



**SALISBURY CITY COUNCIL
WORK SESSION AGENDA**

DECEMBER 19, 2022

Government Office Building, Council Chambers and Zoom Video Conferencing

- 4:30 p.m. Parking lot lease agreement- Deputy City Administrator Andy Kitzrow
- 4:35 p.m. Ordinance to amend the Salisbury City Code to combine the Housing Board of Adjustment and Appeals, the Building Board of Adjustment and Appeals, and the Board of Zoning Appeals into a new board known as "Board of Appeals"
- 4:40 p.m. Presentation of FY22 Audit & Financial Statements- Finance Director Keith Cordrey and Timothy Sawyer, CPA, CGMA of Barbacane Thornton & Company
- 4:50 p.m. Administration and Council Remarks
- 4:55 p.m. Adjournment/Convene in Special Meeting

*Times shown are approximate. Council reserves the right to adjust the agenda as circumstances warrant.
The Council reserves the right to convene in Closed Session as permitted under the Annotated Code of Maryland 3-305(b).*

Join Zoom Meeting
<https://us02web.zoom.us/j/88186172560>

Meeting ID: 881 8617 2560

Phone: 1.301.715.8592



City of
Salisbury
Jacob R. Day, Mayor

MEMORANDUM

To: Julia Glanz, City Administrator
From: Andy Kitzrow, Deputy City Administrator
Subject: Faith Baptist Parking Lot Agreement
Date: December 15, 2022

The City of Salisbury had a prior lease agreement with the First Baptist Church for a portion of their parking lot which expired on or about May 13, 2021.

Included is the updated lease agreement with the First Baptist Church. The City would like to continue the relationship with the church because this portion of their parking lot serves as the primary parking location for the Lake Street Playground and is highly utilized during the summer months and during park rentals.

LEASE AGREEMENT

THIS LEASE AGREEMENT (this “**Agreement**”), made this ____ day of _____, 2022 (the “**Effective Date**”), by and between **FIRST BAPTIST CHURCH OF SALISBURY, MARYLAND**, a religious corporation of the State of Maryland (“**Landlord**”), and the **CITY OF SALISBURY**, a municipal corporation of the State of Maryland (“**Tenant**”); (the Landlord and the Tenant hereinafter referred to from time to time collectively as the “**Parties**”, and each, a “**Party**”).

THAT FOR AND IN CONSIDERATION of the rents as hereinafter specified and the covenants, conditions and agreements herein contained, the parties named above hereby covenant and agree, as follows:

1. DESCRIPTION OF PREMISES. In consideration of the premises and payment of rents, construction of improvements and other considerations and the mutual terms and conditions hereof, Landlord does hereby lease, transfer and demise unto Tenant, and Tenant does hereby lease and take over from Landlord, the real property situate, lying and being in Salisbury, Wicomico County, Maryland, located on the Southerly side of Booth Street and the Northerly side of Douglas Place, all as more particularly shown on a plat entitled “Lease from First Baptist Church” dated October 20, 1994, showing a hatched area and “Leased Area 41,548 square feet”, all as more particularly shown on “**Exhibit A**” attached hereto, the foregoing referred to hereinafter as the “**Leased Premises**”. The Tenant shall have the right of ingress and egress to and from the Leased Premises by means of the right-of-way schematic as shown on “**Exhibit B**”.

2. TERM. The said Tenant is to have and to hold the leased premises for a term beginning on the execution hereof by all parties and ending on a date five (5) years thereafter (the “**Initial Term**”); provided, however, that the Lease shall automatically renew at the end of the Initial Term for three (3) additional terms of five (5) years each (each, an “**Extension Term**”), unless either Party gives the other Party written notice of its intention to terminate this Lease on or before the date that is ninety (90) days prior to the commencement of the applicable Extension Term. Each Extension Term shall commence upon the expiration of the immediately preceding Term and shall be on the same provisions as are set forth in this Lease. All references to the “**Term**” of this Lease shall, unless the context shall clearly indicate a different meaning, be deemed to include a reference to the Initial Term and any Extension Term that becomes part of the Term as provided above.

3. RENT. Tenant shall pay rent in the amount of One Dollar (\$1.00) per year, all of which such rent for the Term being paid upon the execution hereof by all parties.

4. [RESERVED].

5. USE.

(a) Tenant agrees to maintain and use the Leased Premises as a parking lot for use by the general public. Such parking lot and the allotted parking spaces shall be maintained in the configuration shown on the attached “**Exhibit B**”. The use of the parking lot located upon the Leased Premises (the “**Parking Lot**”) is intended to be controlled by the Tenant, whether such use relates to the general public’s use of the Parking Lot or use of the Parking Lot for an event sanctioned or sponsored by the Tenant or by the Wicomico County Department of Recreation and Parks, all in a manner Tenant deems appropriate in its reasonable discretion (such Tenant activities together with other usage by Tenant of the Leased Premises permitted pursuant to this Agreement hereinafter referred to as, the “**Tenant’s Use**”), and subject to the Landlord’s Reserved Use (as hereinafter defined). Notwithstanding anything to the contrary herein, the Landlord may use the Leased Premises as needed for parking rent free (such Landlord activities together with other usage by Landlord of the Lease Premises permitted pursuant to this Agreement hereinafter referred to as, the “**Landlord’s Reserved Use**”); provided, however, that this use is non-exclusive, and the Tenant and the general public retain full rights to use the Leased Premises consistent with the Tenant’s Use and otherwise in accordance with the terms of this Agreement. For the purposes of clarification, the Tenant’s Use shall not prohibit Landlord’s Reserved Use of the Leased Premises as provided for herein, and the Landlord’s Reserved Use shall not prohibit the Tenant’s Use. Tenant will close the Parking Lot to the general public from dusk to dawn, except to the extent that Tenant’s Use or Landlord’s Reserved Use at a given time requires access to the Parking Lot beyond dusk. Landlord prohibits Tenant from fencing the Leased Premises, unless Landlord’s consent in writing is obtained. Landlord may require signage to contain language that Tenant may utilize the Leased Premises at times that are restricted to the public.

(b) To facilitate the Tenant’s Use and Landlord’s Reserved Use, the Parties hereby agree to adhere to the following practices in good faith:

(i) at the beginning of each calendar month, Tenant shall share via email to the Landlord's Board of Managers a schedule of Tenant's planned activities for the following three (3) months; initially, the contact and email information for these purposes is as follows: Mr. David Jones; djlincolnu23@yahoo.com. The following events shall be given first priority with respect to determining and managing joint usage of the Parking Lot: (A) up to five (5) designated Landlord events per year, so long as Landlord provides Tenant with at least thirty (30) days' notice of each such event, and (B) Landlord shall have first priority to the extent possible with respect to any times during which the Landlord is conducting a funeral service for a member of its congregation (any such event, a "**Funeral Event**"), as follows: (1) as soon as possible after Landlord becomes aware of a Funeral Event, it shall give Tenant notice of such event, and (2) to the extent Tenant has a scheduled event during the same time as the Funeral Event, Tenant agrees that Landlord may direct traffic and parking such that members of Landlord's congregation may park as near as possible to the Landlord's main building, and Landlord may direct anyone using the Parking Lot for a Tenant event or for public usage generally, to the side of the Parking Lot that is nearest to Lake Street.

