

Chapter 88

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[HISTORY: Adopted by the Burgess and Commissioners of the Town of Walkersville 4-26-72. Sections 88-2, 88-16B, 88-19A and 88-44 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

Building Construction; Electrical Standards - See Ch. 15.
Floodplain Management - See Ch. 28
Grading, Erosion and Sediment Control - See Ch. 73.
Planning Commission - See Ch. 51.
Stormwater Management - See Ch. 72
Subdivision of land - See Ch. 71

ARTICLE I General Provisions

§ 88-1. Purpose; interpretation.

A. The purposes of this chapter are as follows:

- (1) To classify, regulate and limit the height, area, bulk and use of buildings.
- (2) To regulate and determine the area of front, side and rear yards and other open space around buildings.
- (3) To regulate and determine the use and intensity of use of land and lot areas.
- (4) To classify, regulate and restrict the location of trades, callings, industries, commercial enterprises and the location of buildings designed for specified uses.
- (5) To divide the entire town into districts of such number, shape, area and of such different classes as are deemed best suited to carry out these purposes.
- (6) To fix standards to which buildings or structures therein shall conform.
- (7) To prohibit uses, buildings or structures incompatible with the character of such districts.
- (8) To prevent additions to and the alteration or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations herein lawfully imposed.
- (9) To provide for a Board of Appeals and prescribe its powers and duties.

B. In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare.

- C. The provisions of this chapter shall be interpreted, administered, and applied in a manner that is consistent with Chapter 90 of the Town Code which is supplementary to the provisions of this Chapter 88. [Added 2-27-02 by Ord. 2001-11]

§ 88-2. Word usage and definitions.

For the purposes of this chapter, certain terms or words used herein shall be interpreted as follows:

- A. Word usage. Words used in the present tense include the future. All words in the singular include the plural, and all words in the plural include the singular. The word "shall" is mandatory and not directory. The word "used" shall be deemed to include "designed, intended or arranged to be used."

- B. Definitions.

AGRIBUSINESS - Business embracing the processing and distribution of farm products and the manufacture of farm equipment and supplies. Activities which support agricultural operations which are or require some agricultural industry type support. Some examples of these activities include processing operations such as dairy processing operations, vegetable canning operations, feed and grain mills, and animal auction sales. Such activities are considered to be business and industrial in nature and are not to be considered as agriculture or agricultural activities.

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

ALLEY - A public right-of-way which affords only a secondary means of access to abutting properties.
[Amended 5-13-98 by Ordinance 98-11]

AMEND or AMENDMENT - Any repeal, modification or addition of 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.

ANIMAL BOARDING PLACE - Any building or buildings used, designed or arranged for the boarding, breeding or care of dogs, cats, pets, fowl or other domestic animals raised for agricultural purposes.

ANTIQUE SHOP - Any structure used primarily for the sale of antiques or collectibles. [Added 2/9/83]

APARTMENT - One (1) of a series of two (2) or more attached dwelling units separated from one another by continuous horizontal floors and/or vertical party walls, but not exceeding three (3) stories. [Added 1/12/83]

AUTOMOBILE GARAGE, PRIVATE - An accessory building or portion of a main building designed, arranged or used for the housing of private motor vehicles, only one (1) of which may be a commercial vehicle.

AUTOMOBILE PARKING LOT, COMMERCIAL - A lot or portion thereof, other than an automobile sales lot, held out or used for the storage or parking of six (6) or more motor vehicles for a consideration and where service or repair facilities are not permitted. Such parking lot shall not be considered an accessory use nor shall it be used for the storage of dismantled or wrecked motor vehicles, parts thereof or junk.

AUTOMOBILE PARKING SPACE - A permanently surfaced area, either within a structure or in the open, of not less than one hundred eighty (180) square feet, exclusive of driveways or access drives, for the parking of a motor vehicle.

AUTOMOBILE REPAIR STATION - A building or lot, or both, in or upon which the business of general motor vehicle repair and service is conducted, but excluding junk and/or auto wrecking business.

AUTOMOBILE SALES LOT - A lot arranged, designed or used for the storage and display for sale of any motor vehicle or any type of trailer, provided that the trailer is unoccupied, and where no repair work is done except minor incidental repair of automobiles or trailers displayed and sold on the premises.

AUTOMOBILE SERVICE STATION - Any area of land, including buildings and other structures thereon that are used to dispense motor vehicle fuels, oils and accessories at retail, where repair service is incidental and no storage or parking space is offered for rent.

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 - A dwelling occupied by a family and used incidentally to provide accommodation and meals for compensation to no more than eight (8) transient travelers and includes a tourist home but does not include a boarding house, rooming house, group home, hotel or motel. [Added 2-28-01 by Ordinance 2000-9]

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.

BLOCK - That property abutting one (1) side of a street and lying between the two (2) nearest intersecting or intercepting streets or the nearest intersecting or intercepting street and a railroad right-of-way, unsubdivided acreage, river or live stream, or between any of the foregoing divided acreage, river or live stream, or between any of the foregoing and any other barrier to the continuity of development.

BOARD - The Walkersville Board of Appeals.

BOARDINGHOUSE - A dwelling in which lodging or meals, or both, are furnished for compensation to not more than five (5) guests. A "boardinghouse" shall not be deemed a home occupation.

BUILDING - A type of structure having one (1) or more stories and a roof, designed primarily for the permanent shelter, support or enclosure of persons, animals or property of any kind.

BUILDING, ACCESSORY - A type of structure subordinate to and located on the same lot, parcel or tract of land as the principal building, which building and the use of which building is customarily incidental and subordinate to the principal building and/or the principal use of the principal building or to the principal use of the lot, tract or parcel of land on which it is located and which is not attached to the principal building by any part of a common wall, common roof or enclosed walkway.

BUILDING, HEIGHT OF - The vertical distance measured from the level of approved street grade opposite the middle of the front of the building to the highest point of the coping of a flat roof, to the decline of a mansard roof and to the mean height level between the eaves and ridge of a gable, hip or gambrel roof.

BUILDING, MOVEABLE ACCESSORY - A building subordinate to and located on the same lot with the main building, the use of which is clearly incidental to that of the main building or to the use of the land and which is not attached by any part of a common wall or common roof to the main building. In addition, the following conditions must be met:

- a) the building has no permanent foundation and is constructed on skids so as to be moveable;
- b) the building has a maximum height at the highest point of ten (10) feet;

- c) the building shall have no side which exceeds fifteen (15) feet in length;
- d) the total square footage of the building must be one hundred fifty (150) square feet or less. [Added 8-12-92]

BUILDING, PRINCIPAL – A type of structure (or structures) that occupies the majority and central portion of the buildable area of a lot, parcel or tract of land, that is the main, primary and dominant building(s) on such lot, parcel or tract of land, or constitutes by reason of its use, the main, primary and dominant purpose for which the lot, parcel or tract of land is used.

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

CARPORT - A roofed, unenclosed appendage to a building designed to cover a parked car(s). [Added 12-9-87]

CELLAR - That portion of a building below the first floor joists with over half of its clear ceiling height below the mean level of the adjacent ground. Such portion of a building shall not be used for habitation.

CEMETERY - A place used for the permanent interment of dead human bodies or the cremated remains thereof. It may be either a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments or a combination of one (1) or more thereof.

CHILD-CARE HOME OR DAY-CARE CENTER - A day nursery, child boarding home, day camp, summer camp, foster home or other place for the reception, board or care of a child or children under sixteen (16) years of age for compensation.

COLLECTOR ROADS - As described in the current Walkersville Comprehensive Plan. Examples include: Glade Road, Glade Boulevard, Daysville Road and Stauffer Road. [Added 1-12-83]

COMBUSTIBLE LIQUIDS (CLASS II AND III) – Defined as liquids having closed cup flash points at or above 100°F (37°C). Diesel fuel and kerosene are combustible liquids.

COMMISSION - The Walkersville Planning and Zoning Commission.¹

¹ Editor's Note: See Ch. 51, Planning Commission.

COMMISSIONERS - The Town Commissioners of Walkersville.

DECK - A floor-like surface or open platform usually elevated above the ground to align with the living area. Stairs and walkways may be part of a deck system. "Decks" are constructed of pressure-treated lumber and are intended for use as recreational areas in season and are not intended to be expanded into living areas in the future. A "deck" may be unenclosed or enclosed with screen and a roof. [Added 12-9-87]

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

DWELLING - A building or portion thereof arranged or designed to provide living facilities for one (1) or more families, but not including a tent, cabin, mobile home, bus or a room in a motel or hotel.

DWELLING, ATTACHED - A building, to a height of three (3) stories, arranged or designed to provide living facilities for more than one (1) family. Individual units will be separated by a common wall.

DWELLING, DETACHED - A building designed to provide living facilities for one (1) family, entirely separated from any other building or structure by space on all sides.

DWELLING, DUPLEX - Two (2) dwelling units arranged or designed to be located on abutting and separate lots of record, separated from each other by a continuous vertical common wall along the dividing lot line (without openings between the units) from the lowest floor level to the highest point of the roof. Such dwelling is separated from any other structure on all sides by yards or other green areas. [Added 8-12-92]

DWELLING, MULTIPLE-FAMILY - A building containing three (3) or more dwelling units (townhouses, apartments or garden apartments).

DWELLING, MULTIPLE-GROUP - A group of two (2) or more multiple-family dwellings, or any combination of same, occupying a parcel of land in one (1) ownership and having any yard, compound or service area in common.

DWELLING, ONE (SINGLE)-FAMILY - A building containing not more than one (1) dwelling unit.

DWELLING, PATIO - A form of residential development in which the dwelling and the remaining area of the lot are planned and constructed as a unit. All or most of the lot is enclosed with a wall sufficiently high enough to ensure privacy, converting yard areas into outdoor rooms. An off-street parking area, open or enclosed, is located in what is normally the front yard. The dwelling may be a one-family detached, semidetached or attached dwelling.

DWELLING, TWO-FAMILY - A building containing not more than two (2) dwelling units, arranged one above the other or side by side.

DWELLING UNIT - A building or portion thereof arranged or designed for occupancy by not more than one (1) family for living purposes and having cooking facilities.

EDUCATIONAL INSTITUTION, PRIVATE - Any private school or educational or training institution, however designated, which offers a program of college, professional, preparatory, high school, junior high school, elementary, kindergarten or nursery school instruction, or any combination thereof, or any other program of trade, technical or artistic instruction, but such term does not include any educational institution of the Carroll or Frederick County Board of Education. No "private educational institution" shall be deemed a home occupation.

ELEEMOSYNARY OR PHILANTHROPIC INSTITUTION - A private nonprofit organization which is 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 said organization or individual, and which either provides volunteer aid to the sick and wounded of armies in time of war and national relief in case of great national calamities or provides all or any of the following: religious, social, physical, recreational and benevolent services.

ESSENTIAL SERVICES - The erection, construction, alteration or maintenance, by public utilities or by municipal or other parties, of underground or overhead electrical, gas, communication, steam, water or sewer transmission, distribution, collection, supply or disposal lines, including poles, crossarms, guy wires, towers, repeaters, booster, switches, transformers, regulators, pumps, mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar accessories and equipment used in connection with and constituting integral parts of such lines and reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for protection of public health, safety or general welfare, but not including buildings, yards or stations used for storage, repair or processing of equipment or material and not for transforming, boosting, switching or pumping purposes when such facilities are constructed on the ground.

FAMILY - An individual or two (2) or more persons related by blood or marriage, or a group of not more than five (5) persons (excluding servants) not related by blood or marriage, living together as a single housekeeping group in a dwelling unit.

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

FLAMMABLE LIQUIDS (CLASS I) - Liquids having closed cup flash point below 100°F (37°C) and vapor pressures not exceeding 40 psi (276 kPa)(2.76 bar) at 100°F (37°C). Gasoline is a Class I flammable liquid.

FLOODPLAIN, ANNUAL - Those soil types defined as annual floodplain in the Natural Physical Characteristics Report, published by the Frederick County Planning Commission or the soil types designated by the United State Soil Conservation Service as areas of general wetland which provide natural water retention. [Added 6/25/80]

FLOODPLAIN, HUD/FIA - The floodplain as delineated in the Floodplain Insurance Study (FIS) prepared by the Department of Housing and Urban Development/Federal Insurance Administration (HUD/FIA) showing areas subject to inundation by waters of the one-hundred-year flood. [Added 6/25/80]

FLOOR AREA OF BUILDING, TOTAL - The total number of square feet of floor area in a building, excluding cellars, uncovered steps and uncovered porches, but including the total floor area of accessory buildings on the same lot. All horizontal measurements shall be made between interior faces of walls.

FRONTAGE - The length of the front property line of the lot, lots or tract of land abutting a public street, road or highway or rural right-of-way.

HOG FARM - Any land or building used for the purpose of keeping, feeding or raising twenty (20) or more swine.

HOG PEN - Any building, shed, barn, enclosure or portion thereof where one (1) or more swine are kept or fed.

HOME ASSOCIATION - An incorporated nonprofit organization operating under recorded land agreements through which each lot and/or homeowner in a planned unit or other described land area is automatically a member and each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property, and the charge, if unpaid, becomes a lien against the property. When required or used, the owner(s) or developer(s) must establish a Home Association in accordance with the requirements and procedures as outlined by the Federal Housing Administration in Sections 7 and 8.2 of the Land Planning Bulletin, No. 6, entitled "Planned Unit Development with a Home Association," dated Dec. 1963.

HOME OCCUPATION - An occupation conducted entirely within a dwelling by a member or members of the immediate family residing therein, provided that:

- A. In connection with such "home occupation" there is no display, except one (1) sign affixed to the building, said sign not exceeding a total area of two (2) square feet nor projecting more than one (1) foot beyond the building, and not illuminated, that will indicate from the exterior that the building is being utilized in whole or in part for purposes other than that of a dwelling.
- B. In connection with such "home occupation, there is kept no stock-in-trade or commodity sold upon the premises.
- C. In connection with such "home occupation" no person is engaged or employed other than a member of the immediate family residing on the premises.
- D. Living quarters occupy at least seventy-five percent (75%) of the entire dwelling. (Boarding and rooming houses, tourist homes and private educational institutions shall not be deemed "home occupations." Commercial repair or storage of automobiles, watercraft or other motor vehicles shall not be deemed permitted "home occupations.")
[Amended 6-25-80]
- E. Equipment used does not emit uncomfortable or harmful amounts of noise, vibration, heat, glare, smoke, odor or other obnoxious elements.
- F. There will be no outdoor storage of equipment, material, or stock. [Added 6-25-80]

HOSPITAL, SANITARIUM OR SANITORIUM - Any institution receiving inpatients and rendering medical, surgical and/or obstetrical care. This shall include general hospitals and institutions in which service is limited to special fields such as cardiac, eye, ear, nose and throat, pediatric, orthopedic, skin and cancer, mental, tuberculosis, chronic disease and obstetrics. The term "hospital" shall include "sanitariums" and "sanatoriums," including those wherein feeble-minded and mental patients, epileptics, alcoholics, senile psychotics or drug addicts are treated or cared for.

HOTEL - Any building containing ten (10) or more guest rooms where lodging or meals, or both, are provided, for compensation, for ten (10) or more guests, excluding a fraternity or sorority house, school or college dormitory, tourist home, motel or apartment hotel as defined herein.

INDEPENDENT SENIOR LIVING COMMUNITIES – One and two bedroom apartments in which at least one resident is 62 years or older and all residents are over the age of 55 reside in each unit. Tenant services and amenities will be provided to encourage physical and emotional health and wellness. [Added 5-25-05 by Ord. 2005-03]

INDUSTRIAL CAMPUS - An industrial building or complex or group of buildings occupied by a single business on a lot greater than 15 acres. [Added 5-13-98 by Ordinance 98-3]

INDUSTRIAL PARK - A tract of land, eminently suited for industrial use, subdivided and developed according to a comprehensive plan for occupancy by a group of industries and equipped with streets and necessary utilities. [Amended 5-13-98 by Ordinance 98-3]

INSTITUTIONAL USE – A nonprofit or quasi-public use, such as a religious institution, library, public or private school, hospital, or government-owned or government-operated structure or land used for public purpose. [Amended 08-22-07 by Ordinance 2007-12]

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

KINDERGARTEN - A school or division of a school operated privately for compensation for the preprimary year or years preceding the first grade [usually ages four (4) and five (5)].

LOT - A parcel of land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as may be required, and having frontage on a public right-of-way unless where excepted in this chapter; provided, however, a lot in a multi-user business park, which park contains uses totaling at least 20,000 square feet of floor area in two (2) floors or less in the B-0 zoning district shall be controlled by the provisions of §89-49 of the Zoning Ordinance. [Amended 1-23-91 by Ordinance 90-4]

LOT AREA, NET - The total horizontal area included within the rear, side and front lot or proposed street lines of the lot, excluding any streets or highways, whether dedicated or not dedicated to public use, but including off-street automobile parking areas and other accessory uses.

LOT, CORNER - A lot abutting on two (2) or more streets at their intersection, where the interior angle of the intersection does not exceed one hundred thirty-five degrees (135°).

LOT, DEPTH OF - The average distance between the front lot line and the rear lot line.

LOT FRONTAGE, MINIMUM (at building line) - The least permissible width of a lot measured horizontally along the required setback line. [Amended 9-27-78 by Ord. No. 101]

LOT FRONTAGE, MINIMUM (at front lot line) - The least permissible width of a lot measured horizontally along the front line.

LOT, FRONT OF [Repealed 6-25-80]

LOT LINE, FRONT - The street line running along the front of the lot, separating it from the street. In a through lot, both lines abutting the street shall be deemed to be "front lot lines." A corner lot shall be deemed to front on two (2) streets. [Amended 6-25-80]

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

LOT LINE, SIDE - Any lot line other than a front lot line or a rear lot line.

LOT, OUTLOT - A parcel of land which is shown on a record plat but which is not to be occupied by a building or otherwise considered as a buildable lot within the meaning of this chapter. No zoning certificate shall be issued on any land so designated.

LOT, THROUGH - An interior lot, fronting on two (2) parallel or approximately parallel streets.

MAJOR ARTERIAL HIGHWAY - This is the highest order of street or road. This classification of roadway carries the highest volume of traffic through the municipalities and county and does not provide for direct access from homes or commercial development.
[Amended 5-13-98 by Ordinance 98-11]

MASTER PLAN - The Comprehensive Master Plan of Walkersville which consists of maps, data and other descriptive matter as a guide for the physical development of the town, or any portion thereof, including any amendments, extensions or additions thereto adopted by the Burgess and Commissioners, or of other public open spaces, public building sites, routes for public utilities, zoning districts or other similar information.

MEDICAL OR DENTAL CLINIC - Any building or group of buildings occupied by medical practitioners and related services for the purpose of providing health services to people on an out-patient basis.

MINOR ARTERIAL HIGHWAY - This classification of roadway generally provides for movement of vehicles larger in number than collectors and local roads, with no direct access from homes allowed. This classification of roadway receives volumes of traffic from collectors and provides inter- and intra- county accesses throughout the municipality and county. [Amended 5-13-98 by Ordinance 98-11]

MOBILE HOME - A portable dwelling unit designed and built to be towed on its own chassis, comprised of frame and wheels, connected to utilities and designed without a permanent foundation for year-round living. A unit may contain parts that may be combined, folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity. This is not to include a sectional or modular home.

MOTEL - Any group of dwelling units, combined or separate, used for the purpose of housing transient guests, each unit of which is provided with its own toilet, washroom and off-street parking facilities.

MOTOR VEHICLE, INOPERATIVE - Any motorized vehicle incapable of immediately being driven or not properly licensed or inspected for safety in accordance with State law.

MULTIPLE OCCUPANCY OFFICE - A use of a principal building wherein a combination of two or more complementary business, institutional, or professional entities occupy on an integrated basis separate floor space areas for office use.

