13: Small Shrubs for Evergreen Screening

The following shrubs are recommended for informal (unclipped) hedges or screens. Each species grows to a height of less than six feet; therefore, these shrubs are appropriate for semi-opaque screens.

- (1) Glossy Abelia (***Abelia grandiflora***). Height: 4-6 feet; Spread: 3-5 feet. Abelia is quite common in local nurseries and tends to be less expensive than other shrubs on this list. It bears pale pink flowers throughout the summer. Although it has proven quite popular for informal hedges, it has several drawbacks. Abelia should be pruned and thinned to maintain its best form. It may drop its leaves due to low temperatures, lack of pruning, or starvation.
- (2) Warty Barberry (***Berberis verruculosa***). Height: 3-4 feet; Spread: 3-4 feet. Barberrys as a group have proven to be excellent hedge plants. With their dense, spiny limbs, they are effective barriers in public places. The Warty Barberry is a shrub with a neat, compact habit. It is soil tolerant and has no special maintenance requirements. It grows slowly, but it will reach a height of three to four feet within five years.

B-14: Large Shrubs for Evergreen Screening

The following shrubs are recommended for high hedges or screens. Each species grows to a height of more than six feet; therefore, these shrubs are appropriate for opaque screens.

- (1) Hedge Bamboo (**Bambusa multiplex**). Height: 10-12 feet; Spread: 4-6 feet. Hedge Bamboo grows rapidly yet is more easily confined to a limited area than most types of bamboo. It is adaptable to a variety of situations, but requires plenty of water. For best effect as a screen, Hedge Bamboo should be stagger planted.
- (2) Thorny Elaengus (**Elaengus pungens**). Height: 8-10 feet; Spread: 6-10 feet. This shrub tolerates many adverse conditions. It will grow rapidly in relatively infertile, dry soils. It's dense thorny branches form an excellent natural hedge. It is one of the most common evergreen shrubs in the south.

B-15: Assorted Shrubs for Broken Screens

The following is a sampling of shrubbery that would be appropriate in a broken screen. Because many of these plants are deciduous, they are not suitable for opaque and semi-opaque screens. (Note: Many of the evergreen shrubs described in planting lists B-13 and B-14 are also suitable for broken screens).

- (1) Japanese Barberry (**Berberis thunbergii**). Height: 3-5 feet; Spread: 3-5 feet. This extremely common deciduous shrub is considered to be one of the toughest members of the Barberry family. It survives drought, poor soils, exposure, and the worst city conditions. With its many thorns, the Japanese Barberry is often used as an impenetrable barrier, but it is attractive enough to stand alone as a specimen plant. It requires no special maintenance and, when planted singly, needs no pruning.
- (2) Fringetree (**Chioanthus virginicus**). Height: 10-30 feet; Spread: 8-10 feet. The Fringetree is known for its profusion of beautiful flowers. It is considered to be one of the most striking native American shrubs. It is relatively difficult to transplant, but once established it does well in cities as it endures heavy smoke and dust. The mature Fringetree's only drawback is that its leaves appear rather late in spring.

APPENDIX C BUFFER YARD REQUIREMENTS

C-1: Buffer yard Specifications

The following illustrations graphically indicate the specifications of each buffer yard. Buffer yard requirements are stated in terms of the width of the buffer yard and the number of plant units required per one hundred (100) linear feet of buffer yard. The recommended buffer yard should be one of the options illustrated. The "plant unit multiplier" is a factor by which the basic number of plant materials required for a given buffer yard is determined given a change in the width of that yard. The type and quantity of plant materials required by each buffer yard, and each buffer yard option, are specified in this section.

Afforestation and reforestation plantings required under the Forest Conservation requirements contained in the Ordinance may occur in buffer yards provided such plantings meet the minimum requirements for afforestation or reforestation.

The options within any buffer yard are designed to be equivalent in terms of their effectiveness in eliminating the impact of adjoining uses. Cost equivalence between options was attempted where possible. Generally, the plant materials which are identified as acceptable are determined by the type(s) of soil present on the site. Each illustration depicts the total buffer yard located between two uses.

Whenever a wall, fence, or berm is required within a buffer yard, these are shown as "structure required" in the following illustrations, wherein their respective specifications are also shown. All required structures shall be the responsibility of the higher intensity use.