(ii) for up to two (2) events per year and only to the extent the Landlord's Use of the Leased Premises does not conflict with the Tenant's Use of the Leased Premises and/or the Tenant's use of the neighboring Lake Street Park, the Tenant shall grant the Landlord access to the property formerly used as a concession stand located on the Lake Street Park premises (the "Stand"). Landlord acknowledges that the Stand is provided on an as-is basis and that it is not equipped for use as a concession stand. Landlord will provide any equipment and obtain any required permits for Landlord's use of the Stand.

(iii) Tenant, through signage approved by Landlord and through communication with the general public, to the extent the general public is utilizing the Leased Premises for a scheduled event, shall direct all parties to access the Leased Premises from the Lake Street entrance.

6. CONTROLLED ACCESS; INGRESS AND EGRESS. Within ninety (90) days of the Effective Date, Tenant shall install signage in accordance with Section 5(b)(iii) at the Booth Street entrance to the Leased Premises indicating that the Leased Premises should be accessed via Lake Street. The Landlord may elect in its discretion to prohibit access to the Leased Premises via the Booth Street access (the "**Booth Street Access**"), whether by roping off the Booth Street

Access, installing a gate, or otherwise. Notwithstanding the foregoing, Landlord may at any time allow access through the Booth Street Access in connection with the Landlord's Reserved Use.

7. STORMWATER MANAGEMENT. Landlord has granted Tenant the right to use the stormwater management pond build on other properties of the Landlord and has executed an easement providing for Tenant's use of the stormwater management pond.

8. [RESERVED].

9. REPAIRS AND MAINTENANCE. Tenant will be obligated to maintain the Leased Premises, including the Parking Lot, in good repair during the Term, including without limitation, with respect to the following:

(a) The Tenant shall provide regular street sweeping services. The Tenant shall provide trash removal for the Parking Lot (i) every two (2) weeks, and (ii) upon the conclusion of any Tenant-sponsored event. For any future event in which Tenant permits a third-party to use the Parking Lot, Tenant shall require the third-party to provide post event trash removal and cleanup immediately upon conclusion of the event. Tenant may install and maintain, at Tenant's cost, a reasonable number of trash cans on the Parking Lot to facilitate its obligations under this provision. For the avoidance of confusion, Tenant acknowledges that the cleanup requirements in this provision are a material covenant of this Agreement and that any failure, whether by Tenant or any third party permitted to use the Parking Lot by Tenant, to reasonably clean the Parking Lot after any event shall be a breach of this Agreement.

(b) Tenant shall spray each parking lot island on the Leased Premises (the "**Islands**") for weed control purposes on an as-needed basis for the months of March through September of each year during the Term.

(c) The Tenant shall replace mulch on the Islands on an annual basis each Spring of each year during the Term.

(d) The Tenant acknowledges the Landlord's intent to scrape and repave the Parking Lot during the Term (the "**Repaving Project**"). The Tenant agrees to pay the Landlord an annual maintenance fee of two thousand dollars (\$2,000) per year in immediately available funds on each anniversary of the Effective Date during the Initial Term and any Extension Term (for a total of

forty thousand dollars (\$40,000) if all Extension Terms are utilized over the period of the Initial Term and all Extension Terms), which such amounts are intended offset roughly half of the Landlord's expenses in connection with the Repaving Project. The Landlord shall provide the Tenant with sixty (60) days' advance notice of the intended scheduling of the Repaving Project, together with the estimate received from the third-party the Landlord chooses to engage to perform the Repaving Project. Regardless of whether the actual cost of the Repaving Project is greater or less than the anticipated costs, Tenant shall have no obligation to make additional payments, nor recourse to reduce payments, with regard to the Repaving Project, and Tenant's sole obligation with respect to the Repaving Project shall be limited to the payment of two thousand dollars (\$2,000) per year as identified above. Tenant shall have no obligation to pave or otherwise patch/repair defects in the parking lot surface.

10. INSURANCE. Tenant, at its sole cost and expense, shall maintain in full force and effect during the Term of this Agreement, through its self-insurance program or with the Local Government Insurance Trust, such coverages as are necessary to insure against claims that may arise from or in connection with Tenant's operation and use of the Leased Premises.

11. DEFAULT. If Tenant shall default in the fulfillment of any of the covenants of this Agreement, or if the Leased Premises become vacated or deserted, Landlord may immediately terminate this Agreement as fully and completely as if it were the day the Term expired, and Tenant will then quit and surrender the Leased Premises to Landlord (any such termination, a "**Default Termination**"). If the Term expires due to a Default Termination, or upon the breach of any other term or provision herein, then in any of such events, Landlord may, without notice, re-enter the Leased Premises either by force or otherwise, and dispossess Tenant by summary proceedings or otherwise, and Tenant hereby waives the service of notice of intention to re-enter to institute legal proceedings to that end. The foregoing shall be in addition to and not in limitation of any other remedy permitted by law or by this Agreement. If the Term expires due to a Default Termination, Tenant shall have no further obligation to pay rent or funds towards the Repaving Project.

12. INDEMNIFICATION. Except for claims resulting from Landlord's own negligence, Tenant will defend, indemnify and hold harmless the Landlord from and against all claims, actions, damages, and expense (including but not limited to attorneys' fees) in connection with the loss of life, personal injury, or damage to property or business arising from, related to, or in connection

with the occupancy or use by Tenant, its licensees, contractors, subcontractors, agents or employees (collectively, the “**Tenant Parties**”), of the Leased Premises.

Tenant shall pay all costs, expenses and reasonable attorneys’ fees that may be expended or incurred by Landlord in enforcing the covenants and agreements of this Agreement. Likewise, Landlord shall pay all costs, expenses and reasonable attorneys’ fees that may be expended or incurred by Tenant in enforcing the covenants and agreements of this Agreement. The provisions of this Section shall survive the termination or earlier expiration of this Agreement.