NONCONFORMING STRUCTURE - A structure lawfully existing on July 16, 1963 or on the effective date of an amendment of this chapter, and that could not be built under the terms of this chapter by reason of restriction on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot.
(Added 1-28-2015 by Ordinance 2014-09)

NONCONFORMING USE - A use of a building or land lawfully existing on July 16, 1963 or at the time of amendment of this chapter and which does not conform to the use regulations of the district in which it is located.
(Amended 1-28-2015 by Ordinance 2014-09)

NURSING HOME - Includes rest homes, convalescent homes and homes for the aged and shall mean a place devoted primarily to the maintenance and operation of facilities for the treatment and care of any persons not in need of extensive and/or intensive care that is normally provided in a general hospital or other specialized hospital, but who do require care in excess of room and board and

who need medical, nursing, convalescent or chronic care.
[Amended 9-27-78 as Ord. No. 101]

OPEN SPACE - May include parks, playgrounds, landscaped areas, walkways, trails, putting greens and/or similar recreational uses. Areas for the exclusive use and enjoyment of each dwelling unit, areas within the lines of any public or private street or sidewalk (not including walkway), areas designed for off-street parking and other areas under roof or paved are not included within the meaning of "open space" and shall not be included in calculating the area of "open space" required by this chapter. [Added 1-12-83]

OFFICE - A use of a building or part of a building designed, intended or used for the practice of a recognized profession, the carrying on of non-commercial retail business for profit, governmental functions, and/or the administration of a business or industry not conducted on the site thereof but excluding any retail commercial use, any industrial use, clinic, financial institution, place of amusement or place of assembly.

OFFICE, BUSINESS - An office use of a building or part of a building in which one or more persons are employed in the management, administration, direction or conducting of a business for profit.

OFFICE, INSTITUTIONAL - An office use of a building or part of a building in which one or more persons are employed in the management, administration, direction or conducting of a governmental agency, non-profit or charitable organization.

OFFICE, PROFESSIONAL - An office use of a building or part of a building in which one or more professionally qualified and recognized persons and their staff serve clients or patients who seek advice, consultation or treatment.

PATIO - An area, usually paved, adjoining a house and serving as an area for outdoor living. [Added 12-9-87]

PERSONAL SERVICES - Establishments primarily engaged in providing services involving the care of a person or his or her personal goods and apparel. Examples of personal services include laundry and dry cleaning drop-off; linen supply; diaper service; beauty shops and barber shops; tanning salons; nail salons; shoe repair; clothing rental; spas, gyms, and fitness centers; but does not include industrial laundry or dry cleaning.
[Added 2-28-01 by Ordinance 2000-9]

PLACE OF WORSHIP - A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship and which may include associated accessory uses.
[Added 2-28-01 by Ordinance 2000-9]

PLAN - The policies, statements, goals and interrelated plans for private and public land use, transportation and community facilities documented in texts and maps which constitute the guide for the area's future development. For the purpose of this definition, the word "plan" shall include "General Plan," "Master Plan," "Comprehensive Plan," "Community Plan," and the like, as adopted in accordance with Article 66B of the Annotated Code of Maryland.

PORCH - An exterior appendage to a building, forming a covered approach or vestibule to a doorway. [Added 12-9-87]

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

RECEPTION FACILITY - A fixed site facility or establishment used solely for banquets, wedding receptions, recitals, corporate functions, organizational functions, celebrations, anniversaries and the like, as approved by the Zoning Administrator; held indoors or outdoors or both; by reservation and invitation only, with food and beverage brought on-site or prepared in an on-site kitchen approved by the Board of Appeals, the Maryland Health Department and any other applicable governmental agencies. Entertainment scheduled in conjunction with reserved invitation only events is permitted subject to all applicable noise regulations of the Town of Walkersville or Frederick County. A reception facility does not include a restaurant, bed and breakfast, or hotel open to the public. A reception facility does not include a place of worship as defined in this section §88-2.

[Added by Ordinance 2011-04 8/10/2011]

RECYCLABLE SOLID WASTE MATERIALS - Reusable non-liquid material, including paper, cardboard, glass, plastic, non-ferrous metals and other non-liquid materials which are intended for reuse, remanufacture, or reconstitution for the purpose of using the altered form. [Added 11-12-03 by Ord. 2003-09]

RECYCLING COLLECTION FACILITY - A use conducted for private (non-government) and/or commercial (for profit) purposes by an owner or operator duly and currently licensed by all applicable governmental authorities that serves and operates as a drop-off point for temporary storage (not processing) of non-liquid "recyclable solid waste materials" (as herein defined). "Hazardous" or "toxic" materials as defined by Frederick County, State of Maryland and/or Federal laws, shall not be permitted to be dropped off and/or collected. All equipment and operations associated with a recycling collection facility (with the exception of motor vehicle access or parking) including but not limited to loading and unloading, shall be located and conducted inside a "building" (as defined herein) containing

four walls and a roof, shielded from public view and "supervised" (as defined herein). The term "supervised" shall be defined for the purposes of the recycling collection facility as having an employee of the duly licensed recycling collection facility owner and/or operator on site and personally observing and monitoring all drop-off and/or collection activity. [Added 11-12-03 by Ord. 2003-09]

RESIDENTIAL PROPANE TANK – Pressure vessel filled with propane with a water capacity of up to 250 gallons designed to be permanently connected to a fireplace and/or to a heating and/or cooking device or equipment. [Added 5-25-05 by Ord. 2005-02]

RETAIL SALES AND SERVICES, EXCEPT RETAIL LIQUOR SALES – Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. [Added 2-28-01 by Ordinance 2000-9]

ROAD - Includes any public highway, thoroughfare, road, street, cul-de-sac or service road. [Amended 5-13-98 by Ordinance 98-11]

ROAD, COLLECTOR - This is the highest order of street that could be classified as residential. This class of street is necessary to carry traffic from one neighborhood to another or from the neighborhood to streets connecting to other areas in the community. Direct access to homes is discouraged onto collector roads. [Amended 5-13-98 by Ordinance 98-11]

ROAD, LOCAL - The local road or street comprises all facilities not in use of the higher order systems. It is intended to carry the least amount of traffic at the lowest speed and provide the safest and most desirable environment for a residential neighborhood, with the maximum number of homes fronting the street. The local street provides access to land adjacent to the collector network and serves travel over relatively short distances. [Added 5-13-98 by Ordinance 98-11]

ROAD, SERVICE - A local access road to provide a means of egress and ingress to a non-residential development for the purpose of limiting access directly onto a collector or arterial roadway. [Added 5-13-98 by Ordinance 98-11]

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

SEARCH LIGHT - A light that swivels and projects a far-reaching beam.

SELF-STORAGE WAREHOUSE FACILITY – A building or group of buildings divided into separate compartments, designed to be rented or leased on a short-term basis to the general public for private storage of personal goods, materials, and equipment. [Added 2-26-03 by Ordinance 2003-01]

SHOPPING CENTER - A group of four (4) or more retail stores, service establishments and other similar uses which are designed and developed as an integrated unit, including but not limited to required parking and any lighting, signage, landscaping and other appropriate amenities as determined by the Planning Commission. [Added 9-26-84]

SIGN - Any structure or device (including but not limited to, letters, words, numerals, figures, emblems, pictures, or any part or combination) used for visual communication intended to attract the attention of the public and visible to the public right of way or other properties. The term "sign" does not include any flag, badge, or insignia of any governmental unit, or any item of merchandise displayed within a show window of a business. This definition does not include delivery vehicles used in the operation of the business.

SIGN, BILLBOARD - See "billboard."

SIGN, BUSINESS - A sign which directs attention to a business, commodity, service or other activity conducted upon the premises upon which the sign is located.

SIGN, FREESTANDING - Any sign standing on its own foundation or supporting structure or mounted on any fence or wall which is not an integral part of a building.

SIGN, INFORMATIONAL - A sign (other than real estate) of a "non-profit" organization noting an event of general interest or special event such as a carnival, fund-raiser, etc.

SIGN, LOCATIONAL - A sign describing the location of a community or an institution of public or quasi-public nature, but not including signs pertaining to real estate.

SIGN, PERSONAL SERVICE - Name plates or signs designating home occupations, accessory uses, such as a doctor's office or similar use, or advertising exclusively the sale of farm products produced on the premises.

SIGN, POLITICAL - Any sign advocating for or against an issue on the ballot or the candidacy of any person for federal, state, county, or municipal elected position, whether primary or general election.

SIGN, PORTABLE - A sign (other than real estate) which is not permanently mounted to a foundation or fixed building. This type sign may include, but is not limited to, portable sign boards, portable sign trailers, flags, banners, signs attached to merchandise, signs attached to vehicle or vehicle trailers (except company names and logos which

are permanently painted on the vehicle or trailer), and signs displayed for a limited period of time and advertising goods or services.

SIGN, REAL ESTATE - A sign advertising the sale, lease, rental or development of any particular premises or property or directing attention to the opening and location of a new subdivision, neighborhood, community, or business venture or site.

SPECIAL EXCEPTION - A grant of a specific use that would not be appropriate generally or without restriction and would be based upon a finding that certain conditions governing special exceptions, as detailed in this chapter, exist and that the use conforms to the plan and is compatible with the existing neighborhood.

STORY - That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, the space between such floor and the ceiling next above it. A basement shall be counted as a story if it is used for business or dwelling purposes. A mezzanine floor shall be counted as a story if it covers more than one-third (1/3) of the area of the floor next below it or if the vertical distance between the floor next below it and the floor next above it is twenty (20) feet or more.

STREET - A public or dedicated way or a public proposed right-of-way, widening or extension of an existing street or public way shown on any plan approved by the Commission.

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

STRUCTURE - Anything that is erected, built or constructed of parts joined together with a fixed location on or under the ground, or attached to something having a fixed location in, on or under the ground including but not limited to buildings; walls; decks; signs; fences; sheds; garages; gazebos; towers; swimming pools; water tanks; fuel tanks; play equipment; newspaper boxes; vending machines; mailboxes; utility poles; pipes; stormwater management structures; sculptures; lawn ornaments; bleachers; backstops; scoreboards; stadiums; reception, entertainment or assembly tents; stagings; platforms; reviewing stands; trestles, railroad tracks; pavements; curbs; walks; driveways; and patios.

SWIMMING POOL - Any portable pool or permanent structure containing a body of water eighteen (18) inches or more in depth and two hundred fifty (250) square feet or more of water surface area and intended for recreational purposes, including a wading pool but not including an ornamental reflecting pool or fish pond or other type of pool located and designed so as not to create a hazard or to be used for swimming or wading.

SWIMMING POOL, COMMERCIAL - A swimming pool and/or wading pool, including buildings necessary or incidental thereto, open to the general public and operated for profit.

THEATER, DRIVE-IN OR OUTDOOR - Includes only those areas, buildings or structures designed and used for the commercial outdoor exhibition of motion pictures or stage presentations to the general public.

TOURIST CABIN CAMP - Any lot, parcel or tract of land, together with such open spaces as are required under the provisions of this chapter, upon which there are located one (1) or more cottages or cabins used, designed, maintained or held out for the accommodation of transient guests, whether or not a charge is made therefore.

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

TOWNHOUSE - One (1) of a series of three (3) or more attached dwelling units separated from one another by continuous vertical party walls, with each dwelling unit located on a separate lot. [Amended 1-12-83]

USE - Any purpose for which a lot, parcel or tract of land, building, or other structure may be designated, arranged, intended, maintained, or occupied; or any activity, occupation, business or operation carried on or intended to be carried on in a building or other structure or on a lot, parcel or tract of land.

USE, ACCESSORY - A use of a lot, parcel or tract of land that is customarily incidental and subordinate to the principal use or structure of that lot, parcel or tract of land and is located on the same lot, tract or parcel of land with such principal use.

USE, PRINCIPAL - The main, primary or dominant purpose for which a lot, parcel or tract of land or the principal structure thereon is designed, arranged or intended and for which it is or may be used, occupied or maintained.

USE, SPECIAL EXCEPTION - A use which may be permitted in a district through the granting by the Board of Appeals of a special exception, as defined in this section, upon a finding by the Board that it meets specified conditions. [Amended 9-27-78 by Ord. No. 101]

VARIANCE - A modification only of density, bulk or area requirements in this chapter where such modifications will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the results of any

action taken by the applicant, a literal enforcement of this chapter would result in unnecessary hardships.

VENDING MACHINE - A machine, rack, or stand that dispenses merchandise or free items.

WAYSIDE STAND - A temporary structure designed, arranged or used for the display or sale of agricultural or other products grown or produced on the premises upon which such stand is located.

WELLHEAD PROTECTION AREA - means that area as defined and described in Chapter 90 of the Town Code and as shown on the Zoning Map within the Wellhead Protection Overlay District.

YARD - Open space on the same lot with a building or group of buildings, said open space lying between the building or outer building of a group and the nearest lot or street line and unoccupied and unobstructed from the ground upward, except as provided in this chapter.

YARD, FRONT - Open space extending across the full width of a lot between the front lot line or the proposed front street line and the nearest line of the building or any enclosed portion thereof. The depth of such yard shall be the shortest horizontal distance between the front lot line or proposed front street line and the nearest point of the building or any enclosed portion thereof. Second story overhang, roof overhang, unenclosed porches or similar architectural features are excluded from the measurement if they do not project more than six (6) feet.

YARD OR GARAGE SALE - A sale by an owner or tenant of residential property, limited to household items owned by residents of said residential property. [Added 08-25-04 by Ordinance 2004-08]

YARD, REAR - Open space extending across the full width of the lot between the rear line of the lot and the nearest line of the building or porch, or projection thereof. The depth of such yard is the shortest horizontal distance between the rear lot line and the nearest point of the building. Second-story overhang, roof overhang, unenclosed porches or similar architectural features are excluded from the measurement if they do not project more than six (6) feet.

YARD, SIDE - Open space between the side lot line, the side street line or the proposed side street line, if such line falls within the lot, and the nearest line of the foundation of the building or porch, or projection thereof, extending from the front yard to the rear yard or, in the absence of either of such yards, to the front lot line and/or rear lot line. The width of the "side yard" is the shortest horizontal distance between the side lot line and the nearest point of the foundation of the building, porch or projection. Second-story overhang, roof overhang, unenclosed porches or similar architectural features are excluded from

the measurement if they do not project more than six (6) feet. [Amended 9-27-78 by Ord. No 101]

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

ZONING ADMINISTRATOR - A person or agency, designated by the Burgess and Commissioners, who administers the zoning regulations and acts as Secretary to the Board of Appeals.

ZONING CERTIFICATE - A written statement issued by the Zoning Administrator, authorizing buildings, structures or uses consistent with the terms of this chapter and for the purpose of carrying out and enforcing its provisions.

ZONING MAP - The Zoning Map of the Town of Walkersville, together with all amendments thereto subsequently adopted.²

² Editor's Note: The official Zoning Map is on file in the town offices.

§ 88-3. Establishment of districts.

For the purpose of this chapter, all land within the Town of Walkersville is hereby designated on the Zoning Map¹ as being in one (1) of the following districts:

- OS Open Space
- A Agricultural [Added 1-10-79]
- INST Institutional Use [Added 8-22-07 by Ordinance 2007-12]
- R-1 Low-Density Residential
- R-2 Low-Density Residential [Amended 4-8-87]
- R-3 Medium-Density Residential [Amended 4-8-87]
- R-4 High-Density Residential [Added 4-8-87]
- B-1 Neighborhood Business
- B-2 Shopping Center
- LI Light Industrial [Added]
- LIP Light Industrial Park [Added]
- GI General Industrial [Added]
- B-O Business Office [Added]
- OTM Old Town Mixed Use [Added 2-28-01]

§ 88-4. Boundary lines of districts.

Unless otherwise indicated on the zoning district maps, the boundary lines of the districts follow lot lines, center lines of streets or alleys, or such center lines extended, center lines of creeks or the corporate limit line as existing at the time of adoption of this chapter, or measured lines.

§ 88-5. Conformance with regulations required.

No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations for the district in which it is located, including but not limited to the requirements of Chapter 90 of the Town Code. [amended 2-27-02 by Ord. 2001-11]

§ 88-5.1. Number of principal buildings and/or uses permitted on a lot.

A. Except as provided in Subsection B. of this Section 88-5.1, there shall be only one (1) principal structure or one (1) principal use permitted on a single lot, tract or parcel of land in any zoning district.

B. The Planning Commission may allow more than one (1) principal building on any single lot, and/or more than one (1) principal use on any single lot zoned within one of the business, shopping center industrial, institutional use, or

¹ Editor's Note: The official Zoning Map is on file in the town offices.

agricultural zoning districts, based on a finding that the proposed subdivision and/or development for the lot meet excellence of design standards, including, but not limited to, any of the following:

1. Encouragement of concentration of complementary uses;
2. Provision for well-planned integrated development with maximum convenience and efficiency for users;
3. Where due to size and location of the development and its relationship to surrounding properties, flexibility of planning may be desirable without disturbance to the harmony of the neighborhood; and
4. Facilitation of a development plan with a unified and organized arrangement of buildings, service areas, parking and landscaped open space providing for maximum convenience of customers.

§ 88-5.2 Certain lots to abut street. [Added 6-25-80]

Every building or structure used in whole or in part for dwelling purposes and hereinafter erected or moved, will be located on a lot abutting for at least fifty (50) feet on a town, county or state street or road. In a townhouse, garden apartment or multifamily development, the lots may face on a common open space or a private street, provided that the plan of such development is approved by the Planning Commission.

§ 88-5.3. Uses not listed as permitted. [Added 6-15-80]

- A. Any use not specifically enumerated as being allowed in at least one (1) district in this chapter shall be allowed by special exception in the district where and to the extent similar uses are permitted by right or allowed by that special exception. All such uses must meet the general requirement and where applicable, the specific requirements for a special exception.
- B. This section shall not apply to any use or similar use that is expressly listed in this chapter as being prohibited.

§ 88-6. Zoning of annexed areas.

All territory which may hereafter be annexed to the town shall, from the time of annexation, be considered as being in the R-1 District until changed by ordinance, unless the resolution of annexation by the Burgess and Commissioners provides for some other district classification or classifications. If the land to be annexed is to be classified other than R-1 or a district classification of some property abutting, contiguous or

adjacent thereto, the Burgess and Commissioners shall refer the matter to the Planning Commission for recommendation and report, and if the Commission makes no report within fifteen (15) days from the date the Burgess and Commissioners, by motion, refer it to the Commission, it shall be considered to have made a report approving the proposed annexation district classification and the Burgess and Commissioners shall hold a public hearing in relation thereto, giving at least fifteen (15) days notice of the time and place of such hearing in a newspaper published in or having a general circulation in the Town of Walkersville. Zoning of annexed areas must comply with Article 23A of the Annotated Code, which prohibits a municipality from placing annexed land, for a period of five (5) years from date of annexation, in a zoning classification which permits a land use substantially different from that of the Master Plan of the county having jurisdiction over the land prior to annexation; however, the County Commissioners may waive the requirements.

§ 88-7. Location of zoning line in vacated street.

Whenever the Burgess and Commissioners vacate a street or alley, adjacent districts shall extend to the center line of the vacation.

§ 88-8. Required open area not to be infringed upon.

Yards, parking spaces or lot area required for one (1) building cannot be used for another main building, nor can the size of a lot be reduced below the requirements of this chapter.

§ 88-9. Continuance of nonconforming uses and structures. (Amended 1-28-2015 by Ordinance 2014-09)

Purpose: The purpose of this section is permit certain legitimate nonconforming uses and/or structures to continue as established as of the effective date of adoption of this Ordinance or any amendment thereto, but not allow any action which would increase the non-conformity.

The lawful use of land or a structure existing at the time of adoption of this chapter, or subsequent amendment of this chapter, may be continued with the following limitations:

A. Expansion of nonconforming uses.

Nonconforming uses may be upgraded or repair or alterations may be made to their facilities. However, expansion of any nonconforming use shall be limited to the lot that exists at the time of adoption of this chapter, and additional acreage or structures shall not be added to enlarge any nonconforming use.

B. Expansion of nonconforming structures.

The conforming portion of a nonconforming structure may be expanded or modified provided that the expansion or

modification does not increase the portion of the structure determined by the Zoning Administrator to be nonconforming.

The nonconforming portion of a nonconforming structure may be modified in accordance with the requirements of this chapter provided that the modification does not increase the nonconformity, as determined by the Zoning Administrator.

C. Rebuilding nonconforming structures.

The Board of Appeals may grant a special exception to restore and/or rebuild a nonconforming structure damaged to the extent of sixty percent (60%) or more of the structure's current fair value, as estimated immediately prior to damage, provided:

- (1) The structure is rebuilt within the same footprint and up to the dimensions of the building or structure as existing immediately prior to damage.
- (2) Rebuilding the structure will not increase the original nonconformity.
- (3) The Board of Appeals finds that the rebuilt structure is appropriate to the neighborhood and district in terms of its size, location, scale, and appearance.

D. Discontinued nonconforming use shall not be established after one year. No nonconforming use shall be established or reestablished after having been discontinued for one (1) year. Vacating of the premises or building or non-operative status shall be evidence of a discontinued use.