C-2: Plant Material

The following plant material substitutions shall satisfy the requirements of this section.

- (1) In buffer yards C and D evergreen canopy or evergreen understory trees may be substituted for deciduous canopy forest trees without limitation.
- (2) In buffer yards B evergreen canopy or evergreen understory trees may be substituted as follows:
 - (a) In the case of deciduous canopy forest trees, up to a maximum of fifty (50) percent of the total number of the deciduous canopy trees otherwise required.
 - (b) In the case of deciduous understory, without limitation.
- (3) In all buffer yards, evergreen or conifer shrubs may be substituted for deciduous shrubs without limitation.

- (4) In all buffer yards required of public service uses, the public service use may substitute evergreen canopy or evergreen understory plant materials for canopy forest trees and understory plant materials, without limitation.

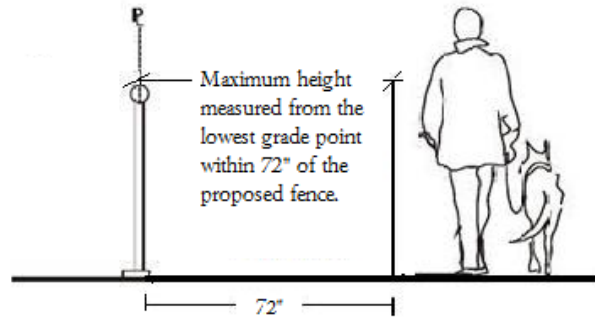
If the development on the adjoining use is existing, planned, or deed-restricted for solar access, understory trees may be substituted for canopy trees where canopy trees would destroy solar access. Any existing plant material which otherwise satisfies the requirements of this section may be counted toward satisfying all such requirements.

Although the exact placement of required plants and structures shall be the decision of each user except that the following requirements shall be satisfied:

- (1) Evergreen (or conifer) class III and IV plant materials shall be planted in clusters rather than singly in order to maximize their chances of survival.
- (2) Berms (C₁ and C₂,) required of buffer yard D options are intended to buffer more significant nuisances from adjacent uses and, additionally, to break up and absorb noise, which is achieved by the varied heights of plant materials between the masonry wall and the noise source.

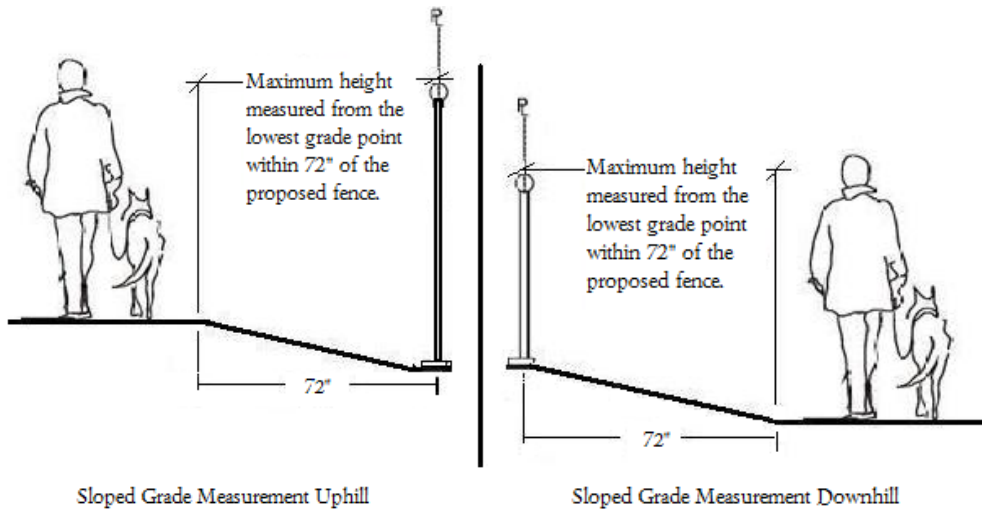
All buffer yard areas shall be seeded with lawn unless ground cover is already established.