Except for claims resulting from Landlord’s own negligence, Landlord shall not be liable for, and Tenant, in consideration of Landlord’s execution of this Agreement, hereby releases all claims against Landlord for loss or damage that may be occasioned by or through the acts or omissions of the Tenant Parties or for loss of life, personal injury, or damage to the property or business sustained by Tenant or any person claiming through Tenant or on the Premises resulting from any fire, accident, occurrence, or any other condition in or upon the Property or any part thereof, including but not limited to, such claims for loss of life, bodily injury, or damage resulting from (a) water, snow or ice being upon or coming through the Leased Premises, (b) broken glass, (c) any act or omission of the Landlord or its licensees, contractors, subcontractors, agents, employees or invitees whether occurring on, prior to, or subsequent to the date of this Agreement. The foregoing waiver and release is intended by Landlord and Tenant to be absolute, unconditional and without exception and to supersede any specific repair or maintenance obligation, if any, imposed upon Landlord hereunder; provided that such waiver and release shall not apply to the omission, fault, negligence or other misconduct of Landlord, except to the extent such omission, fault, negligence or other misconduct is waived by Tenant after the occurrence.

Notwithstanding anything to the contrary herein contained, Landlord and Tenant do mutually each release and discharge the other, and all persons against whom their insurance company or companies would have a right or claim by virtue of subrogation, of and from all suits, claims and demands whatsoever, for loss or damage to the property of the other, even if caused by or occurring through or as a result of any negligent act or omission of the party released hereby or its contractors, subcontractors, agents or employees, so long as and to the extent that such loss or damage is covered by insurance benefitting the party suffering such loss or damage or was required to be so covered under this Agreement.

The provisions of this Section shall survive the termination or earlier expiration of the Term of this Agreement with respect to any damage, injury or death occurring prior to such termination.

13. QUIET ENJOYMENT. Landlord agrees to permit Tenant quiet enjoyment of the Leased Premises during the term of the Agreement, subject to Landlord's Reserved Use; provided, however, that it is understood that the Landlord's Reserved Use cannot be such that it effectively excludes the general public from the Leased Premises or unduly interferes with the Tenant's Use in accordance with the terms of this Agreement.

14. PARKING USE; COMPLIANCE WITH LAW. Tenant covenants and agrees to use the Leased Premises for parking and shall not use the Leased Premises for any significantly different purpose without the written consent of the Landlord. Tenant shall not use or permit the Leased Premises, or any part thereof, to be used for any purposes other than those permitted by the terms of this Agreement. Furthermore, no use of the Leased Premises shall be made or permitted to be made that result in: (a) waste of the Leased Premises or any part thereof, (b) a public or private nuisance that may disturb the quiet enjoyment of Landlord or its invitees, (c) improper, unlawful or objectionable use including sale, storage or preparation of food, alcoholic beverages, or materials generating an odor on the Leased Premises, or (d) noises or vibration that may disturb the Landlord or its invitees. Tenant, at Tenant's expense, shall comply with all laws, ordinances and regulations of federal, state and local authorities pertaining to Tenant's use of the Leased Premises.

15. ASSIGNMENT. Tenant covenants and agrees not to assign or sublet the Leased Premises to any person, firm or corporation without prior written approval of Landlord. This paragraph does not preclude the Tenant from having the Leased Premises operated by any governmental entity, including, but not limited to, a Recreation and Parks Department for the City, County, or State.

16. END OF TERM; HOLDOVER FEES. Upon the termination of this Agreement, Tenant shall quit and surrender to the Landlord the Leased Premises, in good order and condition, ordinary wear and tear excepted. Tenant shall remove all vehicles, trash or debris or other materials from the Leased Premises. Tenant shall be solely responsible for the costs to remove the aforesaid items and materials. In the event Tenant fails to quit and surrender to Landlord the Leased Premises on the date required pursuant to the terms of this Agreement, Tenant shall pay to Landlord the sum

of ONE HUNDRED DOLLARS (\$100.00) per day for each day that Tenant holds over and remains on the Leased Premises. Any and all hold over fees shall constitute rent due under this Agreement.

17. ESTOPPEL; SUBORDINATION AND ATTORNMENT. At any time and from time to time upon the written request of the Landlord or its mortgagee, Tenant, within twenty (20) days of the date of such written request, agrees to execute and deliver to Landlord, without charge, a written statement: (a) ratifying this Agreement; (b) confirming the commencement and expiration dates of the Term of this Agreement; (c) certifying that Tenant is in occupancy of the Leased Premises and that this Agreement is in full force and effect and has not been modified, assigned, subleased, supplemented or amended except by such writings as shall be stated; (d) certifying that all conditions and agreements under this Agreement to be satisfied or performed by Landlord, if any, have been satisfied and performed except as shall be stated; (e) certifying that Landlord is not in default under this Agreement and there are no defenses, set-offs, recoupments or counterclaims against the enforcement of this Agreement by the Landlord, or so stating if otherwise; and (f) containing any other information that Landlord or its mortgagee shall reasonably require.

This Agreement is and shall be expressly subject and subordinate at all times to the lien of any present or future mortgage or deed of trust encumbering fee title to the Leased Premises. If any such mortgage or deed of trust be foreclosed, upon request of the mortgagee or beneficiary, as the case may be, Tenant will attorn to the purchaser at the foreclosure sale. The foregoing provisions are subject to any such mortgagee, beneficiary or purchaser at foreclosure, as the case may be, to execute a commercially reasonable subordination and/or attornment instruments with Tenant. Notwithstanding the foregoing to the contrary, any such mortgagee or beneficiary may elect to give the rights and interests of Tenant under this Agreement (excluding rights in and to insurance proceeds and condemnation awards) priority over the lien of its mortgage or deed of trust, as the case may be. In the event of such election and upon the mortgagee or beneficiary notifying Tenant of such election, the rights and interests of Tenant shall be deemed superior to and to have priority over the lien of said mortgage or deed of trust or the estate of such lease, as the case may be, whether this Agreement is dated prior to or subsequent to the date of such mortgage or deed of trust. In such event, Tenant shall execute and deliver whatever instruments

may be required by such mortgagee or beneficiary to confirm such superiority on a commercially reasonable form. Landlord shall use its commercially reasonable efforts to have its existing mortgagee execute a subordination, non-disturbance and attornment agreement in a form reasonably acceptable to Tenant.

18. BINDING EFFECT. The conditions contained in this Agreement shall be binding upon and shall insure to the benefit of the respective successors and assigns of Landlord and Tenant to the same extent as if each such successor and/or assign, in each case, was named a party to this Agreement.

19. CONDEMNATION. The parties agree that this Agreement shall not preclude Tenant from exercising its rights of condemnation. Nothing herein shall be deemed to prevent Landlord from claiming and receiving from Tenant, the condemning authority, fair market value compensation, except that the parties agree that, in the event Tenant condemns the property, any improvements constructed by Tenant on the Leased Premises, whether prior to the date of this Agreement or during the Term, shall be taken into account as part of the purchase price.

20. HEADINGS. The headings above each paragraph in the Agreement have been inserted for convenience and reference only shall not, to any extent, have the effect of modifying, amending, or changing the expressed terms and provisions of this Agreement.