E. Substitution of nonconforming uses.

The Board of Appeals may grant a special exception to change a nonconforming use to another nonconforming use if:

- (1) The Board of Appeals, by a specific finding in the case, finds that the proposed use is more appropriate to the district.
- (2) A nonconforming use will not be changed to a use considered less appropriate to the district.
- (3) The Board of Appeals may impose conditions within the scope of this chapter on the granting of such a special exception.

§ 88-10. Off-street parking.

- A. [Amended 7-13-83] Bituminous concrete or concrete-surfaced off-street automobile parking shall be provided on any lot on which any of the following uses are hereafter established. Such space shall be provided with vehicular access to a street or alley. For purposes of computation, each space shall not be less than nine (9) feet wide nor less than eighteen (18) feet long, nor shall front yard parking be provided in the B District unless the business on such lot is set back at least fifty (50) feet from the street. Parking access aisles shall not be less than twenty-two (22) feet wide for ninety-degree parking, twelve (12) feet wide for parallel parking, eighteen (18) feet wide for sixty-degree parking and eleven (11) feet wide for forty-five degree parking. The following are minimum requirements for specific uses (see also Subsection B below):

Use Requirements	Minimum (number of spaces)
One-family dwellings [Amended 4-8-87]	2 on lot
Lodging houses lodging	1 on lot for each unit or boarder
Multifamily dwellings [Amended 6-25-03 Ordinance 2003-05]	3 on lot for each dwelling unit
Townhouses [Amended 6-25-03 Ordinance 2003-05]	3 per dwelling unit
Churches	
Erected on new sites	1 on lot for each 4 seats in main auditorium
Existing churches and additions to or enlargements of churches time of passage of this chapter	Exempt from requirement
Places of public assembly, including auditoriums and theaters	1 for each 4 seats provided
Reception Facility	1 for each 200 square feet of floor area
Schools	
All except high schools	2 for each teaching station

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High schools	10 for each teaching Station	
Hospitals	1 for each hospital bed	
Institutions, clubs, lodges, and other public and semipublic buildings	10 for each 1,000 Sq.ft. of floor area	
Institutions, clubs, lodges, and other public and semipublic buildings [Added 5/28/08 by Ordinance 2008-02]	1 for each 100 square feet of floor area	
Libraries [Added 5/28/08 by Ordinance 2008-02]	1 for each 400 square feet of floor area	
Shopping centers [Amended 4-8-87]	1 for each 200 square feet of floor area	
Office uses	1 for each 250 square feet of floor area	
All uses, except those above specified, when located in B District LI, LIP, GI Districts	1 for each 100 square feet of floor area	
Commercial Uses	1 for each 200 square feet of floor area	
Industrial uses (Except Self-storage warehouse facility)	1 for each 2 employees of maximum number employed at any one time or 1 for each 600 square feet, whichever is greater.	
Self-storage warehouse facility	1 space shall be provided for each 25 units, equally distributed throughout the storage area; 2 spaces shall be provided for a resident manager on site; 1 space for every 50 storage compartments shall be provided at the leasing office, plus 1 for each employee of maximum number employed at any one time, plus 1 for each motor vehicle used in the business.	
[Added 2-26-03 by Ordinance 2003-01]		

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WALKERSVILLE CODE

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Multiple user business office developments of 20,000 square feet or greater 6 for each 1,000 square feet of floor area

B. The foregoing requirements are subject to the following general rules and exceptions:

- (1) In the B, LI, LIP and GI Districts, parking space may be provided on a separate lot if within three hundred (300) feet of a building, and two (2) or more owners may join together in the provision of this parking space.
- (2) Parking space for any use specifically permitted in an R District may be provided on a lot adjoining that use, provided that there is evidence of perpetual compliance with all requirements.
- (3) Existing buildings not complying with off-street parking requirements may be remodeled, repaired and structurally altered, but any enlargement, except as otherwise exempted above, must provide the required parking spaces for said enlargement.
- (4) Uses within the OTM District shall be required to comply with the off-street parking requirements found in § 8-36. [Added 2-28-01 by Ordinance 2000-9]

C. Unregistered or Inoperative Vehicles
[Added by Ord. 2016-06, 08/24/2016]

- (1) No unregistered or inoperative vehicles will be parked or stored on any lot, with the following exceptions:
 - a. Such vehicles are stored within a completely enclosed building.
 - b. Such vehicles are stored within a permitted commercial or industrial zoning district.
 - c. No more than one vehicle is stored with the permission of the property owner, and is covered by a fitted car cover. No tarp, plastic or other makeshift cover may be used to cover the vehicle.
- (2) A person may not store any vehicle that is deemed by the Code Enforcement Officer to be a public nuisance because it is:
 - a. Rusted, wrecked, dismantled or in a deteriorated condition so as not to be lawfully permitted on public roads; or
 - b. In a condition that constitutes a breeding ground for rats or mosquitoes, or other vermin or insects.

§ 88-11. Off-street loading.

- A. Every building or structure used for other than residential uses and constructed after the adoption of this chapter shall provide space on the property to be used exclusively for the loading and unloading of vehicles. Such space shall be in accordance with the following schedule:

Building Floor Area (square feet)	Required Spaces
0 to 8,000	1
8,001 to 25,000	2
25,001 to 40,000	3
40,001 to 100,000	4
100,001 to 250,000	5
250,001 to 400,000	6
Over 400,000	6, plus 1 additional for each additional 10,000 square feet

- B. For the purpose of determining the adequacy of the loading area, each space shall not be less than ten (10) feet in width, forty-five (45) feet in length and fourteen (14) feet in height.

§ 88.12. Fences

[Added by Ord. 2014-07, adopted 2/25/2015]

A. Agricultural District

- (1) Location:
 - a. Fences are permitted up to the property line.
 - b. Fences are not permitted in the public right-of-way.
- (2) Intersections: Must be in compliance with § 69-10 Obstructions of View at Intersections.
- (3) Zoning Certificate: Not required.

B. Open Space District

- (1) Appearance:
 - a. Fences shall be constructed of materials specifically designed and manufactured for fencing purposes.
 - b. The finished side of the fence shall face outward toward surrounding properties and rights-of-way.
 - c. The fence details shall be shown on the site plan and subject to approval by the Walkersville Planning Commission.
- (2) Height:
 - a. Maximum permitted height of a fence is 6 feet.
 - b. Fences located around a sports field, sports court or sport facility that necessitates such enclosure are permitted to exceed the maximum height listed above with the approval of the Planning Commission.

(3) Location:

- a. Fences are permitted up to the property line. However, if the property line extends to the curb and there is no sidewalk, the fence must be set back 6 feet to allow for the construction of a sidewalk in the future.
- b. Fences are not permitted in the public right-of-way.

(4) Intersections: Must be in compliance with § 69-10
Obstructions of View at Intersections.

(5) Zoning Certificate: Required.

(6) Site Plan Approval:

- a. The fence details and location shall be shown on the site plan and subject to approval by the Walkersville Planning Commission.
- b. The Planning Commission shall consider the following in their review:
 - i. The proposed fence in relation to the scale and design of the surrounding neighborhood;
 - ii. The impact the proposed fence would have on the use and enjoyment of other properties in the immediate vicinity.
 - iii. The safety and security needs of the property occupant.

C. Institutional District

(1) Appearance:

- a. Fences shall be constructed of materials specifically designed and manufactured for fencing purposes.
- b. The finished side of the fence shall face outward toward surrounding properties and rights-of-way.
- c. The fence details shall be shown on the site plan and subject to approval by the Walkersville Planning Commission.

(2) Height:

- a. Maximum permitted height of a fence is 6 feet.
- b. Fences located around certain properties or facilities that necessitate such enclosure are permitted to exceed the maximum height listed above with the approval of the Planning Commission.

(3) Location:

- a. Fences are permitted up to the property line. However, if the property line extends to the curb and there is no sidewalk, the fence must be set back 6 feet to allow for the construction of a sidewalk in the future.
- b. Fences are not permitted in the public right-of-way.

(4) Intersections: Must be in compliance with § 69-10
Obstructions of View at Intersections.

(5) Zoning Certificate: Required.

(6) Site Plan Approval:

- a. The fence details and location shall be shown on the site plan and subject to approval by the Walkersville Planning Commission.
- b. The Planning Commission shall consider the following in their review:
 - i. The proposed fence in relation to the scale and design of the surrounding neighborhood;
 - ii. The impact the proposed fence would have on the use and enjoyment of other properties in the immediate vicinity.
 - iii. The safety and security needs of the property occupant.

D. R-1, R-2, R-3, and R-4 Residential and Old Town Mixed Use Districts

(1) Appearance:

- a. Fences shall be constructed of materials specifically designed and manufactured for fencing purposes.
- b. The finished side of the fence shall face outward toward surrounding properties and rights-of-way.

(2) Height:

- a. Except as noted below for corner lots, fences shall not be greater than six (6) feet in height in the side yard and rear yard or greater than 4 feet in height in the front yard.

(3) Corner Lots:

- a. Corner lots shall be considered to have two front yards, a side yard and a rear yard, which shall be noted on the plot plan.
- b. No fence more than 4 feet tall shall be located closer to the front of the lot than the front of the dwelling in at least one front yard.
- c. A fence up to 6 feet tall shall be permitted within the designated second front yard, provided it is set back a minimum of 20 feet from the curb or edge of pavement of the street.

(4) Location:

- a. Fences are permitted up to the property line. However, if the property line extends to the curb and there is no sidewalk, the fence must be set back 6 feet to allow for the construction of a sidewalk in the future.
- b. Fences are not permitted in the public right-of-way.

(5) Intersections:

- a. Must be in compliance with § 69-10 Obstructions of View at Intersections.

(6) Prohibitions:

- a. Above ground electrical fences, razor fences, and barbed wire fences are prohibited in or adjacent to residential and mixed use districts.

(7) Zoning Certificate:

- a. Fences in multi-family developments (except for individual townhouse lots) are subject to site plan approval by the Walkersville Planning Commission.
- b. A zoning certificate is required (includes pre-and post-construction inspection by Town Code Enforcement Officer) to construct a fence in the residential and mixed use districts.

E. B-1, B-2, and B-0 Commercial Districts

(1) Appearance:

- a. Fences shall be constructed of materials specifically designed and manufactured for fencing purposes.
- b. The finished side of the fence shall face outward toward surrounding properties and rights-of-way.
- c. The fence details shall be shown on the site plan and subject to approval by the Walkersville Planning Commission.

(2) Height:

- a. Fences up to 8 feet in height shall be permitted along the property lines, subject to site plan approval by the Planning Commission.
- b. The height of fences located elsewhere on the property shall be subject to site plan approval by the Walkersville Planning Commission.

(3) Location:

- a. Fences are permitted up to the property line. However, if the property line extends to the curb and there is no sidewalk, the fence must be set back 6 feet to allow for the construction of a sidewalk in the future.
- b. Fences are not permitted in the public right-of-way.

(4) Intersections: Must be in compliance with § 69-10 Obstructions of View at Intersections, and subject to site plan approval by the Planning Commission.

(5) Prohibitions:

- a. Above ground electrical fences, razor fences, and barbed wire fences are prohibited in or adjacent to residential and mixed use districts.

(6) Site Plan Approval:

- a. The fence details and location shall be shown on the site plan and subject to approval by the Walkersville Planning Commission.
- b. The Planning Commission shall consider the following in their review:
 - i. The proposed fence in relation to the scale and design of the surrounding neighborhood;
 - ii. The impact the proposed fence would have on the use and enjoyment of other properties in the immediate vicinity.

- iii. The safety and security needs of the property occupant.

(7) Zoning Certificate: Required.

F. LI, LIP, and GI Industrial Districts

(1) Appearance:

- a. Fences shall be constructed of materials specifically designed and manufactured for fencing purposes.
- b. The finished side of the fence shall face outward toward surrounding properties and rights-of-way.
- c. The fence details shall be shown on the site plan and subject to approval by the Walkersville Planning Commission.

(2) Height:

- a. Fences up to 8 feet in height shall be permitted along the property lines.
- b. The height of fences located elsewhere on the property shall be subject to site plan approval by the Walkersville Planning Commission.

(3) Location:

- a. Fences are permitted up to the property line. However, if the property line extends to the curb and there is no sidewalk, the fence must be set back 6 feet to allow for the construction of a sidewalk in the future.
- b. Fences are not permitted in the public right-of-way.

(4) Intersections: Must be in compliance with § 69-10 Obstructions of View at Intersections, and subject to site plan approval by the Planning Commission.

(5) Prohibitions:

- a. Above ground electrical fences, razor fences, and barbed wire fences are prohibited in or adjacent to residential and mixed use districts.

(6) Site Plan Approval:

- a. The fence details and location shall be shown on the site plan and subject to the approval by the Walkersville Planning Commission.
- b. The Planning Commission shall consider the following in their review:
 - i. The proposed fence in relation to the scale and design of the surrounding neighborhood;
 - ii. The impact the proposed fence would have on the use and enjoyment of other properties in the immediate vicinity.
 - iii. The safety and security needs of the property occupant.

(7) Zoning Certificate: Required.

G. Fences Abutting Zoning District Boundaries

A property owner whose property line directly abuts a zoning district boundary in which taller fences are permitted than the zoning district in which the subject property is located, may be granted approval by the Planning Commission to build a fence at the taller height. The taller fence will only be permitted along the section of the property boundary that directly abuts the other zoning district.

§ 88-13. Cellars prohibited for residential uses.

No dwelling, complete or part of a living unit, may be located entirely in a cellar in any district outlined by this chapter.

§ 88-14. Signs. [Ordinance 2012-06, adopted 10-24-2012]

A. General Regulations

- (1) Zoning certificate required: No exterior SIGN shall be placed or altered unless in compliance with this and any other relevant ordinance. Before any exterior SIGN shall be placed or altered in size, height, or location, a zoning certificate must be issued. No zoning certificate is necessary for re-facing an existing SIGN within an existing and legally permitted frame, unless an electrical permit is necessary.
 - (2) Safety: All SIGNS shall in no way by reason of position, size, shape or color, interfere with, obstruct the view of, or become confused with any traffic sign, signal or device, or make use of any word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic. SIGNS shall be located and placed as to allow ample visual sight lines for driveway leading into a street and at intersecting streets and alleys and shall not interfere with vehicle or pedestrian traffic.
 - (3) Illumination: Illumination of all SIGNS shall be diffused, from within or indirect and shall be arranged so as not to reflect direct rays of light into adjacent properties or into the public way.
 - (4) SIGNS on public property or within public rights-of-way: No SIGNS shall be erected by any person on a public property or right-of-way except for SIGNS as may be directed by the Town Zoning Administrator or other Town Official.
- B. Prohibited signs in all zoning districts:
- (1) BILLBOARDS and all off-premises BUSINESS SIGNS
 - (2) Aerial balloons for advertising or marking a location
 - (3) Search light advertising

(4) Rotating SIGNS

(5) SIGNS that are strung, hung, nailed or otherwise attached to electrical, telephone, utility poles and equipment, trees, road SIGNS, municipal SIGNS, or other publicly owned SIGNS.

(6) Flashing, blinking, or varying light intensity SIGNS, and animated signs involving motion or sound, except as permitted for institutional uses.

C. Business, Commercial and Industrial sign standards:

(1) Site plan approval required: All SIGNS shall be shown on a site plan subject to site plan approval by the Planning Commission.

(2) Setback: Freestanding SIGNS in the business (OTM, B-1, B-2 and B-0) and industrial (LI, LIP, and GI) are not permitted in a public right-of-way.

(3) Permitted square footage for SIGNS in Commercial (OTM, B-1, B-2 and B-0) and Industrial (LI, LIP and GI) districts: 50 square feet per business with up to 9,999 square feet in floor area; 100 square feet per business with 10,000 or more in floor area. SHOPPING CENTERS, and business and INDUSTRIAL PARKS are permitted to have an additional 100 square feet of signage for an identification sign for the whole development.

(4) Height: Freestanding SIGNS shall not exceed 25 feet in height above the grade where located or the street grade, whichever is lower. SIGNS attached to buildings shall not project more than 3 feet above the main roof line. Overhanging SIGNS shall not project out from a BUILDING more than 3 feet or hang any lower than 8 feet above a public way or sidewalk.

(5) PORTABLE SIGNS located on the property of the business being advertised are permitted in any commercial district without a permit, if the total allowable square footage for all signs on the property is not exceeded and the signs are not located within a public right-of-way. PORTABLE SIGNS shall be kept neat, clean and in good repair. Signs which are faded, torn, damaged or otherwise unsightly or in a state of disrepair shall be immediately repaired or removed.

D. INSTITUTIONAL USE SIGN standards, regardless of zoning classification:

(1) Permitted square footage for INSTITUTIONAL USE signs: 50 square feet.

(2) Setback from property lines: Freestanding SIGNS for INSTITUTIONAL USES, regardless of zoning district, are not permitted in the public right-of-way.

(3) Height: Freestanding SIGNS shall not exceed 25 feet in height above the grade where located or the street grade, whichever is lower. SIGNS attached to BUILDINGS shall not project more than 3 feet above a roof line. Overhanging SIGNS shall not project out from a building more than 3 feet or hang any lower than 8 feet above a public way or sidewalk.

(4) PORTABLE SIGNS: PORTABLE SIGNS up to 32 square feet in size (in addition to the 50 square feet of permitted signage) advertising an event or program held on the site on which the sign is located shall be permitted.

(5) Electronic SIGNS: A flashing, blinking, or varying light intensity SIGN, or an animated SIGN involving motion or sound for INSTITUTIONAL USES is permitted with approval of the Burgess and Commissioners.

E. Residential SIGN standards:

(1) HOME OCCUPATIONS – A PERSONAL SERVICE SIGN unlighted or indirectly lighted, not to exceed four (4) square feet in size. The sign may be affixed to the residence or another structure or placed within the yard, provided it is not located within a public right-of-way.

(2) Subdivision identification SIGNS – One (1) subdivision identification SIGN is permitted for subdivisions of ten (10) or more lots or multifamily developments, for each entrance street. Such SIGNS may not exceed twenty-four (24) square feet in size or five (5) feet in height and must have a landscaped area around them of at least two (2) square feet for each square foot of SIGN area.

F. Exempt SIGNS – SIGNS for which no permit is required:

(1) Any official or public notice or warning required by a valid and applicable federal, state, or local law, regulation or chapter, by a public utility company or by order of a court of competent jurisdiction.

(2) Any SIGN inside a building.

(3) Any SIGN inside an athletic field or other enclosed outdoor space.

- (4) Works of art with no commercial message.
- (5) Balloons that are less than 18 inches in diameter.
- (6) POLITICAL SIGNS.
- (7) On-premise REAL ESTATE SIGNS or lease/rent signs that added together are less than 15 square feet for residentially zoned properties or 100 square feet for non-residentially zoned properties.
- (8) House numbers.
- (9) The flag, emblem, insignia, poster, or other display of a nation, state or political subdivision.
- (10) Religious symbols such as crosses, stars, painted or sculptured statues, stained glass windows or the like.
- (11) Gas station price SIGNS and SIGNS that are attached to the sides of, or located on the top of gas station fuel pumps.
- (12) Government sponsored banners affixed to utility poles.
- (13) Informational SIGNS.
- (14) A-frame, sandwich board SIGNS, if taken inside when the business is closed.
- (15) Contractor/artisan/remodeling/improvement job-site SIGNS up to 6 square feet in size and removed when the construction/job/project is finished.
- (16) Farm SIGNS displaying the name of the owner and the nature of the farm and advertising only those products produced on the premises, not to exceed 16 square feet in size.
- (17) SIGNS for RECEPTION FACILITIES as permitted by special exception in the Agricultural District, not exceeding 20 square feet in size.
- (18) SIGNS directional, informational or warning in character, involving no advertising and each not exceeding six (6) square feet in size. In non-residential districts, signs displaying time, temperature and/or date shall be considered informational.
- (19) Company names and logos which are permanently painted on a vehicle are not considered part of the square footage for SIGN calculations.

G. SIGNS – how measured

- (1) Area of a SIGN is equal to the greatest horizontal dimension multiplied by its greatest vertical dimension.
- (2) SIGNS are to be measured over its entire face, including background and borders, but excluding supports.
- (3) Where a SIGN consists only of lettered, figured or pictorial matter or a device or representation applied directly to the surface of a building without special background or border, then its area shall be determined by measuring the overall length and height of the lettering or other matter.
- (4) A V-shaped or two-sided sign shall be considered as one sign so long as its interior angle does not exceed 30 degrees.
- (5) Portable signs are to be considered part of the total allowable square footage for sign calculations.
- (6) Advertisements which are attached to product, supplies, vehicles or vehicle trailers are considered to be part of the square footage for sign calculations.