APPENDIX D FENCE ZONES, HEIGHTS AND STANDARDS



Flat Grade Measurement

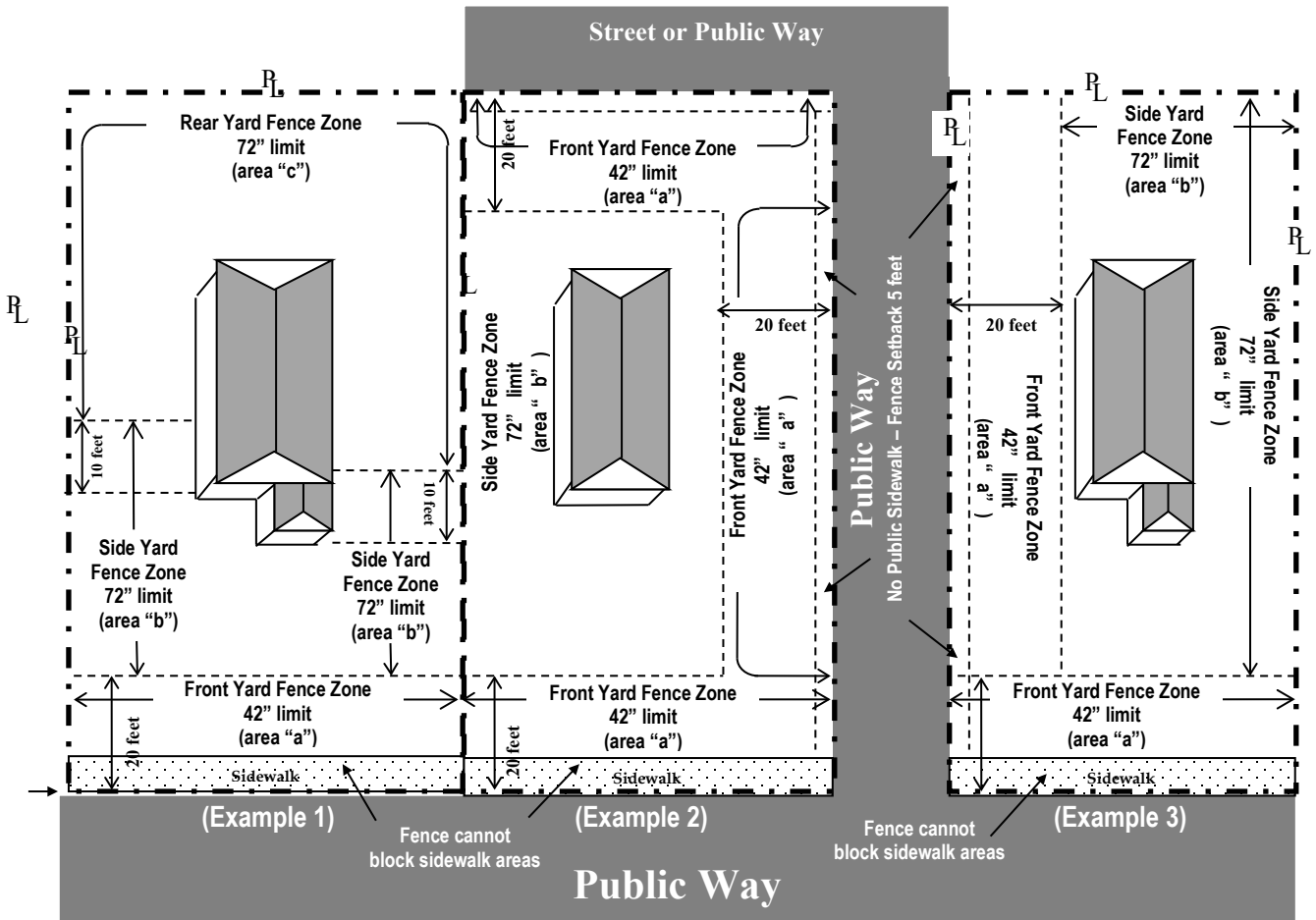
(Diagram 1)