21. INTERPRETATION. Terms and conditions of this Agreement shall be governed by, and construed in accordance with, the laws of the State of Maryland.

22. WRITTEN AGREEMENT. This Agreement contains the entire agreement between the parties hereto and supersedes all previous negotiations leadings hereto and it may be modified hereafter only by an agreement in writing, signed and sealed by Landlord and Tenant.

23. NOTICES. Except as otherwise expressly provided for herein, all notices and demands which may or are to be required or permitted to be given by either Party to the other hereunder shall be (a) in writing, and (b) deemed to have been given (i) when personally delivered, (b) the day following the day (except if not a business day, then the next business day) on which the same has been delivered prepaid to a reputable national overnight courier service, or (ii) the third business day following the day on which the same is sent by certified or registered mail,

postage prepaid, in each case to the address set forth below, or at such other address as such party may specify by written notice to the other party hereto

Notices to Tenant:

City of Salisbury

P.O. Box 4118

Salisbury, Maryland 21803-4118

Attention: Andy Kitzrow, Deputy City Administrator

With a copy to

Cockey, Brennan & Maloney, PC

313 Lemmon Hill Lane

Salisbury, MD 21801

Attn: Laura E. Hay, Esquire

Notices to Landlord:

First Baptist Church of Salisbury

P.O. Box 1738

Salisbury, Maryland 21802

Attention: Mr. David Jones

With a copy to:

McAllister, DeTar, Showalter & Walker LLC

100 N. West Street

Easton, Maryland 21601

Attn: Vincent A. Dongarra, Esquire

[Signatures Appear on Following Page]

IN WITNESS WHEREOF, Landlord has executed this Agreement as of the Effective Date.

FIRST BAPTIST CHURCH OF
SALISBURY, MARYLAND

By: _____(SEAL)
Name:
Title:

STATE OF MARYLAND, COUNTY OF WICOMICO:

I HEREBY CERTIFY that on this ____ day of _____, 2022, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared _____ who acknowledged [himself][herself] to be the [Chairman of the Board of Trustees] of First Baptist Church of Salisbury, Maryland, and, being authorized so to do, executed the foregoing document for the purposes therein contained, same being it's act and deed.

WITNESS my hand and Notarial Seal

Notary Public

My commission expires: _____

IN WITNESS WHEREOF, Tenant has executed this Agreement as of the Effective Date.

CITY OF SALISBURY

By: _____(SEAL)

Name:

Title:

STATE OF MARYLAND, COUNTY OF WICOMICO:

I HEREBY CERTIFY that on this ____ day of _____, 2022, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared _____ who acknowledged himself to be the [_____]of the City of Salisbury and, being authorized so to do, executed the foregoing document for the purposes therein contained, same being it's act and deed.

WITNESS my hand and Notarial Seal

Notary Public

My commission expires: _____

(ABANDONED)

ORDINANCE NO. 1589

"EXHIBIT A"



PER PLAT OF RECORD
CAB. 10/22-67

DOUGLAS PLACE

N 70° 05' 02" W 528.19'

184.54'

N 19° 30' 00" E

245.57'

FIRST BAPTIST CHURCH
883/550

FIRST BAPTIST CHURCH
DEED REF: P/O 883/550
PLAT REF: CAB. 10/22-87
LEASED AREA
41,548 SQ. FT.

153.00'

S 70° 30' 00" E 288.24'

BOOTH STREET

N/F
J.E. JAMES HANDY
618/234

N/F
EDWARD E. HERNY
352/535

N/F
WILLIAM F. COOK SR.
928/178

N/F
DORIS D. CANE
1322/741

S 12° 13' 16" W

248.92'

DWG. NO. DCA94101
DATE 10/20/94
SCALE 1" = 40'

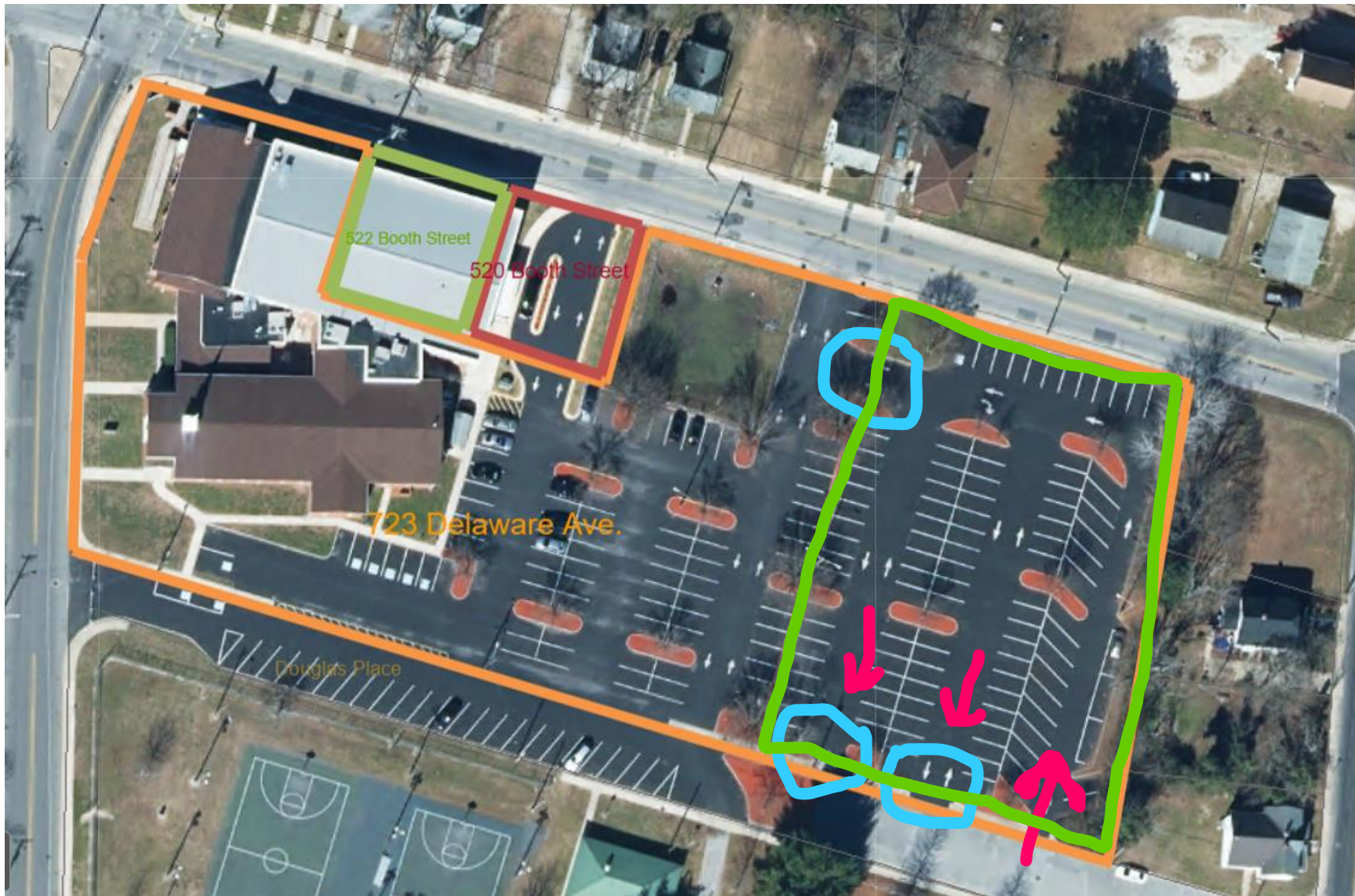
LEASE FROM 1ST
BAPTIST CHURCH

APPROVED

CITY ENGINEER

DATE

Exhibit B




BLUE CIRCLES = ENTRANCES.