H. Replacement SIGNS

- (1) The replacement of a specific sign with a SIGN of the same size or smaller size, or the removal and reinstallation of the same sign within a period of one hundred eighty (180) days will be considered as a continual use of a SIGN.
- (2) The replacement of a SIGN with a larger SIGN or the removal and reinstallation of a SIGN after a one hundred eighty (180) day period shall be considered a new SIGN and subject to the provisions of this section.

§88-14.1 Temporary and Seasonal Uses**[Added 08-25-04 by Ordinance 2004-08]****A. Temporary uses permitted without a zoning certificate**

The following temporary uses are permitted without a zoning certificate:

- (1) Customary accessory uses on institutional use properties, including the following activities: breakfasts, lunches, dinners, bazaars, auctions, sales, game nights, and carnivals. A carnival may be permitted for a maximum of fifteen (15) days in any one year provided that adequate off street

parking and a stabilized driveway to the parking are provided.

- (2) Tent, sidewalk or other outdoor sales events which are accessory to an existing commercial use in any commercial district, provided the sales events do not last more than three days and only occur up to four times per year, and provided that no sidewalk is blocked to pedestrian traffic.
- (3) Christmas tree sales for a maximum of 35 days as an accessory use to an existing commercial use in any commercial district.
- (4) Yard or garage sales on residential properties that last no more than three days and only occur up to two times per year.

B. Temporary uses requiring site plan approval

The following temporary uses are permitted upon approval of a site plan by the Planning Commission and issuance of a zoning certificate by the Zoning Administrator:

- (1) Contractors' and lot owners' temporary structures associated with a construction project. Such structures shall be located within the subdivision or on the same lot where the project is located and shall comply with the setback requirements of the zoning district in which it is located. Said structures shall be removed at the completion of construction or expiration of the zoning certificate.
- (2) Sales trailers, offices and model homes associated with a residential development. The office shall be incidental to and located within the subdivision that it serves. Such office shall continue only until the sale or lease of all dwelling units in the development or expiration of the zoning certificate, at which time said sales trailer or office shall be removed.
- (3) Portable classrooms or trailers to be located on a school, church or other institutional use property.
- (4) Wayside stand in the Agricultural District, provided adequate parking is provided for two (2) customer vehicles, no permanent structures are used, and the wayside stand is operated for no more than six (6) months in any year.
- (5) Seasonal shaved ice, ice cream, produce or other food stand located as a principal or accessory use to on a lot in a commercial district, provided the following:
 - (a) Adequate off-street parking, on-site traffic circulation and access from a public street

is provided, as determined by the Planning Commission.

- (b) A minimum of six off-street parking spaces are provided.
- (c) Parking areas are stabilized with pavement, gravel or crushed stone, as determined by the Planning Commission.
- (d) Parking spaces and drive aisles on site are striped or otherwise marked, as determined by the Planning Commission.
- (e) Proof of Health Department approval for food sales is submitted.
- (f) Adequate trash receptacles and sanitary facilities are provided on site, as determined by the Planning Commission.
- (g) The stand is operated for no more than six consecutive months in any twelve month period.
- (h) Sales shall be limited to seasonal or perishable produce or food items, including flowers and plants.
- (i) The use shall be set back from any residential zoning district a minimum of fifty feet. The use shall be subject to property line setbacks for the zoning district in which it is located.
- (j) One sign up to 32 square feet in size is permitted.

C. Termination of Temporary and Seasonal Uses

Upon the conclusion of the event, season, or use or the expiration of the zoning certificate (whichever comes first), the site shall be cleaned and restored to its original condition or better when the use is concluded. All structures, signs, and vehicles shall be removed from the site within seven days after the conclusion of the season or use.

§88-15 Prohibited uses in all districts.

- A. Billboards.
- B. Outdoor private or public rifle, trap, skeet, and pistol shooting ranges. Indoor rifle and indoor pistol, and indoor or outdoor archery ranges are permitted as Special Exception Uses in applicable districts.
- C. Junkyards, including those for storage of wrecked, dismantled or abandoned motor vehicles and parts thereof and for the storage and sale of other similar scrap materials.
- D. Salvage yards for any waste materials.
- E. Private (non-government) and/or commercial (for profit) recycling operations, recycling processing, and recycling distribution centers. A recycling collection facility is permitted by special exception in the LI District. [Amended 11-12-03 by Ord. 2003-09]
- F. Mobile homes are prohibited in all districts, except the Agricultural District.
- G. No structure or land development, including parking lots, fill or excavation operations will be permitted within the annual and HUD/FIA floodplains. This does not prohibit road crossings, water impoundments or the placement of public utility lines.
- H. Rendering plants, the business of garbage feeding of hogs (a maximum of twelve hogs are allowed as an ancillary support to a dairy operation), fur farms, breeding farms for animals to be used for medical testing or experiments, and slaughter houses (not private butchering).
- I. Solid waste transfer stations.
- J. Mineral extraction and/or mineral processing operations, which are not fully contained within a building.
- K. Concrete, asphalt products, and asphalt plants.
- L. Aerial balloons for advertising or marking a location.
- M. Commercial radio, television, and microwave towers. This subsection does not prohibit the use of business related communication towers in those districts where authorized or Wireless Telecommunications Facilities as defined in Chapter 86 of the Town Code. [Added 2-27-02 by Ordinance 2002-4]
- N. Fuel storage facilities and petroleum product storage, in excess of 60,000 gallons (total capacity) for liquids or 150,000 SCF for gases (SCF - Standard Cubic Feet at sixty (60) degrees Fahrenheit and 29.92 inches of mercury).
- O. Truck stop facilities.
- P. Race tracks (all types) and motor vehicle/cycle hill climbs.

Q. The storage (in a vehicle, building, container, etc.), utilization or manufacture of any type of material or products which decompose by detonation. The occasional use of explosive, by qualified and licensed personnel, for agricultural and construction purposes is exempted.

R. Rubble fills, landfills, and borrow pits.

S. Search Light Advertising.

T. Courtesy benches, trash cans, and similar devices on which advertising is displayed.

U. Flashing, blinking or varying light intensity signs except time, temperature and date signs except as permitted under §88-14A.(12) and (13). [Amended 12-14-05 by Ord. 2005-06]

V. Animated signs involving motion or sound except as permitted under §88-14A.(12) and (13).
[Amended 12-14-05 by Ord. 2005-06]

W. Rotating signs.

X. Concentrated agricultural and farming operations (CAFO) resulting in the production of a high concentration of animal waste.

[§88-15 amended 2-27-02 by Ordinance 2001-11]

§88-16. Storage of flammable and combustible fuels.

[Replaced 9/24/2008 by Ordinance 2008-08]

A. General Requirements

The storage of all flammable materials shall comply with the applicable EPA and IBC Fire Prevention Code standards.

The storage, utilization or manufacture of solid materials, which are active to intense burning, shall be conducted within spaces having fire resistive construction of no less than two (2) hours and protected with an automatic fire extinguishing system.

With the exception of tanks associated with agricultural uses, the location of tanks in excess of two thousand (2,000) gallons must be provided on a site plan and approved by the Planning Commission.

B. Aboveground Storage of Liquids (Class I, II, and III)

1) Storage of liquids aboveground shall comply with COMAR 26.10.01.12.A. Acceptable storage of such liquids shall be provided as follows:

a) Located in a diked area that will contain 110% of the largest tanks capacity in accordance with NFPA 30 (Cement sealed, steel, Geomembrane liners or other professional engineered equipment). Tank system shall have an attached nameplate containing the following information: tank serial number, primary tank capacity in gallons, and statement that the system is manufactured and intended for installation in accordance with NFPA 30, and NFPA 37 (and subsequent revisions thereto).

Where a provision is made for draining water from diked areas, such drains shall be controlled in a manner so as to prevent flammable and/or combustible liquids from entering natural water courses, [public waterways], public sewers, public drains, or [adjoining property].

b) The secondary containment aboveground tank system shall consist of a primary steel tank and secondary containment that is encased in concrete and meets UL-2085 Insulated/Secondary Containment of Aboveground Storage Tanks/Protected Type (and subsequent revisions thereto). Tank system shall have an attached nameplate containing the following information: tank serial number, primary tank capacity in gallons, and statement that the system is manufactured and intended for installation in accordance with UL-2085, NFPA 30, and NFPA 37 (and subsequent revisions thereto).

2) Storage of compressed gases and heating fuels and other Class II and Class III liquid fuels used for agriculture and commercial establishments in the Open Space, Institutional Use, Agricultural, and Commercial (B-1, B-2 and B0) districts may be above ground if the total capacity of all containers is two thousand (2,000) gallons or less.

3) In the Agricultural district, up to 3,000 gallons of Class I, II, and III liquids may be stored aboveground.

4) Storage of compressed gases and heating fuels and other Class II and Class III liquid fuels used for industrial operations in the LI, LIP and GI Districts may be above ground if the total capacity of all containers is twenty-four thousand (24,000) gallons or less.

5) Aboveground containers in excess of two thousand (2,000) gallons shall be screened by evergreen plantings or a screen device, as required by the Planning Commission, of a height not less than the height of the containers so as to effectively obscure the containers from view.

6) Vehicle impact deterrence around aboveground containers in excess of two thousand (2,000) gallons shall be provided, as required by the Planning Commission.

7) Annual inspection reports of aboveground tanks in excess of 2,000 gallons shall be submitted to the Town. The annual inspection will be performed and the report prepared by an inspector certified in accordance with accepted industry standards such as API or STI.

8) Each individual container shall be located with respect to the nearest adjoining property line in accordance with subsection D.

C. Below ground Storage of Liquids (Class I, II, and III)

1) Storage of liquids underground shall comply with applicable sections of COMAR Title 26 Subtitle 10. Any new installations of underground storage shall be located a minimum of 100 feet from any well.

2) Gasoline and similar Class I Liquid fuels, in excess of 10 gallons, shall be stored underground, except in the Agricultural zoning district, where up to 3,000 gallons may be stored aboveground.

3) Kerosene, fuel oil, and other Class II and III liquid fuels may be stored underground or within the structures to be heated. Not more than 550 gallons of Class II or Class III fuels are permitted in any building.

4) Each individual container shall be located with respect to the nearest adjoining property line in accordance with subsection D.

5) Auto service stations and retail gasoline sales locations may not exceed sixty thousand (60,000) gallons total capacity. Each individual container shall be located with respect to the nearest property line in accordance with Subsection D. The pumps shall not be located closer than twenty-five feet to the street right-of-way and no closer than two hundred fifty (250) feet to a dwelling existing at the time of issuance of the zoning certificate.

D. Setback Requirements – Storage of Liquids (Class I, II and III)

Each individual container shall be located with respect to the nearest adjoining property line as follows:

<u>Water Capacity per Container (Gallons)</u>	<u>Setback (feet) for underground containers</u>	<u>Setback (feet) for aboveground containers</u>	<u>Setback (feet) between aboveground containers</u>
0 to 2,000	25	25	5
2,001 to 30,000	50	50	10
30,001 to 60,000	75	100	½ the sum of the diameters of adjacent containers

Additional setback requirements:

Fuel pumps shall not be located closer than 25 feet to the street right-of-way and no closer than 250 feet to a dwelling existing at the time of issuance of the zoning certificate.

Residential propane tanks shall be set back a minimum of 6 feet from the side and/or rear property lines.

E. Fuel Storage – Residential zoning districts

1) No more than 10 gallons of gasoline or similar Class I liquid may be stored in any R district.

2) Residential propane tanks shall be no more than 250 gallons (water capacity) in size and shall be not be permitted in the front yard. They shall set back a minimum of six (6) feet from the side and/or rear property lines. Multiple tanks shall be permitted provided that the total capacity of all tanks does not exceed 250 gallons (water capacity).

3) Maximum storage of heating and other Class II and Class III Combustible fuels allowed in an R district is 550 gallons, unless otherwise approved by the Board of Appeals. If approved by the Board of Appeals, the maximum storage allowed in an R district is 2,000 gallons which must be contained in multiple tanks which do not exceed 550 gallons per tank. Each individual container over 275 gallons in size shall be located with respect to the nearest adjoining property line in accordance with Subsection D.

4) Containers shall be screened by evergreen plantings or a screen device of a height not less than the height of the containers so as to effectively obscure the containers from view.

5) For storage of flammable or combustible fuels on existing lots of record which are fifty (50) feet wide or less, the container shall be placed as close to the center of the lot as possible. The Zoning Administrator shall determine feasibility and compliance.

F. Storage of Fuel within Buildings

Kerosene, fuel oil, and other Class II and III liquid fuels may be stored underground or within the structures to be heated. Not more than 550 gallons of Class II or Class III fuel are permitted in any building.

**ARTICLE III
Administration and Enforcement**

§ 88-17. Administration.

A. This chapter shall be administered by the Zoning Administrator. The Zoning Administrator shall be appointed by the Town. The Town may designate an individual or public agency to act in the capacity of Zoning Administrator.

B. Appeals from the decision of the Zoning Administrator may be taken to the Board of Appeals (see Article IX).

§ 88-18. Zoning certificates.

A. Zoning certificate required. It shall be unlawful to commence the excavation for or the construction of any building, including accessory buildings, or to commence the moving, alteration or change of use of any land or buildings, including accessory buildings, until the Zoning Administrator has issued a zoning certificate for such work.

B. Issuance of a zoning certificate.

(1) In applying to the Zoning Administrator for a zoning certificate, the applicant shall submit a plat in duplicate, drawn to scale, showing the name of the person making the application, the actual dimensions of the lot to be built upon, as shown by a survey, the size, shape and location of the building to be erected and such other information as may be necessary to provide for the enforcement of this chapter. This subsection is also applicable to the construction of signs.

(2) If the proposed excavation or construction, as set forth in the application, is in conformity with the provisions of this chapter and other ordinances of the Town of Walkersville, the Zoning Administrator shall issue a zoning certificate for such excavation or construction. If a zoning certificate is refused, the Zoning Administrator shall state such refusal in writing, with the cause, and she shall grant or deny the certificate within ten (10) days of the date

of application, provided that he has received comment from any agency involved or having jurisdiction with regard to said certificate. A record of plats and action shall be maintained in the office of the Zoning Administrator.

(3) Whenever townhouses, apartments, or multifamily developments are to be constructed or an institutional, commercial or industrial establishment is to be constructed, a site plan of the intended development ("site plan") shall be submitted to the Planning Commission requesting approval by it. No zoning certificate and building permit will be issued, and no structure or use will be established except in conformity with a Site Plan unconditionally approved by the Planning Commission. The Planning Commission shall either approve, approve subject to specific changes, modifications or conditions, disapprove or continue the site plan for a specified period of time. After a Site Plan has been approved and construction of the development has been completed, in accordance with the Site Plan, a change in use for the property subject to the Site Plan and/or a change in the approved improvement plans or in the Site Plan (other than minor remodeling or changing of permitted signs as determined by the Zoning Administrator) will require another site plan review and approval by the Planning Commission. Approval of a site plan submitted under the provisions of this Article shall expire one (1) year after the date of such approval unless visible, substantial and progressive construction activities toward completion of the structure for the use approved by the Site Plan (beyond excavation, grading and/or utilities installation) have begun as determined by the Planning Commission. If the Planning Commission conditionally approves a Site Plan subject to changes, modifications or conditions, said changes, modifications or conditions must be completed, satisfied and resubmitted to the Planning Commission in sufficient time for the Site Plan to be reviewed by the Zoning Administrator for verification of the completion and satisfaction of such changes, modification and/or conditions and to be signed by the Planning Commission Chairman within sixty (60) days of the Planning Commission meeting when it received conditional approval or the conditional approval is no longer valid and the Site Plan must be resubmitted to the Planning Commission as a new submission.

[Added 4-25-01 by Ordinance 2001-4]

(a) Procedures for processing.

[1] Each application involving site plan review shall be submitted with the Zoning Certificate and Building Permit application to the Office of Permits and Inspections, who will route copies of the application to the Planning Commission and other reviewing agencies.

[2] The site plan shall be submitted thirty (30) days prior to a regularly scheduled Planning Commission meeting.

(b) The following information is required:

[1] Map of applicant's entire holding at a convenient scale.

[2] A vicinity map at a scale of one inch equals twelve hundred (1,200) feet or more to the inch, indicating

the location of the property with respect to surrounding property and streets. The map will show all streets and highways within two thousand (2,000) feet of the applicant's property.

- [3] Topographic map of the property at a minimum of five-foot intervals, showing existing and proposed regrading surface of the land and the location of natural features such as streams, rock outcrops and wooded areas.

[4] A site plan showing all existing and proposed improvements, including location, proposed use and height of all buildings, location of all parking and truck loading areas with access and egress drives thereto; location of any outdoor storage, location and type of any recreation facilities; proposed grading, landscaping, screening plans, description of proposed method to provide buffer areas and landscaping where required; location and design of outdoor lighting facilities, location, size and type of all signs and the location, size and type of all proposed stormwater management facilities.

- [5] Computation of the total areas of the lot, the building floor area for each type of proposed use, the building coverage and roads and parking.

- [6] Commercial, industrial, and manufacturing uses will designate:

- a. The specific uses proposed and the number of employees for which the buildings are designed.
- b. The type of power to be used for any manufacturing process.
- c. Types of wastes or by-products to be produced by any process and proposed method of disposal of such wastes or by-products.
- d. Such other information as may be required by the Planning Commission to determine the impact of a particular use on adjoining properties.

[7] Site plans may be prepared and submitted by an applicant. It may be required that such information, if found deficient or in error be resubmitted over the certification of an engineer, architect, landscape architect, land surveyor or other certified professional. Review fee for Site Plans shall be two hundred dollars (\$200) per sheet plus seventy-five dollars (\$75) per acre. [Added 4-25-01 by Ordinance 2001-4]

[8] Site plans will be prepared to a scale of not smaller than one inch equal one hundred (100) feet, unless approved by the Zoning Administrator; the sheet or sheets shall be no less than eighteen (18) inches by twenty-four (24) inches nor more than twenty-four (24) inches by thirty-six (36) inches, including a one and one half (1.5) inch margin for binding along the left edge. A site plan may be prepared on one or more sheets, in which case match lines and an index sheet shall be provided.

[9] In addition, the site plan shall conform to all specifications and requirements of the respective zoning district and of Article IV, Design Standards, and Article V, Improvements, of the Walkersville Subdivision Regulations.²

[10] Site plans for land partially or entirely within a Wellhead Protection Area shall be subject to and shall comply and conform with Chapter 90, as the other requirements of this chapter and the Town Code.

C. Zoning Administrator not to waive chapter requirements. The issuance of a zoning certificate for construction or excavation not conforming to the requirements of this chapter shall not be construed as waiving any provisions of this chapter.

D. Zoning certificate may be outdated. A zoning certificate shall become void one (1) year [three hundred sixty-five and one-fourth (365 1/4) days] from the date of its issuance unless the project is more than twenty-five percent (25%) completed, as determined by the Zoning Administrator.

E. Zoning certificate fee schedule. The Burgess and Commissioners shall adopt a schedule of fees for review and administration of Zoning Certificates.

[Amended 8-22-07 by Ordinance 2007-06]

§ 88-19. Violations and penalties.

A. The owner or agent of a building or premises in or upon which a violation of any provision of this chapter has been committed or shall exist or the lessee or tenant of an entire building or entire premises in or upon which a violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished as provided in the Charter of the Town of Walkersville³. Each and every day that such violation continues may constitute a separate offense. **[Amended 9-27-78 by Ord. No. 101]**

² Editor's Note: See Ch. 71, Subdivision of Land, Arts. IV and V.

³ Editor's Note: See Charter, §C15-4.

B. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this chapter, the appropriate authorities of the Town of Walkersville may institute injunction, mandamus or other appropriate action or proceeding, in addition to other remedies, to prevent such unlawful erection, construction, reconstruction, alteration, conversion maintenance or use or to correct or abate such violation or to prevent the occupancy of said building, structure or land.

C. Municipal zoning infractions. **[Added 6-22-83]**

(1) In addition to the penalties and remedies provided in Subsections A and B above, any violation of any provisions of this Zoning Chapter may, by the nature and circumstances of such violation, be determined to be a municipal zoning infraction. If, after investigation, the zoning violation is determined to be, by its nature and the circumstances of said violation, a civil violation and not a misdemeanor, the Zoning Administrator or her authorized agent shall deliver a citation or warning to the property owner and other person or persons responsible for said violation. If such person or persons are unable to be located after a reasonable effort has been made, the Zoning Administrator or her authorized agent may post the citation or warning in a conspicuous place on the property and mail a copy of the same, postage prepaid, to such person or persons, which shall be sufficient for delivery under this subsection. The citation as provided for in this subsection shall be in writing and contain the following:

- (a) The name and address of the person or persons charged.
- (b) The nature of the infraction.
- (c) The location and time that the infraction occurred.
- (d) The amount of the infraction fine assessed.
- (e) The manner, location and time in which the fine may be paid.