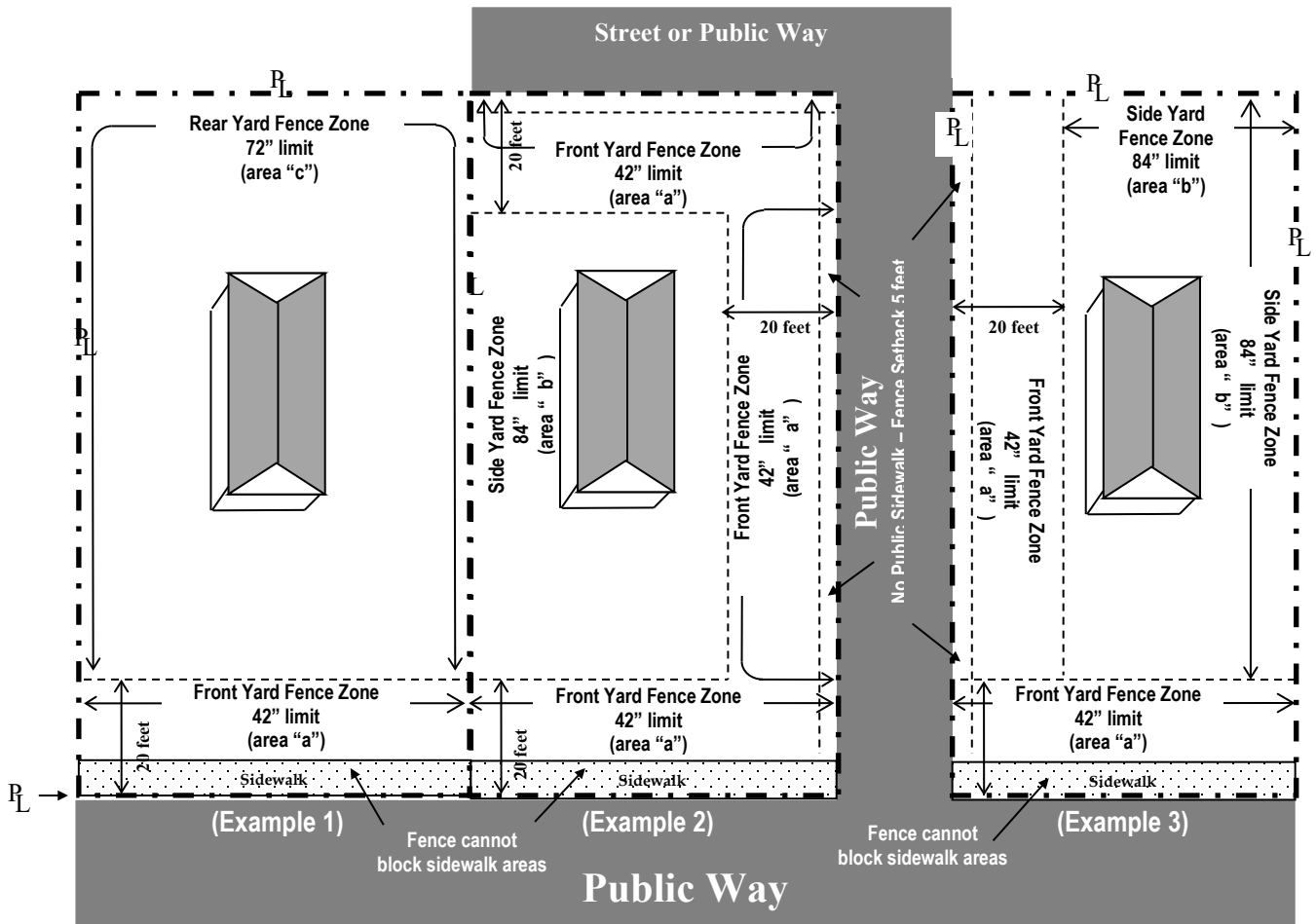
Sloped Grade Measurement Uphill

Sloped Grade Measurement Downhill

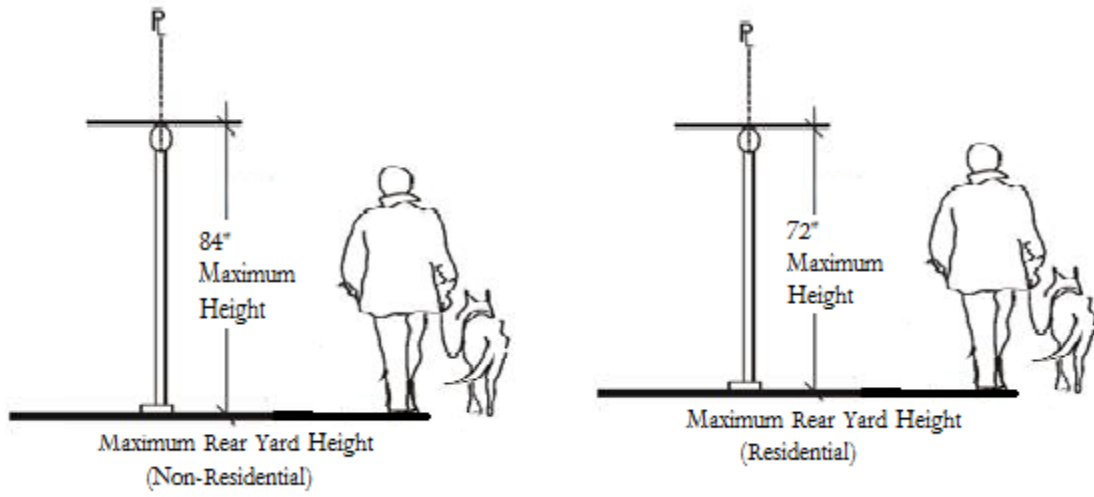
(Diagram 2)



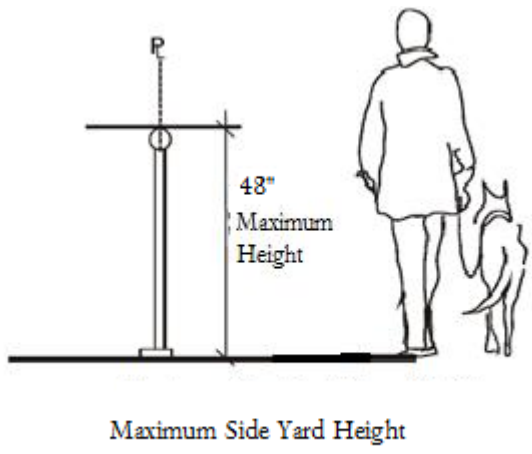