PINK ARROW = LAKE STREET ENTRANCE TO BE USED FOR ENTRY INTO LEASED PREMISES; AND EGRESS ONLY FROM THE OTHER LAKE STREET ENTRANCES.



City of
Salisbury
Jacob R. Day, Mayor

To: Julia Glanz, City Administrator
From: Richard D. Baldwin, Director of Infrastructure and Development 
Date: December 15, 2022
Re: Code Text Amendments to create the Board of Appeals

The text amendments to consolidate the Salisbury Board of Zoning Appeals, the Building Board, and the Housing Board of Adjustments and Appeals, and to create the Board of Appeals has been prepared by the City Attorney. Following a public hearing these amendments received a favorable recommendation from the Planning Commission December 15, 2022.

Unless you or the Mayor has further questions, please forward a copy of this memo and the attached draft ordinance to the City Council.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SALISBURY AMENDING THE SALISBURY CITY CODE TO COMBINE THE HOUSING BOARD OF ADJUSTMENT AND APPEALS, THE BUILDING BOARD OF ADJUSTMENT AND APPEALS, AND THE BOARD OF ZONING APPEALS INTO A NEW BOARD KNOWN AS THE "BOARD OF APPEALS."

WHEREAS, the ongoing application, administration and enforcement of the City Code of the City of Salisbury (the "**Salisbury City Code**") demonstrates a need for its periodic review, evaluation and amendment, in order to keep the provisions of the code current, comply with present community standards and values, and promote the public safety, health and welfare of the citizens of the City of Salisbury (the "**City**");

WHEREAS, the Mayor and Council of the City of Salisbury (the "**Mayor and Council**") are authorized by MD Code, Local Government, § 5-202 to adopt such ordinances, not contrary to the Constitution of Maryland, public general law or public local law, as the Mayor and Council deem necessary to assure the good government of the municipality, to preserve peace and order, to secure persons and property from damage and destruction, and to protect the health, comfort and convenience of the citizens of the City;

WHEREAS, the Mayor and Council find that the health, safety and general welfare of the citizens of the City will be furthered by amending the Salisbury City Code to combine the Housing Board of Adjustment and Appeals, the Building Board of Adjustment and Appeals, and the Board of Zoning Appeals into a new board known as the "Board of Appeals."

WHEREAS, pursuant to § 17.228.020 of the Salisbury City Code, any amendment to the Salisbury Zoning Code requires the recommendation of the Salisbury Planning and Zoning Commission (the "Planning Commission") prior to the passage of an ordinance amending the Zoning Code;

WHEREAS, a public hearing on the proposed amendment was held by the Planning Commission in accordance with the provisions of § 17.228.020 of the Salisbury City Code on December 15, 2022;

WHEREAS, at the conclusion of its December 15, 2022 meeting, the Planning Commission recommended, by a vote of 7-0, that the amendment to the Salisbury City Code, including those sections found in the Salisbury Zoning Code, set forth herein be approved by the Mayor and Council; and

WHEREAS, the Mayor and Council have determined that the amendments to the Salisbury City Code set forth shall be adopted as set forth herein.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY COUNCIL OF THE CITY OF SALISBURY, MARYLAND, that the Salisbury City Code is hereby amended by adding the bolded and underlined language and deleting the strikethrough language as follows:

Section 1. By amending the Salisbury City Code as follows:

2.04.060 Financial disclosure—Employees and appointed officials.

A. This section only applies to the following appointed officials and employees:

City Administrator — Deputy City Administrators

City Clerk — Assistant City Clerk

City Solicitor — Assistant City Solicitor

Department Directors — Assistant Department Directors

Members of Quasi-Judicial Boards and Commissions including, but not limited to:

Members of Board of ~~Zoning~~ Appeals

~~Members of Housing Board of Adjustment and Appeals~~

~~Members of Building Board of Adjustment and Appeals~~

Members of the Planning and Zoning Commission appointed by the City

Members of the Ethics Commission

Members of the Historic District Commission

B. A statement filed under this section shall be filed with the commission under oath or affirmation.

C. On or before April 30 of each year during which an official or employee holds office, an official or employee shall file a statement disclosing gifts received during the preceding calendar year from any person that contracts or is regulated by the city including the name of the donor of the gift and the approximate retail value at the time of receipt.

D. An official or employee shall disclose employment and interests that raise conflicts of interest or potential conflicts of interest in connection with a specific proposed action by the employee or official sufficiently in advance of the action to provide adequate disclosure to the public. Officials and employees shall disclose, in all statements filed hereunder, whether they or their spouse is a lobbyist required to register and, if so, they shall identify the entities that engage the lobbyist.

E. The commission shall maintain all disclosure statements filed under this section as public records available for public inspection and copying as provided in Section 2.04.050(e) and (f) of this chapter.

8.08.070 Appeal.

A. Any person wishing to appeal a determination of the director of the Housing and Community Development Department regarding the provisions of this chapter shall file a written notice of appeal with the Housing and Community Development Department within twenty-one (21) days after receipt of a notice sent pursuant to the provisions of this chapter. The notice of appeal shall contain a statement of grounds for the appeal. The notice of appeal shall be accompanied by a fee as set from time to time by the city council ~~of one hundred dollars (\$100.00).~~

B. The director of the Housing and Community Development Department shall refer the appeal to the Board of Appeals ~~housing board of adjustments and appeals. The board shall meet monthly, or more frequently at the call of the chair, to hear appeals. The board shall notify the owner in writing of the time and place of the hearing.~~

C. When hearing appeals under this chapter, the Board of Appeals ~~board~~ shall follow the procedures set forth in section 17.12.090 through 17.12.130 ~~15.24.~~

8.09.080 Appeal.

A. Any person wishing to appeal a determination of the director of the Housing and Community Development Department regarding the provisions of this chapter shall file a written notice of appeal with the Housing and Community Development Department within twenty-one (21) days after receipt of a notice sent pursuant to the provisions of this chapter. The notice of appeal shall contain a statement of grounds for the appeal. The notice of appeal shall be accompanied by a fee as set from time to time by the city council ~~of one hundred dollars (\$100.00).~~

B. The director of the Housing and Community Development Department shall refer the appeal to the **Board of Appeals** ~~housing board of adjustments and appeals~~ for hearing pursuant to Section **17.12.090 through 17.12.130** ~~15.24.360~~.