- (f) The person's right to elect to stand trial for the infraction.
 - (g) A certification by the Zoning Administrator or his authorized agent attesting to the truth of the matters set forth.
- (2) Whenever an alleged or possible municipal zoning infraction is brought to the attention of the Zoning Administrator, the Zoning Administrator shall:
 - (a) Investigate said infraction to determine, by the nature and circumstances of said infraction, whether it is a misdemeanor or a civil violation. In making this determination, the Zoning Administrator may consider the magnitude of the violation, the hazard to persons or property caused by such violation, the period during which such violation has existed, the manner in which such violation occurred and such other circumstances deemed relevant to such determination.
 - (b) If the infraction is determined to be a civil violation, he may issue a letter warning to the person or persons responsible to violation, setting forth a certain time when the violation is to be corrected or abated, and with a warning that if not so complied with, a citation may be issued.
 - (c) If after a warning, the violation continues, or if a warning is deemed to be inappropriate, the Zoning Administrator shall issue a citation to the person or persons responsible for said violation in the manner as set forth in this subsection.
- (3) A fine of one hundred dollars (\$100.) is hereby imposed upon each person responsible for a municipal zoning infraction. Each day such violation is permitted to exist shall be considered a separate infraction, except that where a warning has been issued, the penalty shall commence from the date when the

violation was to be corrected or abated, the day following such date being the first day of which a fine is imposed. All fines shall be payable to the Town of Walkersville.

- (4) Any person receiving a citation may elect to stand trial for the violation by filing with the Zoning Administrator a notice of intention to stand trial, said notice must be given at least five (5) days prior to the date when payment must be made as set forth in the citation. Upon receipt of said notice of intention to stand trial, the Zoning Administrator shall forward to the Clerk of the District Court for Frederick County, Maryland, a copy of the citation and the notice of intention to stand trial. Upon receipt of said citation, the Clerk shall schedule said case for trial, notifying the defendant and the Zoning Administrator of the trial date. All fines, penalties or forfeitures collected by the District Court in such cases shall be remitted to the Town of Walkersville.
- (5) If any person cited for a violation fails to pay the fine by the date of payment set forth in the citation and fails to file a notice of his intention to stand trial for the offense, a formal notice of the violation will be mailed, postage prepaid, to the person's last known address. If the citation has not been paid within fifteen (15) days from the date of the notice, the person shall be liable for an additional fine of one hundred dollars (\$100.) for each infraction, for a total fine of two hundred dollars (\$200.) per infraction. If the citation has not been satisfied within thirty-five (35) days from the date thereof, the Zoning Administrator may request adjudication of the case through the District Court. The District Court shall thereupon schedule the case for trial and summon the defendant to appear. A failure to respond to such summons shall be contempt of court.
- (6) Adjudication of a violation under this subsection is not a criminal conviction and does not impose any of the civil disabilities ordinarily imposed by a criminal conviction.

- (7) In a proceeding before the District Court, the violation shall be prosecuted in the same manner and to the same extent as set forth for municipal infractions contained in Article 23A, Section 3(b)(8) through (15) of the Annotated Code of Maryland, as amended; however, the attorney for the Town of Walkersville is hereby authorized to prosecute violations under this subsection.
- (8) Any person found to have committed a violation by the District Court shall be liable for all costs of such proceedings.
- (9) The Zoning Administrator, after consultation with the attorney for the Town of Walkersville and the designated Commissioner of the Town of Walkersville, shall have discretionary authority to reduce or suspend all or any portion of any fine payable for any violation.
- (10) The Burgess and Commissioners of Walkersville hereby empower the Walkersville Zoning Administrator to administer and enforce the provisions of this subsection. [Amended 2-27-02 Ord. 2002-02]
- (11) Nothing contained in this subsection shall prohibit or prevent the Zoning Administrator, the Commissioners of Walkersville or any person from seeking other lawful remedies, such as injunctive relief, criminal prosecution or damages, in a civil action pursuant to Article 66B, §7.01, Annotated Code of Maryland, as amended.

ZONING
ARTICLE IV
Open Space District

§88-20. Intent and purpose.

The Open Space District is intended to provide permanent open space for its natural beauty and recreational value. It is also intended to preserve natural resources, to prevent erosion, pollution and siltation and to safeguard the health, safety and welfare of persons and property by limiting development on excessive slopes, on floodplains, or poorly drained lands or on other areas where protection against natural dangers to life and property, or the lack of such protection, would prove costly to members of the community.

§ 88-21. Permitted uses.

The following uses are permitted in the OS District:

- A. Farms and tree and plant nurseries.
- B. Parks, playgrounds, golf courses, public and private recreational uses and cemeteries.
- C. Game, wildlife and nature study preserves and reservations.
- D. Flood control, water protection works, sewage treatment plants and other municipal public works.
- E. Wireless Telecommunication Facility when sited and constructed in accordance with Chapter 86 of the Town Code.

§ 88-22. Special exception uses.

The following uses are permitted by special exception in the OS District:

- A. Those uses considered by the Board of Appeals to be of the same character as those listed in §88-21 above.

§ 88-23. Required lot and yard dimensions.

The required lot area and yard dimensions in the OS District are as follows:

- A. Minimum area: not specified.
- B. Yards.
 - (1) Front: fifty (50) feet.
 - (2) Rear: fifty (50) feet.
 - (3) Side: thirty (30) feet.
- C. For structures higher than twenty-five (25) feet, the yard requirements shall be as follows for all yards: Between the foundation and the nearest

lot line, a distance of two and five-tenths (2.5) times the height of the structure shall be maintained.

§88-24. Accessory uses: Open Space District

The following accessory uses are permitted in the OS District:

- A. General signs: see Article II and § 88-14.
- B. Outside vending machines are not permitted in the Open Space District or on "nonconforming use" property in an OS District.

**ARTICLE IVA
Agricultural District
[Added 1-10-79]**

§ 88-24.1. Intent and purpose.

The purpose of the Agricultural District is to preserve productive agricultural land and the character and quality of the rural environment, and to prevent urbanization where roads and other public facilities are scaled to meet only rural needs.

§ 88-24.2. Permitted uses.

- A. The following uses are permitted in the Agricultural District:
 - (1) Agricultural activities.
 - (2) Roadside stands, retail and wholesale.
 - (3) Forestry.
 - (4) Cemeteries and memorial gardens.
 - (5) Parks.
 - (6) Single-family residences. Minimum lot size for single-family dwellings shall be one (1) acre, with a maximum subdivision of three (3) lots off of any parcel of record at the time of annexation.
 - (7) Wireless Telecommunication Facility when sited and constructed in accordance with Chapter 86 of the Town Code.
- B. In the Agricultural District, the preferred use is agriculture. The operation at any time of any machinery used in farming procedures and all other agricultural operations shall be permitted and shall have preference over all other uses.
[Added 6-25-80]

§ 88-24.3 Special exception uses.

The following uses are permitted in the Agricultural District with a special exception:

- A. Public and private educational facilities.
- B. Places of worship.
- C. Community services, public utilities and other public facilities.
- D. Private clubs.
- E. Recreational facilities.
- F. Auction sales of animals.
- G. Commercial greenhouses and nurseries.
- H. Farm equipment sales and service.
- I. Animal hospitals or veterinary clinics.
- J. Antique shops. **[Added 2-09-83]**
- K. Reception facility provided the following standards and requirements are met: **[Added by Ordinance 2011-04 8/10/2011]**
 - (1) A minimum of 10 acres lot size is required.
 - (2) The property shall have frontage on and access to a paved road having a minimum classification of collector roads as indicated on the Town of Walkersville Comprehensive Plan.
 - (3) Use and conversion of existing structures is encouraged and preferred.
 - (4) If otherwise allowed in and under the requirements of the Agricultural Zoning District, one caretaker residence is permitted as an accessory use with the approval of the Board of Appeals as to compatibility with the neighborhood as determined by its proposed size, height, location, access, parking, utilities, and health and safety considerations.
 - (5) Accommodations for overnight lodging (except as to the caretaker or owner resident). Camping or recreational vehicle camping are not permitted.
 - (6) Hours of operations for events will be no earlier than 7:00 A.M. and no later than 12 Midnight unless further limited by the Board of Appeals.
 - (7) Attendance at any reception facility event permitted hereunder will be limited to a maximum of 500 guests/patrons.
 - (8) Adequate parking for guests/patrons and employees shall be provided on site in areas adequately screened as determined by the Planning Commission.

§ 88-24.4. Lot and yard dimensions. [Added 6-25-80]

Lot and yard dimensions shall be as follows:

Use Type	Mini- mum Lot Area	Mini- mum Lot Width (feet)	Required Yards		
			Front (feet)	Side (feet)	Rear (feet)
Agricultural activities	-	-	40	50	50
Residential Single-family	40,000 sq. ft.	100	40	10	30
Mobile home	40,000 sq. ft.	100	40	10	30
Animal care and services	5 acres	300	40	50	50
Parks, recreational facilities, forestry, cemeteries	-	-	40	50	50
All other uses having structures	40,000 sq. ft.	200	40	50	50

§ 88-24.5. Building and height restrictions. [Added 6-25-80]

No building or structure will exceed three (3) stories or thirty-five (35) feet in height except as modified in § 88-58.

§ 88-24.6. Accessory uses: Agricultural District [Added]

- A. General signs: see Article II and § 88-14.
- B. Outside vending machines are not permitted in the Agricultural District or on "nonconforming use" property in an Agricultural District.

ARTICLE IV B**Institutional Use District**

[Added 8-22-07 by Ordinance 2007-12]

§ 88-24.7 Intent and purpose.

The purpose of the Institutional Use District is to provide adequate areas within the community for the development of nonprofit or quasi-public uses, including religious institutions, libraries, public or private schools, hospitals, and government-owned and government-operated structures or land used for public purpose. It is intended to appropriately provide for neighborhood, community, and regional institutional uses, to maximize their benefit to the community and to minimize their impact on neighboring properties.

§ 88-24.8 Permitted uses.

The following uses are permitted in the Institutional Use District:

- A. Places of worship.
- B. Government-owned or government operated structures or uses.
- C. Public libraries, museums and cultural facilities.
- D. Civic and community centers.
- E. Civic service clubs.
- F. Hospitals and nursing homes.
- G. Private and public schools.
- H. Fire and rescue services.
- I. Essential services.

§ 88-24.9 Special exception uses.

The following uses are permitted by special exception in the INST District:

- A. Those uses considered by the Board of Appeals to be of the same character as those listed in §88-24.8 above.

§ 88-24.10 Accessory uses.

The following accessory uses are permitted in the INST District:

- A. General signs: see Article II and §88-14.
- B. Accessory uses commonly associated with the above permitted uses.

§ 88-24.11 Required lot, yard dimensions, and other restrictions.

The required lot area and yard dimensions in the INST District are as follows:

- A. Minimum area: 40,000 sq. ft.
- B. Yards.
 - (1) Front: forty (40) feet.
 - (2) Side: fifty (50) feet.
 - (3) Rear: fifty (50) feet.

- C. Height.

No building or structure will exceed three (3) stories or thirty-five (35) feet in height except as modified in §88-58.

- D. Off-street parking and loading: see Article II. §88-10.

ARTICLE V
Residential and Mixed Use Districts

§88-25. Intent and purpose: R-1 and R-2 Districts [Amended 4-8-87]

The R-1 and R-2 Low-Density Districts are intended to encourage and promote the development of single-family residential neighborhoods free from land usage which might adversely affect such development. Such districts may incorporate large lot sizes in which the green space desired is entirely within the lot, or they may encourage the formation of cluster-type developments in which the lot sizes are made smaller and the area which results from the reduction of the area of each lot to the minimum standard for the district is provided and maintained as recreation areas to serve the needs of the residents of the development.

§ 88-26. Intent and purpose: R-3 District [Amended 4-8-87]

The R-3 Medium-Density District is intended to provide an attractive, pleasant living environment at a sufficient density to maintain a high standard of physical maintenance and community service. The district encourages the compact development and optimum utilization of land appropriate for residential use by encouraging cluster-type development while simultaneously leaving sloping areas, floodplains and other unbuildable areas open and available for recreational and athletic purposes.

§ 88-27. Intent and purpose: R-4 District [Amended 4-8-87]

The R-4 High-Density District is intended to make the development of land having natural and locational advantages economically feasible by the variety of housing types while continuing to encourage the provision of the basic amenities of an attractive and safe residential environment. This district encourages cluster-type development, and the increased density that results makes their location at the edge of residential neighborhoods and good access to major highways, central shopping areas, schools and other public facilities most essential.

§88-28. Permitted uses: R-1 and R-2 Districts. [Amended 6-25-80; 4-8-87]

The following uses are permitted in the R-1 and R-2 Districts:

- A. Single-family dwellings and home occupations in a single-family dwelling.
- B. Churches, schools, libraries, museums, parks, playgrounds and community centers.
- C. Accessory buildings and uses.
- D. Those uses permitted in the OS Open Space District.

§ 88-29. Permitted uses: R-3 District. [Amended 4-8-87]

The following uses are permitted in the R-3 District:

- A. Any use permitted in the R-1 District.
- B. Two-family dwellings and the leasing of rooms by not more than five (5) persons who are not members of the family residing in the dwelling unit.

§ 88-30. Permitted uses: R-4 District. [Amended 4-87; 9-9-87]

The following uses are permitted in the R-4 District:

- A. Any use permitted in the R-3 District.

- B. Multifamily dwellings, such as duplexes, townhouses and apartments.

§88-31. Special exception uses.

The following uses are permitted by special exception in the residential districts, subject to approval of the Board of Appeals:

- A. Nursery school, kindergarten or child-care center, provided that it contains an adequately-sized play area, fully fenced and enclosed, and the main structure is no closer than twenty (20) feet to any adjacent zoning district line or lot line.
- B. Boarding and lodging homes, not primarily for transients, provided that off-street parking of one and five-tenths (1.5) spaces per boarder or lodger is provided, and provided that yard requirements shall conform to those of a multifamily structure (R-4 District only). **[Amended 4-8-87]**
- C. Medical centers and rest and nursing homes, provided that off-street parking space is provided for each attendant or worker and for each three (3) patients to be cared for therein, and provided that yard requirements shall conform to those of a multifamily structure.
- D. Laundry facilities located within a multifamily dwelling for the use of residents of the apartment or apartment complex and not for use as a commercial enterprise (R-4 District only). **[Amended 9-9-87]**
- E. The office of a resident physician, dentist, architect, engineer, attorney or similar professional person located in that person's home, or the operation of a beauty parlor or barbershop having one (1) chair, provided that:
- (1) There is no exterior evidence other than a permitted sign to indicate that the building is being used for any purpose other than that of a dwelling.
 - (2) The construction does not produce a show window or display window effect.
 - (3) Only one (1) person other than the owner may be engaged or employed.
 - (4) Sufficient off-street parking is provided, with three (3) spaces being considered minimal. Such parking shall be in the side or rear yard.
 - (5) The total area devoted to the office does not exceed thirty percent (30%) of the square footage of the dwelling unit.
- F. Clubs, lodges, hospitals and sanatoriums (R-4 District only). **[Amended 4-8-87]**
- G. Essential services.
- H. **[Added 4-13-83; amended 4-8-87]** Three-family apartment building, in the R-3 Residential District and subject to the requirements of the district, except as herein provided:

- (1) Permitted only in structures or that portion of the structures that existed prior to the date of enactment of this subsection (April 13, 1983).
- (2) The structure to be converted must contain a minimum of two thousand seven hundred (2,700) square feet of gross floor living area [excluding cellars (see definition)]. No addition(s) constructed after the date of enactment of this subsection (April 13, 1983) may be included in the calculation of gross floor living area.
- (3) No external structural additions can be made to the existing structure (except minor appurtenance changes, such as fire escapes, dormer windows, etc.) in order to accommodate the third apartment unit.
- (4) On-premises off-street parking is provided in accordance with the zoning requirements for multifamily dwellings.
- (5) There will be one (1) family per dwelling unit, and no additional leasing of rooms to persons who are not members of the families residing in the dwelling units will be allowed.
- (6) The conversion must not negatively impact the physical conditions of the area or be detrimental to the character of the neighborhood.
- (7) The structure to be converted must be maintained in a reasonable state of repair.
- (8) The minimum lot area shall be ten thousand (10,000) square feet, with the minimum lot width and yard depth to be that required for two-family dwellings.
[Amended 9-9-87]

- I. **[Added 12-14-1988]** Country inn-family restaurant. A "country inn" is an establishment for eating purposes only, in a structure which existed on January 24, 1977, provided that:

- (1) The owners of the establishment reside on the premises.
- (2) The minimum lot area shall be two (2) acres.
- (3) Off-street parking shall be provided at a minimum of one (1) space per one hundred (100) square feet of establishment.

§ 88-32. Required lot and yard dimensions. [Amended 6-25-80; 1-12-83]

A. Table of Dimensions. **[Amended 10-26-83; 4-8-87]**

Use Type	Minimum Lot Area per Unit (square feet)	Minimum Lot Width (feet)	Minimum Yard Depth		
			Front Yard (feet)	Each Side Yard (feet)	Rear Yard (feet)
Low density					
R-1 District	22,000	100	40	15	40
R-2 District	15,000	75	35	10	40

Medium density					
R-3 District	10,000	60	35	8	40
Two-family dwelling	5,000	60	35	8	40
High density					
R-4 District					
Multifamily dwelling	3,000		See Subsection B		
Townhouse (See Subsection B)		25		30	

B. Townhouses.

- (1) For townhouses in the R-4 District, the structures shall not occupy more than forty percent (40%) of the gross lot area. The average dwelling-unit density shall not exceed six (6) units per net development acre of land within each development, with not more than six (6) units per structure. "Net developable land" is that land remaining after annual floodplain areas and rights-of-way for major arterial or minor arterial highways have been deducted from the gross site area. The maximum length of each structure shall not exceed one hundred forty-four (144) feet.
[Amended 4-8-87]
- (2) For townhouses in the R-4 District, buildings shall be set back a minimum of one hundred (100) feet from the property line when adjoining major arterial right-of-way. When adjoining a minor arterial right-of-way, the rear building setback shall be not less than fifty (50) feet and the front and side yard setbacks shall be not less than thirty (30) feet each, except when the setback adjoins another right-of-way, in which instance the front and/or side yard setback shall be a minimum of twenty (20) feet. Whenever the property being developed adjoins an A or R-1 zoned property, the building setback shall be not less than one hundred (100) feet. Whenever the property being developed adjoins any district other than A or R-1, the building setback shall be a minimum of fifty (50) feet unless the adjacent property is a part of the same development. **[Amended 4-8-87]**
- (3) In all districts, the minimum distances between townhouse buildings, or any part, shall be:
 - (a) Rear to rear: seventy (70) feet.
 - (b) Rear to face: seventy (70) feet.
 - (c) Face to face: seventy (70) feet.
 - (d) End to face or to rear: forty-five (45) feet.
 - (e) End to end: thirty (30) feet.
- (4) In all townhouse developments, the minimum gross land area devoted to open space shall be at least forty percent (40%) thereof. **[Amended 4-8-87]**
- (5) The minimum lot area per family or rental unit for townhouses in an R-4 District shall be two thousand four hundred (2,400) square feet, and in an R-3 District, it shall be one thousand six hundred (1,600) square feet. **[Amended 4-8-87]**
- (6) **Amended 4-8-87** Landscaped areas. Unless changed by the Planning Commission, the minimum landscaping required for all townhouse development in an R-4 District shall be:

- (a) A twenty-foot-wide landscaped edge along all external development lines shall be provided.
 - (b) In addition, for parking areas near buildings, there shall exist a landscaped area with a minimum width of fifteen (15) feet between the front or end of a building and parking area, and where a parking area is continuous for more than ten (10) spaces, there shall exist a landscaped island of at least ten (10) feet in width between the parking area and the remaining property. All landscaping plans are to be approved by the Planning Commission.
- (7) Fencing. If fences are to be permitted in a townhouse development, the subdivider shall prepare and submit to the Planning Commission a fencing plan. The fencing plan shall show the anticipated arrangement of fences and shall limit the fence design and materials to one (1) per building style, said plan to be approved by the Planning Commission prior to final site plan approval. All restrictions or conditions as to fencing, including no fencing being permitted if this is desired, shall be a part of the declaration of covenants existing for the development as well as becoming a part of all contracts for the sale of each townhouse unit. In addition, each purchase of a townhouse unit must be furnished with a written reference to the fencing plan, a copy of which shall be made available to each purchaser by the developer, prior to the full execution of all contracts of sale for a townhouse.
- C. Apartment buildings.
- (1) For apartment buildings in the R-4 District, the structure shall occupy not more than twenty-five percent (25%) of the gross lot area. The average dwelling unit density shall not exceed six (6) dwelling units per net developable acre of land within each apartment development, with not more than six (6) units per structure. "Net developable land" is land remaining after annual floodplain areas and rights-of-way for major arterial or minor arterial highways have been deleted from the gross site area. **[Amended 4-8-87]**
 - (2) For apartments in the R-4 District, buildings shall be set back a minimum of a distance of one hundred (100) feet from the property line when adjoining a major arterial right-of-way. When adjoining a minor arterial right-of-way, the rear building setback shall not be less than fifty (50) feet and the front and side yard setback shall not be less than thirty (30) feet each, except when the setback adjoins another right-of-way, in which instance the front and/or side yard setback shall be a minimum of twenty (20) feet. Whenever the property being developed adjoins any district other than A or R-1, the building setback shall be a minimum of fifty (50) feet, unless the adjacent property is a part of the same development. **[Amended 4-8-87]**
 - (3) In all apartment building developments, the minimum distances between buildings, or any part, shall be:
 - (a) Rear to rear: seventy (70) feet.
 - (b) Rear to face: seventy (70) feet.
 - (c) Face to face: seventy (70) feet.
 - (d) End to face or to rear: forty-five (45) feet.
 - (e) End to end: thirty (30) feet.