Residential Zoned Areas
(Diagram 3)



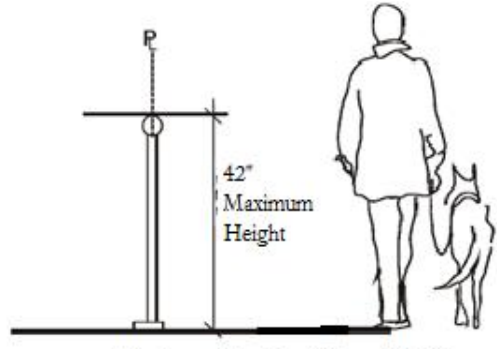
Non-Residential Zoned Areas
(Diagram 4)



(Diagram 5)

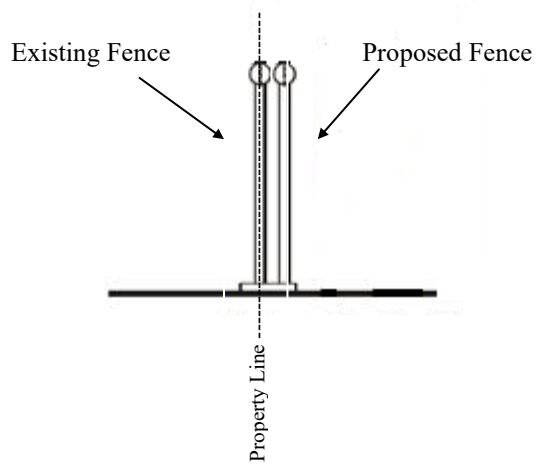


(Diagram 6)