C. Should the decision of the housing official be overturned by the **Board of Appeals** ~~housing board of adjustments and appeals~~, the appellant shall receive a full refund of the ~~one hundred dollars (\$100.00)~~ appeal application fee within thirty (30) days of the date of the decision of the **Board of Appeals** ~~board~~.

8.10.080 Appeal.

A. Any person wishing to appeal a determination of the director of the housing and community development department regarding the provisions of this chapter shall file a written notice of appeal with the housing and community development department within twenty-one (21) days after receipt of a notice sent pursuant to the provisions of this chapter. The notice of appeal shall contain a statement of grounds for the appeal. The notice of appeal shall be accompanied by a fee **as set from time to time by the city council** ~~of one hundred dollars (\$100.00)~~.

B. The director of the housing and community development department shall refer the appeal to the **Board of Appeals** ~~housing board of adjustments and appeals~~ for hearing pursuant to section **17.12.090 through 17.12.130** ~~15.24.360~~.

8.11.020 Amendments to the State Fire Prevention Code.

A. The National Fire Protection Association Life Safety Code 101 as referenced, amended, and promulgated by the State Fire Prevention Commission is adopted by the city with the following local amendment.

1. Fire prevention fees shall be established by resolution of the city council.

B. The National Fire Protections Association Fire Code 1 as referenced, amended, and promulgated by the State Fire Prevention Commission is adopted by the city with the following local amendments:

1. The board of appeals shall be the **City of Salisbury Board of Appeals** ~~building board of adjustments and appeals~~.

2. Any person who fails to comply with the provisions of the Code or who fails to carry out an order made pursuant to this Code or violates any condition attached to a permit, approval, or certificate may be subject to a municipal infraction not to exceed five hundred dollars (\$500.00) each day the violation continues.

3. Failure to comply with the time limits of an abatement notice or other corrective notice issued by the authority having jurisdiction (AHJ) may result in municipal infractions not to exceed five hundred dollars (\$500.00) for each day the violation continues and the AHJ shall have authority to evacuate, vacate and order such building or structure to be closed to the public.

4. Include Annex E: Fire Fighter Safety Building Marking System, with local amendments.

a. Local amendments to Annex E are:

i. Add E. 1.3.6.1. The following letters shall be used to indicate special hazards assigned to the center of the Maltese cross:

A) "F" — Floor hazard

B) "R" — Roof hazard

C) "W" — Wall hazard

- D) "H" — Holes in structure
- E) "S" — Stairs compromised
- F) "M" — Maze like, confusing layout
- ii. Add E. 1.3.6.2. Where the AHJ determines the conditions to be severe enough to limit all operational activity to a defensive mode only, a red "X" shall be placed through the center section of the Maltese cross.
- 5. Replace Subsection '10.10.1 Permits.' with 10.10.1 Open Burning Prohibited. Open burning, other than cooking and recreational fires compliant with the provisions of this Code, is prohibited.
- 6. Permits from the Fire Marshal are required for the following:
 - a. Installation/Modification of fire alarm and detection systems;
 - b. Installation/Modification of sprinkler or water spray systems;
 - c. Installation/Modification of standpipe systems;
 - d. Installation/Modification fire pumps;
 - e. Installation/Modification of water storage tanks for fire protection;
 - f. Installation/Modification of gaseous and chemical extinguishing systems;
 - g. Installation/Modification of foam systems;
 - h. Installation/Modification of smoke control systems;
 - i. Installation/Modification of flammable and combustible liquid storage tanks;
 - j. Installation/modification of emergency generators for fire protection systems.;
 - k. Installation, modification, or removal from service of any private fire hydrants;
 - l. Fireworks displays;
 - m. To store, transport on site, dispense, use, or handle hazardous materials;
 - n. To perform any fire hydrant or fire pump water flow test; and
 - o. To sell consumer fireworks.

12.10.060 Appeal.

- A. Any person wishing to appeal a determination of the director of the Housing and Community Development Department regarding the provisions of this chapter shall file a written notice of appeal with the Housing and Community Development Department within twenty-one (21) days after receipt of a notice sent pursuant to the provisions of this chapter. The notice of appeal shall contain a statement of grounds for the appeal. The notice of appeal shall be accompanied by a fee as set from time to time by the city council ~~of one hundred dollars (\$100.00)~~. Municipal infraction citations are subject to the jurisdiction of the District Court of Maryland and, once issued, are not subject to the provisions of this chapter.
- B. The director of the Housing and Community Development Department shall refer the appeal to the Board of Appeals ~~housing board of adjustments and appeals~~ for hearing pursuant to Section 17.12.090 through 17.12.130 ~~15.24.360~~.
- C. Should the decision of the housing official be overturned by the Board of Appeals ~~housing board of adjustments and appeals~~ the appellant shall receive a full refund of the ~~one hundred dollar~~

~~(\$100.00)~~ appeal application fee within thirty (30) days of the date of the decision of the **Board of Appeals** board.

12.40.040 Appeals.

- A. Any person wishing to appeal a determination of the director of the department of infrastructure and development regarding the provisions of this chapter shall file a written notice of appeal with the department of infrastructure and development within twenty-one (21) days after receipt of a notice sent pursuant to the provisions of this chapter. The notice of appeal shall contain a statement of grounds for the appeal. The notice of appeal shall be accompanied by a fee **as set from time to time by the city council** ~~of one hundred dollars (\$100.00).~~
- B. The director of the department of infrastructure and development shall refer the appeal to the **Board of Appeals** ~~housing board of adjustments and appeals~~ for hearing pursuant to Sections ~~15.24.360 through 15.24.450~~ **17.12.090 through 17.12.130.**

13.28.110 Appeals.

Any person aggrieved by the action of any official charged with the enforcement of this chapter, as the result of the disapproval of a properly filed application for a permit, issuance of a written notice of violation, or an alleged failure to properly enforce the chapter in regard to a specific application, shall have the right to appeal the action to the ~~board of zoning appeals~~ **Board of Appeals** ~~board~~. The appeal shall be filed in writing within ~~thirty (30)~~ **twenty-one (21)** days of the date of official transmittal of the final decision or determination to the applicant, state clearly the grounds on which the appeal is based, and be processed in the manner prescribed for hearing administrative appeals under ~~board of zoning appeals~~ **Board of Appeals** ~~board~~ rules of procedure.