- (4) In all apartment building developments, the minimum gross land area devoted to open space shall be forty percent (40%) thereof.
- (5) Landscaped areas. Landscaping of apartment building development shall be the same as for townhouse development, including parking areas.

§88-33. Building height regulations.

No building will exceed three (3) stories or thirty-five (35) feet in height unless each side yard is increased over the required minimum by five (5) feet for every five (5) feet, or fraction thereof, of additional height over thirty-five (35) feet. In no case shall the building height exceed fifty (50) feet.

§88-34. Off-street parking and loading.

There shall be provided in the residential districts adequate off-street parking and loading in accordance with the schedule in Article II⁴.

§ 88-35. Accessory uses: Residential and Mixed Use Districts
[Amended 2-28-01 by Ordinance 2000-9]

- A. **[Amended 12-9-87]** The following accessory uses are permitted in the residential and mixed use districts:
 - (1) Private swimming pools, see 88-57.
 - (2) One-story private garages and one-story garden or tool sheds, see 88-57.
 - (3) Other accessory structure, including decks and patios, see 88-57.
- B. Unattached accessory uses shall remain distant from side and rear lot lines a distance per 88-57.
- C. No freestanding signs shall be permitted in residential districts except those permitted by Article II, § 88-14A. **[Added 3-28-84]**
- D. General signs: see Article II and § 88-14. **[Added 8-12-92]**
- E. Outside vending machines are not permitted in R Districts, on "nonconforming use" property within R Districts, or in the OTM District.

§88-36. Old Town Mixed Use District (OTM)
[Amended 1/28/2015 by Ordinance 2014-08]

- A. **Intent and purpose: OTM District.**

The purposes of the Old Town Mixed Use District are to promote the use and reuse of existing structures in the Old Town area as designated on the Comprehensive Plan and Zoning Map, and to preserve the historic mix of small scale retail, office and residential uses within the Old Town area as designated on the Comprehensive Plan and Zoning Map. The Old Town area is located within that part of the Town's corporate limits bounded by the following streets: Maple Avenue, Maryland Avenue, Fulton Avenue,

⁴ Editor's Note: See § 88-10 and §88-11.

Main Street (from Frederick Street to George Street), Pennsylvania Avenue (from the railroad to Clinton Street), Green Street, George Street (from Pennsylvania Avenue to Clinton Street) and Frederick Street (from Main Street to Nicodemus Road). The residential character of properties in the OTM District will be maintained through appropriate size, location and scale buildings, materials used, landscaping and lighting and other performance standards. This district is not intended to accommodate commercial uses that are more appropriate for the B-1, B-2 and B-0 Districts and that entail high-volume traffic turnover, large parking areas and/or outdoor storage and display areas.

B. Permitted Uses: OTM District.

1. Government facilities, professional/business offices, except medical and veterinary offices
2. Retail sales and services, except retail liquor sales
3. Personal services
4. Bed and Breakfasts
5. Single family dwellings
6. Two family dwellings
7. Residential apartments over commercial uses
8. Places of worship
9. Three family dwellings

C. Site Plan Required: OTM District.

All new uses, change of uses of, expansions of, alterations to or additions to existing lawful uses, except single and two family dwellings which will be used for that purpose, shall be subject to site plan approval by the Planning Commission.

D. Performance Standards: OTM District.

1. No more than three separate uses shall be permitted per lot. Each dwelling unit and commercial establishment shall be counted as one use.
2. No residential uses shall be permitted within accessory structures.
3. No retail liquor sales permitted in connection with any permitted use.
4. No drive-through facilities permitted.
5. Maximum building height of 35 feet.
6. Outdoor storage or display of goods, materials or equipment shall be permitted to cover no more than 250 square feet or 20% of the front yard, whichever is less. No

outdoor storage or display shall exceed 5 feet in height. All outdoor storage must be adequately landscaped and screened as determined by the Planning Commission.

7. When reviewing plans for new construction or substantial alterations, the Planning Commission will consider the following in order to make its determination that the development complements or enhances the residential character of the area:
 - The materials of the exterior;
 - The type and pitch of roofs;
 - The size and spacing of windows, doors and other openings;
 - The size, type and location of signs;
 - Towers, chimneys, roof structures, flagpoles, radio and television antennas;
 - The relation to existing buildings and structures in the general vicinity and area.
8. All new or expanded uses shall be appropriately screened, buffered and landscaped as determined by the Planning Commission.
9. Hours of Operation: No non-residential use may be open for business earlier than 7:00 a.m. or later than 10:00 p.m.
10. No non-residential use may accept deliveries from a truck over 25,000 pounds gross vehicle weight nor may a truck or other mobile equipment be operated on the premises of any non-residential use, earlier than 8:00 a.m. nor later than 6:00 p.m. Monday through Saturday or at all on Sundays.
11. Noise: All air handling equipment or other noise generating equipment shall be located a minimum of 10 feet from any property line, and shall be screened as determined by the Planning Commission to prevent noise intrusion onto or visibility from adjacent residential properties. Noise-generating uses shall be prevented from intruding on adjacent properties by their operation, location in the building and/or construction (e.g. sealed windows). Noise levels of noise generating equipment shall not exceed 80 DB as measured at any of the property lines.
12. Lighting: All lighting shall be designed to eliminate light overflow onto adjacent properties. Any signage, building or parking lighting not necessary for security purposes shall be placed on automatic timing devices which allow illumination to commence each day ½ hour before the business is open to the public and to terminate ½ hour after the close of business.
13. Off-Street Parking Requirements for Permitted Uses
 - a. Changes of use, expansion of/alteration to existing uses, and new uses in structures which exist prior to January 1, 2001:
No additional off-street parking spaces required. The Planning Commission may require that existing parking spaces (or an equivalent number of spaces) be preserved on site.
 - b. New construction or redevelopment (when existing principal structures are entirely or partially removed):
Residential uses: 2 parking spaces per dwelling unit;
All other uses: 2 or more parking spaces per use as determined by the

Planning Commission.

14. Signs: Signs shall be permitted in accordance with the requirements of § 88-14 of the Town Code.
15. The Planning Commission shall determine the width of commercial entrances as part of site plan review.

E. Special Exception Uses: OTM District

The following uses are permitted as special exceptions in the OTM District when the requirements for a special exception under Article IX of this chapter are satisfied and when authorized by the Board of Appeals:

1. Day care, nursery school, senior day care, provided the following standards are met:
 - Customer drop-off area is provided.
 - No more than one commercial vehicle is stored on the property.
 - Safe and orderly flow of traffic can be assured.
 - Off-street parking requirements for special exception uses are met.
 - All performance standards and lot and yard dimensional requirements of the OTM District.
2. Medical offices, provided the following standards are met:
 - Safe and orderly flow of traffic can be assured.
 - Off-street parking requirements for special exception uses are met.
 - All performance standards and lot and yard dimensional requirements of the OTM District are met.
3. Bakeries and caterers, provided the following standards are met:
 - No more than one delivery truck or other commercial vehicle is stored on the property.
 - Off-street parking requirements for special exception uses are met.
 - All performance standards and lot and yard dimensional requirements of the OTM District are met.
4. Funeral homes, provided the following standards are met:
 - No cremations are performed on site.
 - Safe and orderly flow of traffic can be assured.
 - Off-street parking requirements for special exception uses are met.
 - All performance standards and lot and yard dimensional requirements of the OTM District are met.
5. Restaurants, provided the following standards are met:
 - Maximum number of customer seats permitted is 50.
 - Safe and orderly flow of traffic can be assured.
 - Liquor sales only permitted in conjunction with food sales.
 - No live entertainment shall be permitted.
 - Off-street parking requirements for special exception uses are met.
 - All performance standards and lot and yard dimensional requirements of the OTM District are met.

6. Art or craft studio; martial arts instruction; music or dance studio; exercise or fitness studio; or other type of private instruction; provided the following standards are met:
 - Customer drop-off area is provided.
 - The number of clients or students shall not exceed 12 students at any time in on one or more classes.
 - Classes of 4 or more students must be scheduled at least 15 minutes apart to reduce traffic congestion.
 - Safe and orderly flow of traffic can be assured.
 - Off-street parking requirements for special exception uses are met.
 - All performance standards and lot and yard dimensional requirements of the OTM District are met.

F. Off-Street Parking Requirements for Special Exception Uses.

1. New uses and changes of use in structures which exist prior to July 1, 2001:
No additional off-street parking spaces required. The Planning Commission may require that existing parking spaces (or an equivalent number of spaces) be preserved on site.
2. New construction or redevelopment (when existing principal structures are entirely or partially removed):
2 or more parking spaces per use as determined by the Planning Commission.

G. Dimensional Standards: OTM District

	Minimum Lot Area	Minimum Lot Width	Minimum Yard Depth		
			Front Yard (one)	Side Yard (each)	Rear Yard (one)
Old Town Mixed Use District					
Single family dwellings	Not specified	Not specified	20	8	25
Two family dwellings	Not specified	Not specified	20	8	25
Bed and breakfasts	Not specified	Not specified	20	8	25
Mixed use lots	Not specified	Not specified	20	8	25
Other uses	Not specified	Not specified	20	8	25

H. Other Requirements: OTM District.

Maximum first floor area of buildings on a lot (excluding parking and accessory structures) shall be 5,000 square feet or 40% coverage of the total lot area, whichever is less. This standard applies to additions and alterations to existing structures as well as new construction.

§ 88-37. Home association.

A home association will be required if other satisfactory arrangements have not been made for improving, operating and maintaining common facilities, including drives, service and parking areas and recreation areas in townhouse or apartment developments. When required, the owner(s) must establish a home association in accordance with the requirements and procedures outlined by the Federal Housing Authority in Sections 7 and 8.2 of the Land Planning Bulletin No. 6, entitled "Planned Unit Development with a Home Association," dated December 1963. The concept of the Home Association and its bylaws must be approved by the Planning Commission.⁵

**ARTICLE VI
Commercial Districts****§ 88-38. Intent and purpose: B-1 District.**

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

§88-39. Intent and purpose: B-2 District.

The B-2 District is intended to be the single central shopping, service and entertainment center for the community and the surrounding region. It is intended that stores and other facilities will be grouped together in an attractive and convenient manner with particular attention being paid to the safety of pedestrian travel and the protection of adjoining residential areas. It is essential that this district have excellent vehicular accessibility from both the central community and the region and that safe and adequate off-street parking and loading is provided. No drive-in eating places or lodging places are recommended for location herein.

§ 88-40. Intent and purpose: B-O District. [Added 8-10-1988]

- A. The Business-Office District is intended to provide areas along certain major streets where nonretail commercial uses, such as business and professional offices, may be located in a low-intensity manner, such that they can be compatible with adjacent residential uses. These areas must be designated "commercial" or "highway service" on the Comprehensive Plan. The requirements of this zone are designed to protect the adjacent or surrounding residential areas and to create an appearance of open, uncluttered and orderly development.
- B. No outdoor storage shall be permitted.
- C. [Repealed 5-13-98 by Ordinance 98-4]

⁵ Editor's Note: Original Section 11.0, Planned Unit Development, which immediately followed this section, was subsequently replaced by new provisions now appearing as Ch. 53, Planned Unit Development. Repealed 8/13/80.

D. Parking. **[Amended 10-11-1989 by Ord. No. 89-6]**

- (1) Parking required shall be one (1) space for each one hundred (100) square feet of floor area. Parking areas must be paved and shall not be permitted in the front yard. Rear yard parking may project to within one-half (1/2) of the required setback. Parking may be provided on a separate lot if within three hundred (300) feet of the building it serves, and two (2) or more owners may join together in the provision of this parking space. Existing buildings not complying with these requirements will not be exempt if the use changes.
- (2) Required parking shall be one (1) space for each one hundred sixty-seven (167) square feet [six (6) spaces per one thousand (1,000) square feet] of floor area for multiple user-business-office developments totaling twenty thousand (20,000) square feet of floor area or greater. Parking areas in such developments shall be permitted between the proposed building and the minimum twenty-foot front yard setback, subject to site plan approval.

E. No lights may glare on adjoining residential structures

F. A site plan required for a change in use.

G. General signs: see Article II and § 88-14 and § 88-40C and E.
[Added]

H. Outside vending machines: **[Added]**

- (1) Machines must occupy not more than 21 square feet of total surface of the property of record on which it is located.
- (2) Vending machines may not be stacked one upon the other.
- (3) Location of machines must be indicated on site plan.
- (4) Machines must be located on a paved surface abutting the main structure on the property.
- (5) All machines on the site must be located side by side to each other and not at multiple locations on the site.
- (6) Vending machines may not be located in such a location as to interfere with pedestrian or vehicular traffic onto, off of, or within the property on which they are located or adjoining public property or right-of-ways.

§ 88-41. Permitted uses: B-1 District.

The following uses are permitted in the B-1 District:

- A. Any use permitted in a residential district.
- B. Lodging and institutional: lodging houses, hospitals, institutions, fraternities and sororities and volunteer fire departments.

- C. Major retail outlets: furniture, department, clothing, dry goods, shoe and variety stores; and hardware, electrical appliance, paint and wallpaper stores.
- D. Food, drug and beverage: grocery, fruit or vegetable stores; supermarkets; meat markets; delicatessens; drugstores; bakeries in conjunction with retail sales; restaurants; and tearooms.
- E. Specialty shops: gift shops; jewelry stores; magazine, book and stationary outlets; florist shops; camera and photography shops and studios; sporting goods; and antique shops.
- F. Service: laundromats; dry-cleaning and laundry pick-up stations; barber- and beauty shops; dressmaking and millinery shops; shoe repair and tailor shops; mortuaries; indoor storage and transfer establishments; repair shops for appliances and small articles; newspaper printing and publishing facilities; and print, furnace, heating, typewriter and plumbing shops. **[Amended 3-24-82]**
- G. Business and professional offices: medical and dental offices and clinics; law offices; insurance and real estate offices; banks; finance and utility company offices; and animal hospitals and clinics with no open kennels.
- H. Accessory uses or buildings.
- I. Business and advertising signs, and real estate and public building signs or bulletin boards when attached to a building pertaining to the use of the property on which the sign is located, provided that they meet the requirements of Article II, § 88-14B. Freestanding signs may be permitted in the B-1 District with approval by the Burgess and Commissioners. **[Amended 3-28-84]**
- J. General signs: see Article II and § 88-14 and § 88-41I. **[Added]**
- K. Outside vending machines: **[Added]**
 - (1) Machines must occupy not more than 21 square feet of total surface of the property of record on which located.
 - (2) Vending machines may not be stacked one upon the other.
 - (3) Location of machines must be indicated on site plan.
 - (4) Machines must be located on a paved surface abutting the main structure of the property.
 - (5) All machines on the site must be located side by side to each other and not at multiple locations on the site.
 - (6) Vending machines may not be located in such a location as to interfere with pedestrian or vehicular traffic onto, off of, or within the property on which they are located or adjoining public property right-of-ways.
- L. Wireless Telecommunication Facility when sited and constructed in accordance with Chapter 86 of the Town Code. **[Added 4-24-02 by Ordinance 2002-04]**

§ 88-42. Permitted uses: B-2 District.

The following uses are permitted in the B-2 District:

- A. Any use permitted in the B-1 Neighborhood Business District, except permitted residential uses and those uses stated in §88-41B, and signs shall be permitted only in accordance with the specifications of this section.
 - (1) Department and clothing stores.
 - (2) Furniture and appliance stores.
 - (3) Paint and hardware stores.
 - (4) Banks; savings and loan offices.
 - (5) Jewelry, stationery, flower, pet and other specialty shops.
 - (6) Business and professional offices.
 - (7) Radio, television and shoe repair and other repair services.
 - (8) Lodging facilities: hotels and motels.
 - (9) Service Stations and minor repair shops.
 - (10) Restaurants and cafes, including entertainment activities.
 - (11) Laundry and dry-cleaning establishments.
 - (12) Public buildings of a cultural, administrative or public-service nature.
 - (13) Clubs and lodges.
 - (14) Multiple occupancy office.
- B. Accessory uses or buildings.
- C. Business and advertising signs, and real estate and public building signs or bulletin boards, provided that they meet the requirements of Article II, § 88-14B.
- D. General signs: see Article II and § 88-14 and § 88-42C.
- E. Outside vending machines:
 - (1) Machines must occupy not more than 21 square feet of total surface of the property of record on which located.
 - (2) Vending machines may not be stacked one upon the other.
 - (3) Location of machines must be indicated on site plan.
 - (4) Machines must be located on a paved surface abutting the main structure on the property.

- (5) All machines on the site must be located side by side to each other and not at multiple locations on the site.
- (6) Vending machines may not be located in such a location as to interfere with pedestrian or vehicular traffic onto, off of, or within the property on which they are located or adjoining public property or right-of-ways.

§ 88-43. Permitted uses: HS District.

Deleted. Reassigned to other districts.

§88-43.1. Permitted uses: B-O District. [Added 8-10-1988]

The following uses are permitted in the B-O District.

- A. UNUSED. [Ordinance 98-18, adopted 12-9-98]
- B. Business and professional offices: medical, dental offices and clinics; offices of architect, engineer, surveyor, attorney and accountant; insurance and real estate offices; banks, finance and utility company offices; and secretarial and management services.
- C. Nursery school or child-care center, provided that it includes an adequately sized play area, fully fenced and enclosed, and the main structure is no closer than twenty (20) feet to any adjacent lot line.
- D. Funeral home.
- E. Broadcasting studio, artist studio.
- F. Tourist home, bed and breakfast (not motel).
- G. Barber- or beauty shop, sewing or tailoring (not dry cleaners).
- H. One-story accessory structures customarily incidental and subordinate to the above principal uses and structures, provided that the total square footage does not cover more than thirty percent (30%) of the square footage of the rear yard.
- I. General signs: see Article II and § 88-14. **[Added]**
- J. Outside vending machines: **[Added]**
 - (1) Machines must occupy not more than twenty-one (21) square feet of total surface of the property of record on which located.
 - (2) Vending machines may not be stacked one upon the other.
 - (3) Location of machines must be indicated on site plan.
 - (4) Machines must be located on a paved surface abutting the main structure on the property.

- (5) All machines on the site must be located side by side to each other and not at multiple locations on the site.
- (6) Vending machines may not be located in such a location as to interfere with pedestrian or vehicular traffic onto, off of, or within the property on which they are located or adjoining public property or right-of-ways.

K. Wireless Telecommunication Facility when sited and constructed in accordance with Chapter 86 of the Town Code. [Added 4-24-02 by Ordinance 2002-04]

§ 88-44. Special exception uses.