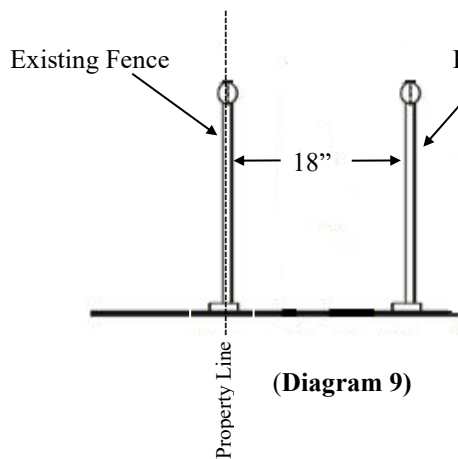


Maximum Front Yard Height

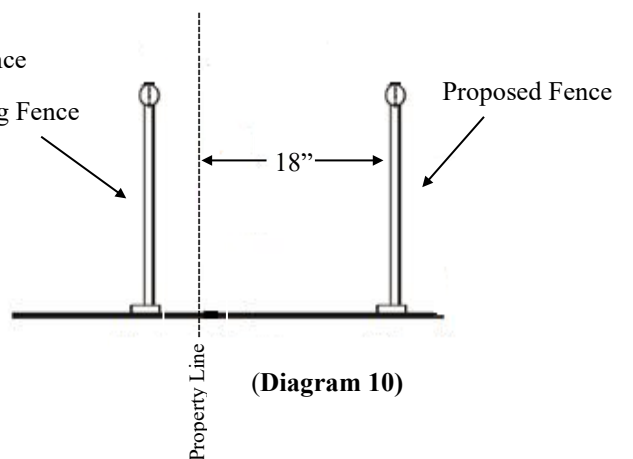
(Diagram 7)



(Diagram 8)



(Diagram 9)



(Diagram 10)

APPENDIX X: ZONING CODE CHANGES, TEXT AMENDMENTS, REZONING CLASSIFICATIONS AND MAPS

TABLE 1: TEXT AMENDMENTS

<u>DATE ADOPTED:</u>	<u>ORD NUMBER</u>	<u>SECTION(S) CHANGED</u>	<u>SUMMARY</u>
November 27, 2007	2007-02	624	Special Exception for private educational facility in the Light Industrial Zone
November 9, 2009	2009-05	600 note 8	Revise Fence Regulations
February 14, 2012	2012-01	1100	Revise membership to the Board of Appeals and Planning Commission. Move reference to Chapter 2 of the Town Code. 3 members to 5 on BZA -
February 14, 2012	2012-02	1110 note 5	Required Mailing and Notification of properties within 500 of a propose Variance or Special Exception
May 10, 2022	2022-01	12-100	Change the referenced title of the Zoning Code and reflect the change throughout the document

May 10, 2022	2022-01	12-500	Revise list of Town Zoning Districts – 14 districts total
May 10, 2022	2022-01	12-501 thru 510	Redefine existing zoning districts and establish new zoning districts in accordance with the Town’s 2018 Comprehensive Plan
May 10, 2022	2022-01	12-511-512	Renumber previous sections 511 & 512 and creating a new section 515 resulting in sections.
May 10, 2022	2022-01	12-513-518	Renumber previous sections 513 thru 518 to 516 to 521
May 10, 2022	2022-02	12-110	Revisions to the Official Zoning Map. (see Table 2 below)

TABLE 2: ZONING CLASSIFICATIONS AND ZONING MAP CHANGES

<u>DATE ADOPTED:</u>	<u>LOCATION</u>	<u>ZONING CHANGE</u>
July 27, 2004	Map 10F Parcels 14 & 807	Annexation (202 +/- Acres)
November 8, 2005	138 South Queen Street	R-2 to CC
December 13, 2005	Parcels 483, 499	LC to CC
	Parcels 727	LI to CC
February 14, 2006	Map 10 Parcels 283 and 756	Annexation (2.086 Acres)
March 14, 2006	2500 Conowingo Road	Annexation (42.2 acres)
November 28, 2006	351 Biggs Highway	Annexation (.228 acres)
May 10, 2022	2500 Conowingo Road	R-2 to LI
May 10, 2022	Red Pump Road Parcel 06	R-2 to EC
May 10, 2022	Even side of Mount St, 210 to 312	R-3 to R-2
May 10, 2022	415 Mount Street	R-1 to R-2
May 10, 2022	289 Pearl Street (fronting on Mount)	R-1 to R-2
May 10, 2022	31 Pearl Street	R-3 to R-2
May 10, 2022	325 West Main Street	CC & LI to LC
May 10, 2022	301, 305, 315, 321 West Main St & tax id 06-023835	LI to LC

May 10, 2022	4 Brown Town Lane	LI to LC
May 10, 2022	224 East Main Street	LC to CC
May 10, 2022	Tax ID 06-026176 East Main St	R-2 to LC
May 10, 2022	240 Colonial Way	CC & R-2 to CC