15.16.120 Duties and responsibilities of the floodplain administrator.

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- A. Review applications for permits to determine whether proposed activities will be located in flood hazard areas.
- B. Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
- C. Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
- D. Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from MDE for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the one hundred (100) year frequency floodplain of free-flowing nontidal waters of the State.
- E. Verify that applicants proposing an alteration of a watercourse have notified adjacent communities and MDE (NFIP State Coordinator), and have submitted copies of such notifications to FEMA.
- F. Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.

- 208 G. Inspect or cause to be inspected, buildings, structures, and other development for which permits
209 have been issued to determine compliance with these regulations or to determine if non-compliance
210 has occurred or violations have been committed.
- 211 H. Review Elevation Certificates and require incomplete or deficient certificates to be corrected.
- 212 I. Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to
213 maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the
214 City of Salisbury, Maryland, within six months after such data and information becomes available
215 if the analyses indicate changes in base flood elevations or boundaries.
- 216 J. Maintain and permanently keep records that are necessary for the administration of these
217 regulations, including:
- 218 1. Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps
219 and current effective studies and maps) and Letters of Map Change; and
- 220 2. Documentation supporting issuance and denial of permits, Elevation Certificates,
221 documentation of the elevation (in relation to the datum on the FIRM) to which structures
222 have been floodproofed, other required design certifications, variances, and records of
223 enforcement actions taken to correct violations of these regulations.
- 224 K. Enforce the provisions of these regulations, investigate violations, issue notices of violations or
225 stop work orders, and require permit holders to take corrective action.
- 226 L. Advise the **Board of Appeals** ~~Building Board of Adjustments and Appeals~~ regarding the intent of
227 these regulations and, for each application for a variance, prepare a staff report and
228 recommendation.
- 229 M. Administer the requirements related to proposed work on existing buildings:
- 230 1. Make determinations as to whether buildings and structures that are located in flood hazard
231 areas and that are damaged by any cause have been substantially damaged.
- 232 2. Make reasonable efforts to notify owners of substantially damaged structures of the need
233 to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant
234 repair of substantially damaged buildings except for temporary emergency protective
235 measures necessary to secure a property or stabilize a building or structure to prevent
236 additional damage.
- 237 N. Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances,
238 other actions which may include but are not limited to: issuing press releases, public service
239 announcements, and other public information materials related to permit requests and repair of
240 damaged structures; coordinating with other Federal, State, and local agencies to assist with
241 substantial damage determinations; providing owners of damaged structures information related to
242 the proper repair of damaged structures in special flood hazard areas; and assisting property owners
243 with documentation necessary to file claims for Increased Cost of Compliance (ICC) coverage
244 under NFIP flood insurance policies.
- 245 O. Notify the Federal Emergency Management Agency when the corporate boundaries of the City of
246 Salisbury, Maryland have been modified and:
- 247 1. Provide a map that clearly delineates the new corporate boundaries or the new area for
248 which the authority to regulate pursuant to these regulations has either been assumed or
249 relinquished through annexation; and
- 250 2. If the FIRM for any annexed area includes special flood hazard areas that have flood zones
251 that have regulatory requirements that are not set forth in these regulations, prepare

amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place within six months of the date of annexation and a copy of the amended regulations shall be provided to MDE (NFIP State Coordinator) and FEMA.

- P. Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.
- (Ord. No. 2337, 6-22-2015)

15.16.360 General.

The ~~Board of Appeals~~ ~~Building Board of Adjustments and Appeals~~ shall have the power to consider and authorize or deny variances from the strict application of the requirements of these regulations. A variance shall be approved only if it is determined to not be contrary to the public interest and where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations, an unnecessary hardship would result.

Upon consideration of the purposes of these regulations, the individual circumstances, and the considerations and limitations of this section, the ~~Board of Appeals~~ ~~Building Board of Adjustments and Appeals~~ may attach such conditions to variances as it deems necessary to further the purposes of these regulations.

The ~~Board of Appeals~~ ~~Building Board of Adjustments and Appeals~~ shall notify, in writing, any applicant to whom a variance is granted to construct or substantially improve a building or structure with its lowest floor below the elevation required by these regulations that the variance is to the floodplain management requirements of these regulations only, and that the cost of Federal flood insurance will be commensurate with the increased risk, with rates up to twenty-five dollars (\$25.00) per one hundred dollars (\$100.00) of insurance coverage.

A record of all variance actions, including justification for issuance shall be maintained pursuant to Section 15.16.120.J.

15.16.370 Application for a variance.

- A. The owner of property, or the owner's authorized agent, for which a variance is sought shall submit an application for a variance to the Floodplain Administrator.
- B. At a minimum, the application shall contain the following information: name, address, and telephone number of the applicant and property owner; legal description of the property; parcel map; description of the existing use; description of the proposed use; site map showing the location of flood hazard areas, designated floodway boundaries, flood zones, base flood elevations, and flood protection setbacks; description of the variance sought; and reason for the variance request. Variance applications shall specifically address each of the considerations in Section 15.16.380.
- C. If the application is for a variance to allow the lowest floor of a building or structure below the applicable minimum elevation required by these regulations, the application shall include a statement signed by the owner that, if granted, the conditions of the variance shall be recorded on the deed of the property.
- D. If the application is for a variance for a historic structure pursuant to Section 15.16.220 of these regulations, the application shall contain documentation that the proposed work does not preclude the structure's continued eligibility and designation as a historic structure. The documentation shall be obtained from a source that is authorized to make such determinations (see definition of "Historic Structure").

15.16.380 Considerations for variances.

The Floodplain Administrator shall request comments on variance applications from MDE (NFIP State Coordinator) and shall provide such comments to the **Board of Appeals** ~~Building Board of Adjustments and Appeals~~.

In considering variance applications, the **Board of Appeals** ~~Building Board of Adjustments and Appeals~~ shall consider and make findings of fact on all evaluations, all relevant factors, requirements specified in other sections of these regulations, and the following factors:

- A. The danger that materials may be swept onto other lands to the injury of others.
- B. The danger to life and property due to flooding or erosion damage.
- C. The susceptibility of the proposed development and its contents (if applicable) to flood damage and the effect of such damage on the individual owner.
- D. The importance of the services to the community provided by the proposed development.
- E. The availability of alternative locations for the proposed use which are not subject to, or are subject to less, flooding or erosion damage.
- F. The necessity to the facility of a waterfront location, where applicable, or if the facility is a functionally dependent use.
- G. The compatibility of the proposed use with existing and anticipated development.
- H. The relationship of the proposed use to the comprehensive plan and hazard mitigation plan for that area.
- I. The safety of access to the property in times of flood for passenger vehicles and emergency vehicles.
- J. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- K. The costs of providing government services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- L. The comments provided by MDE (NFIP State Coordinator).