The following uses are permitted as special exceptions in the specified commercial district when authorized by the Board of Appeals:

Use	Business District And Limitations
Greenhouses, nurseries and lumberyards	B-1 provided that no structure is closer than 25 feet to a residentially zoned lot
Hospitals and educational, religious and philanthropic institutions	B-1 and B-2, provided that not more than 40% of the lot is occupied and each yard is increased 1 foot for each 1 foot in excess of usual height limitations
Independent Senior Living Communities [Added 5-25-05 by Ord. 2005-03]	B-1 and B-2, provided that: 1) Minimum parking ratio of 1.25 parking spaces provided per living unit. 2) Development to consist of a minimum of 5 acres including commercial portion. 3) A minimum of twenty-five percent (25%) of total land area must be a planned commercial set aside. 4) Density of no greater than 1,500 sq. ft. for 1 bedroom and 2,000 sq. ft. for 2 bedroom units. 5) Development is proximate to residential uses.
Children's nurseries and kindergarten, kindergarten and other private schools	B-1 and B-2, provided that pre- 100 square feet of open space is maintained for each child enrolled.

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Theaters and hotels

B-1, provided that adequate parking is provided as outlined in Article II, §88-10

Bowling alleys and other commercial recreation facilities
[Added 3-24-82]

B-2, provided that the proposed activity is in compliance with all safety, health and environmental standards and is not detrimental to the surrounding area; safe and orderly flow of traffic can be assured; and adequate parking is provided as outlined in Article II, §88-10

Nursing homes and assisted care facilities [Added 12-9-98 by Ordinance 98-18]

B-0, provided that the nursing home and assisted care facility meet all the specific yard requirements set forth in §88-32 for multifamily dwellings and provided that street parking spaces are provided for each attendant or worker and for each three (3) patients to be cared for therein.

§88-45. Building height regulations.

In the B-1, B-2 and B-O Districts, no building shall exceed three (3) stories or thirty-five (35) feet in height.

§ 88-46. Essential services.

Essential services⁷ shall be permitted in all business districts.

§ 88-47. Off-street parking and loading.

There shall be provided in the business districts adequate off-street parking and loading areas in accordance with the schedule in Article II.⁸

§ 88-48. (Reserved).⁹

⁷ Editor's Note: See the definition of "essential services" set forth in § 88-2 of this chapter.

⁸ Editor's Note: See § 88-10 and §88-11.

⁹ Editor's Note: Former § 88-48, Required site plans, was repealed 6-25-80.

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§ 88-49. Required lot and yard dimensions.

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	Minimum Lot Area	Minimum Lot Width (feet)	Minimum Yard Depth (feet)		
			Front Yard ⁴ (one)	Side Yard (each) ²	Rear Yard (one)
B-1 Neighborhood Business District ¹	Not specified	Not specified	20	10 (when adjacent to an R District)	25
B-2 Shopping Center District ^{2,3}	Not specified	Not specified	30	20 ³	30
B-O Business-Office ⁶ [Added 8-10-88]	Not specified	Not specified	20 ⁵	10	25
Motel	2 acres	300	25	10	25

(1) Note: Residential uses in the B-1 Neighborhood Business District shall meet the lot area, width and yard requirements of the R-4 District. [Amended 8-12-92]

(2) Note: No side yard required when adjacent to other commercial or industrial lots. When adjacent to a residential district (not a residential lot), yards are measured from the structure or parking area, whichever is closest to the lot line.

(3) Note: Parking areas in the B-2 District may project to within one-half (1/2) of the required setback. [Amended 7-13-83]

(4) Note: See §188-16H(1) relating to the placement of gasoline pumps in service stations.

(5) Note: Parking shall not be permitted in the front yard. Rear yard parking may project to within one-half (1/2) of the required setback. Parking areas in multiple user business-office developments of twenty thousand (20,000) square feet of floor

area or greater shall be permitted between the proposed building and the minimum twenty (20) foot front yard setback, subject to site plan approval. [Amended 10-11-89 by Ord. No. 89-6]

(6) Note: Existing structures as of August 10, 1988, will not be required to conform to setbacks, but any addition will be subject to the setbacks.

(7) Note: The required lot and yard dimensions in §88-49 do not apply to individual subdivision Lots located in a multi-user business park, which park contains uses totaling at least 20,000 square feet of floor area in two (2) floors or less in the B-O zoning district, and such Lots are not required to front on a public right-of-way, provided that:

- a. the multi-user business park as single parcel and the uses and/or structures on the perimeter of the park comply with the required lot and yard dimensions of this section; and
- b. the Planning Commission determines to its satisfaction that all public improvements required for such Lot are adequately guaranteed before construction on the Lot begins and that appropriate recorded easements, covenants, maintenance agreements and/or owners association are established to provide perpetual access to public streets and utilities and improvement and maintenance of common areas and facilities in the multi-user business park; and
- c. the other applicable requirements of this Ordinance have been satisfied and that the Lot conforms with the overall design and development concept for the multi-user business park approved by the Planning Commission. [Note 7 added by Ordinance 90-4, 1-23-91]

ZONING
ARTICLE VII
Limited Industrial District

§ 88-50. Intent and purpose.

The Limited Industrial District (LI) is intended to provide adequate area for development of industrial uses whose operations have a relatively minor nuisance value; and provides a healthful industrial operating environment secure from the encroachment of residential uses and protected from adverse effects of incompatible industries. These uses are of such size and character as are deemed inappropriate for other commercial districts. **[Amended]**

§ 88-50.1. Permitted uses: LI District. [Added]

- A. Uses permitted in the B-0 District
- B. Agriculture, commercial greenhouses and nurseries, forestry, dwelling on the same property in conjunction with a permitted use, i.e., owner, caretaker; auction house (not auto or animal); furniture repair; lumber yard (not sawmill); stone monument sales and processing; carpentry, electrical, plumbing, welding, printing, upholstering shops; bottling plant; carpet and rug cleaners; industrial laundry and dry cleaning; wholesaling and/or warehouse; municipally approved, operated, owned and/or supervised recycling drop off facility; golf driving range; miniature golf; indoor theater; limited manufacturing and assembly uses; civic parks and recreation areas; fire and rescue service (not a practice burn facility); public buildings and properties; public utility; public transit station; motel or hotel; research laboratory; essential services; and Wireless Telecommunication Facility when sited and constructed in accordance with Chapter 86 of the Town Code.
[Amended 11-12-03 by Ordinance 2003-09]

§ 88-50.2. Special exception uses: LI District. [Added]

- A. Archery ranges (outdoor or indoor) and hunting, fishing, and gun clubs. Rifle and pistol ranges in an approved indoor facility only.
- B. Helipads; but, not aircraft landing and storage areas.
- C. Day care center; nursery school.
- D. Stadium or outdoor stage.
- E. Recycling collection facility, provided the following standards are met as determined by the Board of Appeals in addition to the other special exception standards required under Article IX hereof:

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- (1) The building containing the recycling collection facility shall not exceed a maximum of 20,000 square feet of total floor area (as herein defined); and
- (2) The building containing the recycling collection facility shall be located a minimum of sixty feet (60') from a residential zoning district; and
- (3) The lot and/or the building containing the recycling collection facility shall be clearly marked to identify the name and 24 hour a day telephone number of the recycling collection facility owner and operator, the hours of operation and a notice stating that no materials shall be dropped off, collected or otherwise left outside the building when the recycling collection facility is closed; and
- (4) The maximum hours of operation of the recycling collection facility shall be limited to 8 a.m. to 6 p.m. Monday through Saturday; and
- (5) The lot shall be completely enclosed by a fence of suitable material and height with a locking gate; and
- (6) All industrial performance standards listed in §88-54 shall be met.

[§88-50.2E. added 11-12-03 by Ordinance 2003-09]

§ 88-50.3. Accessory uses: LI District. [Added]

A. General signs: see Article II & § 88-14.

B. Outside vending machines:

- (1) Machines must occupy not more than twenty-one (21) square feet of total surface of the property of record on which located.
- (2) Vending machines may not be stacked one upon the other.
- (3) Location of machines must be indicated on site plan.
- (4) Machines must be located on a paved surface abutting the main structure on the property.
- (5) All machines on the site must be located side by side to each other and not at multiple locations on the site.
- (6) Vending machines may not be located in such a location as to interfere with pedestrian or vehicular traffic onto, off of, or within the property on which they are located or adjoining public property or right-of-ways.

**§ 88-51. Intent and purpose: Limited Industrial Park District (LIP)
[Amended]**

The Limited Industrial Park District (LIP) is intended to provide for those industrial uses which require outdoor storage of equipment or supplies. Special screening is required.

§ 88-51.1 Permitted uses: LIP District. [Added]

- A. Uses permitted in the LI District.
- B. Additional uses permitted: Yard storage; mobile home sales; boat sales and service; farm equipment sales and service; bus repair, maintenance, and storage facility; contractor equipment and material storage yard; car wash; auto and truck repair and service shop; auto and truck sales and service centers; mini-warehouse storage operations.

§ 88-51.2. Special exception uses: LIP District. [Added]

- A. Uses permitted as special exception use in LI District.
- B. Two way radio dispatch tower (not to exceed seventy (70) feet in height), provided that the setback of the tower from the lot line equals the height of the tower.
- C. Bulk storage of oil, petroleum, gasoline and similar flammable liquids and compressed gases. (See § 88-16, Storage of Flammable Fuels)

§ 88-51.3. Accessory uses: LIP District.

- A. General signs: see Article II and § 88-14.
- B. Outside vending machines:
 - (1) Machines must occupy not more than twenty-one (21) square feet of total surface of the property of record on which located.
 - (2) Vending machines may not be stacked one upon the other.
 - (3) Location of machines must be indicated on site plan.
 - (4) Machines must be located on a paved surface abutting the main structure on the property.
 - (5) All machines on the site must be located side by side to each other and not at multiple locations on the site.
 - (6) Vending machines may not be located in such a location as to interfere with pedestrian or vehicular traffic onto, off of, or within the property on which they are located or adjoining public property or right-of-ways.

The General Industrial (GI) district is intended to provide areas for industries involving manufacturing. It provides an operating environment secure from the encroachment of incompatible residential, institutional and commercial land uses. [Amended]

§ 88 52.1. Permitted uses. GI District [Added]

- A. Uses permitted in LIP district.
- B. Additional uses permitted: agribusiness; auto auction sales; and general manufacturing.

§ 88-52.2. Special exception uses: GI District. [Added]

- A. Uses permitted as special exception use in LIP district.
- B. Motor freight transfer terminals, for the handling and transshipment of freight and cargo.

§88-52.3. Accessory uses: GI District.

- A. General signs: see Article II and §88-14.
- B. Outside vending machines:
 - (1) Machines must occupy not more than twenty-one (21) square feet of total surface of the property of record on which located.
 - (2) Vending machines may not be stacked one upon the other.
 - (3) Location of machines must be indicated on site plan.
 - (4) Machines must be located on a paved surface abutting the main structure on the property.
 - (5) All machines on the site must be located side by side to each other and not at multiple locations on the site.
 - (6) Vending machines may not be located in such a location as to interfere with pedestrian or vehicular traffic onto, off of, or within the property on which they are located or adjoining public property or right-of-ways.

§88-53. Lot/yard dimensions and building height requirements:**Industrial Districts****[Amended 8-9-00 by Ord. 2000-4]**

	Min. Lot Width	Front Yard (1) Buffer	Side Yard(1) Buffer	Rear Yard Buffer	Height (Feet)	Minimum Lot Area (Sq Ft)
LI	125	50	25	60 (2)	45	30,000
LIP	125	75 (2)	25	60 (2)	45	30,000
GI	200	100 (2)	25 (3) 50 (3)	60 (2)	45	80,000

(1) No parking is authorized in the front yard buffer of the LI District or side yard buffer of the LI, LIP or GI Districts; however, parking is allowed beyond the buffer line.

(2) Two-thirds (2/3) of the rear yard buffer requirement (nearest to the building) and two-thirds (2/3) of the front yard buffer may be used for parking. The remaining one-third (1/3) must be grass or landscape. The Planning Commission shall require screening in the remaining one-third (1/3) of the front yard to screen parking areas from the street or adjoining properties in accordance with the standards set forth below. Such screening may be designed to allow some visibility of the site from the street.

Screening shall consist of 1) a landscaped berm, or 2) evergreen shrubs supplemented with deciduous trees, planted within a 5 ft. or wider planting strip, or 3) a combination thereof. The minimum screening standards for plantings shall meet those found in § 88-54.C. Openings may be permitted where needed for access and visibility of structures, signs or entrance features. Any existing screening which complies with standards set forth above may be used to satisfy requirements of this ordinance. Screening planted in accordance with the Forest Resource Ordinance may be used to satisfy the requirements of this ordinance.

(3) The twenty-five (25) foot side yard is required if the adjoining property is zoned LI or LIP. The fifty (50) foot side yard is required if the adjoining property is zoned other than LI or LIP.

OPEN SPACE: The minimum landscaped open space on any individual lot shall not be less than 20% of the land area of the lot. The landscaped open space shall not be impervious or open for vehicular use and the landscaping shall be maintained in a reasonable manner.

§ 88-54. Site plan - specific performance standards: Industrial Districts [Amended]

The following specific standards will be met in site plans, in addition to other requirements:

- A. Lighting: Lighting emitting objectionable glare observable from surrounding properties or streets will be shielded. Any operation or activity producing glare shall be conducted so that direct or indirect light from the source shall not cause illumination in excess of five-tenths (0.5) footcandles when

measured in a residential or open space district.

- B. Public utilities: The Health Department shall certify that the proposed water and sewage facilities are adequate to service the proposed development.
- C. Screening: The Planning Commission may require screening along the property line and around and within the parking areas. Minimum standards are: Planting strips will be no less than five (5) feet wide, planted with shrubs or trees, which are of a type and spaced at intervals which may be expected to form a year round dense screen at least six (6) feet high within three (3) years, and opaque fencing may be used in conjunction with trees and shrubs, subject to the approval of the Planning Commission.
- D. Storage of flammable materials: see § 88-16, Storage of Flammable Fuels.
- E. Storage and Operation: In the LI District, all operations and storage of equipment, materials or products will be conducted within completely enclosed buildings. In the LIP and GI districts, storage may be permitted outdoors only when completely screened by a wall, opaque fence or planting so that materials or equipment is not visible from a public way or adjoining property. The Planning Commission shall determine the most appropriate screening for the use.
- F. Noise: The application for a zoning certificate will be accompanied by a certification by a registered engineer or architect that noise will not be detectable at the lot line.

The following sources of noise are exempt:

- (1) Transportation vehicles not under the control of the industrial use.
 - (2) Occasionally used safety signals, warning devices, and emergency pressure relief valves.
 - (3) Temporary construction activity between 7:00 a.m. and 7:00 p.m.
- G. Vibration: No vibration will be produced which is transmitted through the ground and is discernible at or any point beyond the lot line. The application for a zoning certificate will be accompanied by a certification by a registered engineer or architect that vibration will not be detectable at the lot line.
 - H. Dust and particulates: Emissions of dust and particulates shall be in accordance with the State of Maryland rules and regulations governing air contamination and air pollution. Particulate matter emissions from materials or products subject to becoming windborne will be kept to a minimum by

paving, sodding, wetting, covering, or other means such as to render the surface wind resistant. Such sources include vacant lots, unpaved roads, yards and storage piles or bulk material such as coal, sand, cinders, slag, sludge, sulfur\$ etc.

- I. Sulfur oxides: Emission of oxides of sulfur (as sulfur dioxide) from combustion and other processes will be limited in accordance with ambient air quality standards of the state or those of the county whichever are more restrictive.
- J. Smoke: The emission of smoke darker than Ringelman No. 1 from any chimney, stack vent, opening, or combustion process is prohibited.
- K. Odor: Odorous material released from any operation or activity shall not be detectable at the lot line. The application for a zoning certificate will be accompanied by a certification by a registered engineer or architect indicating that fumes and odors produced by the industry will not be detectable at the lot line.
- L. Toxic matter: The ambient air quality standards for the State of Maryland or those of the county, whichever are more restrictive, shall be the guide to the release of airborne toxic materials across lot lines. Where toxic materials are not listed in the ambient air quality standards of the state or county, the release of such materials shall be in accordance with the fractional quantities permitted below, of those materials currently listed in the threshold limit values adopted by the American Conference of Governmental Industrial Hygienists. Unless otherwise stated, the measurement of toxic matter shall be at ground level or habitable elevation, and shall be the average of any twenty-four (24) hours sampling period.

The release of airborne toxic matter will not exceed one-thirtieth of the threshold limit value across the lot lines.

The applicant must provide proof of compliance with all county, state, and federal regulations regarding biological testing or research. In addition, the applicant must provide guarantees, from the appropriate agencies as deemed necessary by the Planning Commission, to ensure that no hazardous effluent will be released into the air, water or onto the ground and that all wastes and by-products will be disposed of in a safe and healthful manner.

- M. All industrial practices shall be in compliance with all county, state and federal requirements.
- N. The site shall be maintained free of litter and any other unsanitary materials and shall be cleaned of debris on a daily basis.

- O. The facility shall be maintained free from rodents at all times.

**§ 88-55. Off-street parking and loading: Industrial Districts.
[Amended]**

There shall be provided in the LI, LIP, and GI Districts adequate off-street parking and loading in accordance with the schedule in Article II.

ARTICLE VIII

Exceptions and Modifications; Cluster Development

§ 88.56. Variances for lots of record.

When a lot which is an official lot of record at the time of adoption of this chapter does not comply with the area, yard or other requirements of this chapter, an application may be submitted to the Board of Appeals for a variance from the terms of this chapter in accordance with the procedure outlined in Article IX. Such a lot may be used as a building site; provided, however, that the yard and other requirements of the zoning district are complied with as closely as possible in the opinion of the Board of Appeals.

§ 88.57. Exceptions to yard requirements. - Residential

- A. [Amended 3-28-07 by Ord. 2007-01] Architectural features of buildings, such as windowsills, cornices, roof overhangs and unenclosed porches, may project into the required yard not more than six (6) feet. Open fire escapes, fireproof outside stairways, chimneys and flues, air conditioners and heat pumps may project into the required yard not more than six (6) feet. Residential propane tanks may extend into the side or rear yard no closer than six (6) feet to any lot line. Ground floor terraces, patios or carports may extend into the rear yard no closer than six (6) feet to either side lot line.

Allowable projection of decks into yards: Decks may extend into the required rear yard not more than twelve (12) feet, provided that the following conditions are met:

- (1) No more than thirty percent (30%) of the total rear yard square footage is covered by a total of all accessory structures, including the deck and swimming pools. (See §88-35.)
- (2) Where side yards are required, no deck structure may be built closer than six (6) feet to the side lot lines, and in no case shall a deck structure be built closer than six (6) feet to the rear lot line.
- (3) Decks may be roofed and/or enclosed with screening. Other enclosing materials, including solid doors,

glass, siding, brick, etc. are not permitted. An enclosed deck must also meet the following requirements:

- (a) Runoff from the roof must be returned to the applicant's unpaved ground so as not to add to the lot's runoff.
- (b) The height of the roof may not exceed the height of the main house roof, nor shall two-story decks (one directly above the other) be permitted. Terrace decks (two elevations but not one above the other) are permitted.

B. Allowable projections of a living area addition to a single family dwelling unit into the required rear yard in the Old Town Mixed Use (OTM) R-2 Residential and R-3 Residential zoning districts.

An enclosed addition to a principal structure single family dwelling unit (excluding garages) in the OTM, R-2 and R-3 zoning districts may extend and project into the required rear yard by up to and not more than twelve (12) feet, provided the following conditions are met to the satisfaction of the Planning Commission pursuant to a public meeting:

- (1) The proposed addition is to a single family (not two family) dwelling unit that is the only principal structure on the lot and is for the purpose of expanding the residential living area of the dwelling unit.
- (2) The lot area is less than 10,000 square feet in size.
- (3) The lot depth is 110 feet or less.
- (4) The proposed addition is no more than one and one-half stories tall and is not attached to the second floor of the dwelling unit with or without an unenclosed ground floor area.
- (5) No more than thirty percent (30%) of the square footage of the area between the rear yard setback line and the rear property line is covered by a total of the addition, decks, accessory buildings, structures and swimming pool.
- (6) The height of the roof may not exceed the height of the roof on the principal structure single family dwelling unit to which the addition is proposed.
- (7) Architectural features of any such proposed addition as described in §88-57 of this Ordinance, must be contained within such allowed projection and shall not extend beyond such allowed projection area.
- (8) The applicant has provided evidence satisfactory to the Planning Commission at a duly advertised public meeting that the proposed addition will not have a substantial detrimental

impact on the use and enjoyment of adjoining properties or the health, safety and welfare of the residents of those adjoining properties due to the design, size, location, or other physical characteristics of the proposed addition. The Planning Commission shall have the authority to approve, modify or deny the proposed addition and/or require the applicant to provide additional landscaping, screening, buffering or other design features to mitigate the impact of the proposed addition on adjoining properties. In reviewing the application for the proposed addition, the Planning Commission shall consider the nature and character of the immediate neighborhood, the recommendation of the Comprehensive Plan and the location of the lot, the existing structures thereon, the location of structures on adjoining properties and the proposed design, size, location and other physical characteristics of the proposed addition.

- C. Side yards shall not be required for residential dwellings erected above commercial structures.
- D. One-story accessory buildings may project into yards provided that:
 - (1) The total of all accessory uses and decks does not occupy more than thirty (30) percent of the rear yard.
 - (2) For lots other than town-house developments, when more than ten (10) feet from the building and sixty (60) feet from the front yard, provided that it is not closer to the front lot line than the rear of the dwelling unit and that the accessory building is outside of all utility easements or right-of-ways.
 - (a) For moveable accessory buildings, no part of the structure may project into the side or rear yards, closer than three (3) feet to the side or rear lot lines.
 - (b) For accessory buildings, no part of the structure may project into the side or rear yards, closer than six (6) feet or the height of the accessory building (whichever is less) to the side or rear lot lines.
 - (3) In town-house developments, one (1) accessory building per lot, not exceeding forty (40) square feet of floor area and ten (10) feet in height, may be located directly on any rear lot line and setback three (3) feet from side lot line(s), provided that it is not closer to the front lot line than the rear of the dwelling unit and that the accessory building is outside of all utility easements or right-of-ways.

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- (4) Garage accessory buildings entered from an alley or street in the case of double frontage lots are not closer than ten (10) feet to the street or alley line.
- (5) Runoff from the roof must be returned to the applicant's unpaved ground so as not to add to the lot's runoff.
- E. No part of a private swimming pool shall be closer to any lot line than the depth of the pool measured at the point of maximum depth.
- F. (Deleted by Ordinance 2014-07, adopted 2/25/2015)
- G. Allowable projections of freestanding signs into yards. Freestanding signs (not attached to a building), as permitted in the particular district, may project into the front yard; freestanding signs shall be permitted in the B-1 District only upon approval of the Burgess and Commissioners. No freestanding signs shall be permitted in residential districts, except those permitted by Article II, § 88-14A.
[Amended 3-28-84]

§ 88-57.1. Modification of lot requirements. [Amended 3-27-2013 by Ordinance 2013-01]

- A. The required yard for corner lots shall be determined as follows:
 - (1) For lots of record and those created by subdivision before January 1, 2013, there shall be no required rear yards. A corner lot shall be deemed to have two (2) side yards and two (2) front yards.
 - (2) For lots created by subdivision after January 1, 2013, corner lots shall be deemed to have two (2) front yards, one (1) side yard and one (1) rear yard.
- B. In the case of lots located along the circumference of a cul-de-sac, the minimum lot width shall be measured (arc def.) at the required minimum front building setback line and there shall be as provided a minimum front lot line width of not less than fifty percent (50%) of the minimum lot width.

§ 88-57.2. Modification of yard requirements.
[Added 1-28-2015 by Ordinance 2014-08]

- A. Front Yard Modifications for Existing Buildings Alignment. When appropriate, the Planning Commission may increase or decrease the depth of the required front yard in any district so that such front yard will approximate the average depth of the existing front yards of the existing buildings on adjoining lots on each side, or if there are no such adjoining buildings, shall approximate the average depth of the front yards of the

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nearest buildings on the same side of the street within two hundred (200) feet.

§ 88-58. Exceptions to height limitations.

- A. Public and semipublic buildings may exceed height limitations. Public buildings, churches, temples, hospitals and institutions may exceed the height limits to a total height of seventy (70) feet, provided that all yards required in the particular district are increased one (1) foot for each two (2) feet in excess of the height limitation.
- B. Architectural or mechanical appurtenances may exceed height limitations. Chimneys, church steeples, cooling towers, elevators, bulkheads, fire towers, monuments, stacks, stage towers or scenery lofts, tanks, water towers, spires, radio and television towers, grain elevators, barns, silos or other such architectural and mechanical appurtenances are exempt from height regulations. [Amended 6-25-80]

§ 88-58.1. Special provisions governing annexed lands.

[Added 1-10-79]

- A. Any property which is annexed under a residential zoning and is operating at that time on a private septic system shall be allowed to continue using same. At such time that it is declared a failing septic system by the appropriate town, county or state agency, then, instead of replacing the septic system, the property shall connect to the community sewer system, provided that the sewer main has been extended to the property.
- B. Notwithstanding any provisions to the contrary contained in this chapter, the owner of an existing building lot of record, unimproved on the date of annexation, shall be entitled to construct thereon one (1) primary residence.
- C. Private wells and septic systems shall be permitted in the Agricultural District.
- D. Notwithstanding the requirements of Chapter 71 entitled "Subdivision of Land", §71-22 entitled "Streets-General Requirements" and of the Walkersville Design Manual, for property annexed after the effective date of this ordinance to be subdivided and developed in Limited Industrial, Limited Industrial Park and General Industrial zoning districts, the Planning Commission may permit open section roads only where the minimum lot size in the subdivision of the annexed property is two (2) acres, and only based on a finding that one or more of the following criteria are met:
 - (1) A need or desire for grass lined drainage ways to provide for removal of nutrients in surface runoff, thereby improving water quality in streams and rivers; and/or
 - (2) Need or desire for reduction of maintenance costs.
- E. Notwithstanding the requirements of Chapter 71 entitled "Subdivision of Land", §71-31 entitled "Minimum Requirements" and of the Walkersville Design Manual, property annexed after the effective date of this ordinance and zoned Limited Industrial, Limited Industrial Park, and/or General Industrial district may be

permitted to be subdivided and/or developed on private well systems on an interim basis until public water is available, so long as public water is planned to serve the property within 5-7 years on the Frederick County Master Water and Sewerage Plan and "dry" water lines meeting the standards and requirements for active and functioning public water lines within the corporate boundaries of the Town are financially guaranteed to the Town at the time of final subdivision plat approval and installed at the time of site development (i.e. grading permit) as required by the Town and any other applicable approving authority. The dry lines shall be maintained at all times by the developer/owner/subdivider of the property to be served in a condition ready for service as active and functioning water service lines with related equipment.

(1) Subdivision and/or development pursuant to this subsection shall adhere to Frederick County Water and Sewerage Plan (2008), Section II.C.3.(H)(3) ("Policies on Individual Wells and Septic Systems"), pertaining to "An Interim Individual Water and/or Sewerage System".

(2) Public water shall be deemed to be available at such time as the property has obtained a "W-3 Development/Dev." classification on the Frederick County Master Water & Sewerage Plan.

(3) Property to be subdivided and/or developed pursuant to this subsection shall have a minimum lot size of two (2) acres and shall have a Limited Industrial, Limited Industrial Park, or General Industrial zoning classification on the Town Zoning Map.

(4) The permitting of subdivision and/or development pursuant to this subsection shall be subject to approval by the Burgess and Commissioners where they find compatibility with those economic development objectives expressed in Chapter II, Section 1 of the Town of Walkersville Comprehensive Plan (2003) ("Goals and Objectives for the Future of Walkersville") and for good cause shown.

(5) Subdivision and/or development under this §88-58.1.E is prohibited if any portion of the proposed subdivision and/or development is within a designated wellhead protection area under the provisions of the Town Code.

(6) Fire reserve water storage for subdivision and development under this §88-58.1.E shall be in accordance with Section 2.12 of the Town of Walkersville Design Manual (2007).

(7) In any event, the owner/developer/subdivider of any lot or parcel to be served on an interim basis by a private well as herein provided shall pay the applicable water connection fees prior to issuance of a building permit.

- F. Notwithstanding the requirements of Chapter 71 entitled "Subdivision of Land", §71-31 entitled "Minimum Requirements" and of the Walkersville Design Manual, property annexed after the effective date of this ordinance and zoned Limited Industrial, Limited Industrial Park, and/or General Industrial district may be permitted to be subdivided and/or developed on private septic systems on an interim basis until public sewer is available, so long as public sewer is planned to serve the property within 5-7 years on the Frederick County Master Water and Sewerage

Plan and "dry" sewer lines meeting the standards and requirements for active and functioning public sewer lines in Frederick County are financially guaranteed to Frederick County at the time of final subdivision plat approval and installed at the time of site development (i.e. grading permit) as required by the Town and Frederick County and any other applicable approving authority. The dry lines shall be maintained at all times by the developer/owner/subdivider of the property to be served in a condition ready for service as active and functioning sewer service lines with related equipment.

(1) Development and subdivision pursuant to this subsection shall adhere to Frederick County Water and Sewerage Plan (2008) Section II.C.3.(H)(3) ("Policies on Individual Wells and Septic Systems"), pertaining to "An Interim Individual Water and/or Sewerage System".

(2) Public sewer shall be deemed to be available at such time as the property has obtained a "S-3 Development/Dev." classification on the Frederick County Master Water & Sewerage Plan.

(3) Property to be subdivided and/or developed pursuant to this subsection shall have a minimum lot size of two (2) acres and shall have a Limited Industrial, Limited Industrial Park or General Industrial zoning classification on the Town Zoning Map.

(4) The permitting of subdivision and/or development pursuant to this subsection shall be subject to approval by the Burgess and Commissioners where they find compatibility with those economic development objectives expressed in Chapter II, Section 1 of the Town of Walkersville Comprehensive Plan (2003) ("Goals and Objectives for the Future of Walkersville") and for good cause shown.

(5) Subdivision and/or development under this §88-58.1.E is prohibited if any portion of the proposed subdivision and/or development is within a designated wellhead protection area under the provisions of the Town Code.

(6) In any event, the owner/developer/subdivider of any lot or parcel to be served on an interim basis by a private septic system as herein provided shall pay the applicable sewer connection fees to the County prior to issuance of a building permit.

- G. Notwithstanding the requirements of Chapter 88, §88-5.1 entitled "Number of Structures Permitted on Lot" for property annexed after the effective date of this ordinance and zoned Limited Industrial, Limited Industrial Park and/or General Industrial district to be subdivided and/or developed, the Planning Commission may allow more than one (1) principal structure on any single lot, and the Planning Commission may allow more than one (1) principal use on any single lot. The Planning Commission may permit subdivision and/or development under this §88-58.1.G, based on the applicable provisions of the Town Code for subdivision and/or development and on a finding by the Planning Commission that the subdivision and/or development meet excellence of design factors, including, but not limited to, any of the following:
- (1) Encouragement of concentration of complementary uses;

- (2) Provision for well-planned development with maximum convenience and efficiency for users;
- (3) Where due to size and location of the development and its relationship to surrounding properties, flexibility of planning may be desirable without disturbance to harmony of the neighborhood; and
- (4) Facilitation of a development plan with a unified and organized arrangement of buildings, service areas, parking and landscaped open space providing for maximum convenience of customers.

§ 88-58.2. [Section repealed and reserved for future use by Ord. 99-15 11/17/99]

ARTICLE IX Board of Appeals

§ 88-59. Authorization; appointment of members.
[Amended 04-28-04 by Ordinance 2004-03]

The Board of Appeals is hereby authorized. Such Board shall consist of three (3) members, all of whom shall be taxpayers and residents of the Town of Walkersville. The members of the Board of Appeals shall be appointed by the Burgess with the consent of the Commissioners. One (1) member of said Board shall be appointed to serve for a period of one (1) year; one (1) for a period of two (2) years; and one (1) for a period of three (3) years. Thereafter, members shall be appointed for a period of three (3) years. Vacancies shall be filled by appointment for the unexpired term only. Compensation, if any, for members of the Board of Appeals shall be determined by the Town Commissioners. The Burgess and Commissioners of the Town of Walkersville shall designate one (1) or more alternate members for the Board of Appeals who may be empowered to sit on the Board in the absence of any member of the Board.

§ 88-60. Meetings; appointment of officials; record of proceedings.

The members of the Board of Appeals shall meet at least once each year at such time and place as they may fix by resolution. They shall select one (1) of their members as Chairman and one (1) as Vice Chairman, who shall serve one (1) year or until their successors have been selected. Special meetings may be called at any time by the Chairman or, in his absence, the Vice Chairman. A majority of the Board shall constitute a quorum for the transaction of business. The Board shall cause a proper record to be kept of its proceedings.

§ 88-61. Appeal procedure.

- A. An appeal to the Board of Appeals may be taken by any person aggrieved by any officer, department or bureau of the Town of Walkersville affected or by any order, requirement, decision or determination by any governmental officer, department, board or bureau based, in whole or in part, upon the provisions of this chapter.

- B. Such appeal shall be filed with the Zoning Administrator and the Board of Appeals within thirty (30) days from the decision being appealed from. Upon appeal, the Zoning Administrator shall transmit to the Board of Appeals all papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board that a stay would, in his opinion, cause imminent peril to life or property. The Board shall fix a reasonable time for the hearing of the appeal, giving not less than fifteen (15) days' public notice thereof by the posting of not less than one
- (1) sign of at least three (3) square feet in area containing notice of the hearing in a conspicuous place on or near the property upon which application for appeal is made and by advertising in a weekly or daily paper of general circulation in the town, as well as by giving due notice to the parties in interest, and the Board shall decide the same within thirty (30) days. At the hearing, any party may appear in person, by agent or by attorney.
- C. The concurring vote of two (2) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant upon any matter which it is required to pass under this chapter, or to effect any variation in this chapter. At the hearing, any party may appear in person, by agent or by attorney.
- D. The Burgess and Commissioners shall adopt a schedule of fees for review and processing of applications for variances, special exceptions and claims of administrative error.
[Ordinance 2007-07 adopted 8/22/2007]

§ 88-62. Powers.

The Board of Appeals shall have the power to:

- A. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official under the provisions of this chapter.
- B. Hear and decide special exceptions in the terms of this chapter.
- C. Authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public safety, health and general welfare and will most nearly accomplish the purpose and intent of this chapter.

§ 88-63. Variances.

- A. Where, by reason of the exceptional narrowness, shallowness or unusual shape of a specific piece of property on the effective date of this chapter, or by reasons of exceptional topographic conditions or other extraordinary situations or conditions of such piece of property, the literal enforcement of the requirements of this chapter would involve practical difficulty or would cause hardship unnecessary to carry

out the spirit and purpose of this chapter, the Board shall have the power, upon appeal in specific cases, filed as provided in this section, to authorize a variance from the terms of this chapter so as to relieve such hardship and so that the spirit and purpose of this chapter shall be observed and substantial justice done. In authorizing a variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest. In authorizing a variance with attached conditions, the Board may require such guaranty as it may deem necessary in order that the conditions attached are being and will be complied with.

B. No such variance in the provisions or requirements of this chapter shall be authorized by the Board unless the Board finds, beyond reasonable doubt that all the following facts and conditions exist:

- (1) That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or classes of uses in the same zoning district.
- (2) That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity.
- (3) That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest.

C. No grant of a variance shall be authorized unless the Board specifically finds that the condition or situation of the specific piece of property or the intended use of such property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation.

§ 88-64. Guides and standards regulating approval powers.

Where certain powers are conferred upon the Board of Appeals in this chapter, such Board shall study the specific property involved and the neighborhood, cause the property to be posted in a conspicuous place, hold a public hearing, consider all testimony and data submitted and hear any person for or against the issuance of the zoning certificate. However, the application shall not be approved where the health, safety, security, morals or general welfare would be impaired or where dangerous traffic conditions might result that would jeopardize the lives or property of people living in the neighborhood, nor will any action be taken which will be contrary to an adopted town plan. When a question arises as to whether the contemplated action is contrary to an adopted town plan, the Board shall request the recommendation of the Planning Commission. In deciding such matters, the Board shall give consideration, among other things, to the following:

- A. Decisions of the Circuit Court of the county and the Court of Appeals of the state.
- B. The orderly growth of the neighborhood and community.
- C. The most appropriate use of land and structure.
- D. Facilities for sewers, water, trash collection and disposal and the ability of the town to supply such services.
- E. The availability of fire-fighting equipment.
- F. The effect of such use upon the peaceful enjoyment of people in their homes.
- G. The number of people residing, working or studying in the immediate areas.
- H. The type and kind of structures in the vicinity where people are apt to gather in large numbers, such as schools, churches, theaters, hospitals and the like.
- I. Traffic conditions, including facilities for pedestrians, such as sidewalks, safety zones and parking facilities available and the access of cars on highways.
- J. The preservation of cultural and historic landmarks.
- K. The conservation of property values.
- L. The effect of odors, dust, gas, smoke, fumes, vibrations, glare and noise upon the uses of surrounding properties.
- M. The contribution, if any, such proposed use, building or addition would make toward the deterioration of areas and neighborhoods.
- N. The accordance of contemplated action with an adopted town plan.

§ 88-65. Public hearing; publication of notice.

The Board shall make no recommendation except in a specific case and after a public hearing conducted by the Board. A notice of time and place of such public hearing shall be published in a paper of general circulation in the Town of Walkersville at least once, not more than thirty (30) days nor less than fifteen (15) days previous to the hearing. Such notice shall contain the particular address or location of the property for which the variance or other ruling by the Board is sought, as well as a brief description of the nature of the appeal and specifications of the proposed variance.

§ 88-66. Construction permitted by Board to be undertaken within specified time.

No order of the Board permitting the erection or alteration of a building shall be valid for a period longer than six (6) months unless a zoning certificate for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such certificate or unless an extension is granted by the Board. Only one extension may be granted by the Board for up to six (6) months provided significant progress has been made toward obtaining a zoning certificate. [Amended 10/11/95 by Ord. 95-6]

§ 88-67. Use of building permitted by Board to be established within specified time.

No order of the Board permitting the use of a building or premises shall be valid for a period longer than six (6) months unless such use is established within such period; provided, however, that where such permitted use is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a zoning certificate for said erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such certificate or if an extension is granted by the Board. Only one extension may be granted by the Board for up to six (6) months provided significant progress has been made toward obtaining a zoning certificate. [Amended 10/11/95 by Ord. 95-6]

**ARTICLE X
Amendments**

§ 88-68. Power of Burgess and Commissioners to amend provisions.

The Burgess and Commissioners may from time to time, on their own motion or on petition, amend, supplement, change, modify or repeal by ordinance the boundaries of districts, regulations or restrictions herein established.

§ 88-69. Public hearing; fee to defray cost. [Amended 7-11-84; 6-25-86]

- A. A public hearing shall be held by the Burgess and Commissioners before the adoption of any proposed amendment, supplement or change, public notice of which shall have been placed in a newspaper of general circulation in the Town of Walkersville once each week for two (2) successive weeks, with the first such publication of notice appearing at least fourteen (14) days, but not more than thirty (30) days, prior to the hearing. The property shall be posted with the date and time of the public hearing fifteen (15) days prior to the hearing.
- B. The Burgess and Commissioners shall adopt a schedule of fees for review and processing of zoning map amendment, zoning text amendment, and annexation applications.
[Ordinance 2007-08 adopted 8/22/2007]

§ 88-70. Procedures; approval.

- A. No amendment shall be considered or acted upon by the Burgess and Commissioners unless it is first submitted to and approved by the Planning Commission [except, however, that failure of the Planning Commission to report within sixty (60) days shall be deemed approval], or if disapproved by the Planning Commission, it shall be considered approved if it receives a majority vote of the Burgess and Commissioners. The property shall be posted with the date and time of the Planning Commission public hearing at least fifteen (15) days prior to the hearing, and public notice of the hearing shall be published in a newspaper of local circulation at least fourteen (14) days prior to the hearing. [Amended 4-24-02 by Ordinance 2002-05]
- B. Where the purpose and effect of the proposed amendment is to change the zoning classification, the Burgess and Commissioners shall make findings of fact in each specific case, including but not limited to the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development for the area, the recommendation of the Planning Commission and the relationship of such proposed amendment to the town's plan; and the Burgess and Commissioners may grant the amendment based upon a finding that there was a substantial change in the character of the neighborhood where the property is located or that there was a mistake in the existing zoning classification. A complete record of the hearing and the votes of the Burgess and Commissioners shall be kept.
- C. An application for a reclassification shall not be accepted for filing by the Burgess and Commissioners if the application is for the reclassification of the whole or any part of land the reclassification of which has been opposed or denied by the Burgess and Commissioners within twelve (12) months from the date of the local legislative body's decision.
- D. No change in or departure from the proposed amendment, as recommended by the Planning Commission, shall be made unless the same is resubmitted to the Commission for its further recommendations. No amendment, supplement or change shall be adopted contrary to the recommendations of the Planning Commission except by a majority vote of the Burgess and Commissioners.