15.16.390 Limitations for granting variances.

The **Board of Appeals** ~~Building Board of Adjustments and Appeals~~ shall make an affirmative decision on a variance request only upon:

- A. A Showing of Good and Sufficient Cause. Good and sufficient cause deals solely with the physical characteristics of the property and cannot be based on the character of the improvement, the personal characteristics of the owner/inhabitants, or local provision that regulate standards other than health and public safety.
- B. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
- C. A determination that the granting of a variance for development within any designated floodway, or flood hazard area with base flood elevations but no designated floodway, will not result in increased flood heights beyond that which is allowed in these regulations.
- D. A determination that the granting of a variance will not result in additional threats to public safety; extraordinary public expense, nuisances, fraud or victimization of the public, or conflict with existing local laws.

E. A determination that the building, structure or other development is protected by methods to minimize flood damages.

F. A determination that the variance is the minimum necessary to afford relief, considering the flood hazard.

15.21.070 Appeals procedures.

A. Any person wishing to appeal a determination of the director regarding the provisions of this chapter shall file a written notice of appeal with the Housing and Community Development Department within twenty-one (21) calendar days after receipt of a notice sent pursuant to the provisions of this chapter. The notice of appeal shall contain a statement of grounds for the appeal. The notice of appeal shall be accompanied by a fee as set from time to time by the city council ~~of one hundred dollars (\$100.00)~~. Municipal infraction citations are subject to the jurisdiction of the District Court of Maryland and, once issued, are not subject to the provisions of this chapter.

B. The director shall refer the appeal to the Board of Appeals ~~housing board of adjustments and appeals~~ for hearing pursuant to Section 17.12.090 through 17.12.130 ~~15.24.360~~.

C. Should the decision of the director be reversed by a final appellate decision, the appellant shall receive a refund of the ~~one hundred dollar (\$100.00)~~ application fee within thirty (30) calendar days of the date of the final appellate decision.

15.22.080 Appeals procedure.

A. Any person wishing to appeal a determination of the Housing and Community Development Department shall file a written notice of appeal with the director within ~~thirty (30)~~ twenty-one (21) days after the department's action. The notice shall contain a statement of the grounds for the appeal. The notice of appeal shall be accompanied by a fee as set from time to time by the city council ~~of one hundred dollars (\$100.00)~~.

B. The director shall refer the appeal to the Board of Appeals ~~housing board of adjustments and appeals~~. The board shall meet monthly, or more frequently at the call of the chair, to hear appeals. The board shall notify the owner in writing of the time and place of the hearing.

C. When hearing appeals under this chapter, the board shall follow the procedures set forth in Chapter 17.12.090 through 17.12.130 ~~15.24~~ of this code.

~~Article X Means of Appeal~~

~~15.24.360 Establishment of board.~~

~~There is established in the city a board to be called the Housing Board of Adjustments and Appeals, which shall consist of five members. Such board shall be composed of residents of the City of Salisbury, and, at the time of any new appointment, the City shall ensure that the board includes at least one homeowner and at least one tenant. The board shall be appointed by the Mayor and Council.~~

~~15.24.370 Terms of office.~~

~~Members shall be appointed for a term of four years. Any continued absence of any member from meetings of the board or failure of any member to complete required training shall, at the discretion of the Mayor and Council, render any such member subject to immediate removal from office.~~

~~15.24.380 Quorum.~~

~~Three members of the board shall constitute a quorum. In varying the application of any provisions of this code or in modifying an order of the housing official, affirmative votes of the majority present shall be required. A board member shall not hear or act on an appeal which that member has any personal, professional or financial or financial interest.~~

15.24.390 Application for appeal.

Any person affected by a decision of the housing official or a notice or order issued under this code shall have the right to appeal to the **Board of Appeals pursuant to section 17.12.090 through 17.12.130** ~~housing board of adjustments and appeals~~ provided that a written application for appeal is filed within twenty-one (21) days after the date that the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

~~15.24.391 Request for Waiver of Fee.~~

~~A person unable by reason of poverty to pay the appeal fee, may appeal and request a waiver of the fee. This provision shall apply to an appeal within the city. This shall not apply to an appeal of a municipal citation, an appeal to the district court, or an appeal to any court or agency outside of the jurisdiction of the city.~~

~~A. Any person wishing to request a waiver of the appeal fee may submit a completed request for waiver of fee form with their application for appeal.~~

~~B. The board of appeals shall review any request for waiver of fee forms that are submitted and may require the person submitting the request to supplement or explain any of the matters set forth in the request.~~

~~C. In determining whether to grant a waiver, the board shall consider:~~

~~1. Whether the person requesting fee waiver is receiving services from a state or federal program serving low income individuals; and~~

~~2. Whether the household income is equal or less than that which would qualify for one of the low income programs in subsection (C)(1); and~~

~~3. Whether there is any other factor that may be relevant to the person's ability to pay the fee.~~

~~D. Upon notification of the request for waiver being denied, the person appealing shall have ten (10) days to pay the appeal fee.~~

~~1. If paid within that time, the application for appeal shall be deemed to have been filed on the date the application for appeal and request for waiver forms were filed.~~

~~2. If the fees are not paid within that time, the application for appeal shall be deemed to have been withdrawn.~~

~~E. If the request for waiver is approved, the appeal shall proceed as though the fee had been paid.~~

~~F. If the appeal fee is waived and the appeal is denied, the appeal fee shall be due, unless a request for waiver of final fee is submitted, within ten (10) days of the notice of decision, and approved.~~

~~G. If the appeal fee is waived and the appeal is successful, the individual shall owe nothing.~~

15.24.400 Effect of failure to appeal.

Failure of any person to file an appeal shall constitute a waiver of his/her right to an administrative hearing and adjudication of the notice and order, or any portion thereof.

15.24.410 Scope of hearing on appeal.

Only those matters or issues specifically raised by the appellant in his notice of appeal shall be considered in the hearing of the appeal.

~~15.24.420 Staying of order under appeal.~~

~~Except for orders to vacate made pursuant to Section 15.24.230 of this chapter enforcement of any notice and order of the housing official issued under this code shall be stayed during the time of appeal and hearing.~~

~~15.24.430 Conduct of hearing.~~

~~A. Hearings will be conducted according to the board's administrative rules relating to evidence and witnesses.~~

~~B. Oral evidence shall be taken only on oath or affirmation.~~

~~C. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.~~

~~D. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.~~

~~E. Each party shall have these rights, among others:~~

~~1. To call and examine witnesses on any matter relevant to the issues of the hearing;~~

~~2. To introduce documentary and physical evidence;~~

~~3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;~~

~~4. To represent himself or to be represented by anyone of his choice who is lawfully permitted to do so.~~

~~F. The board shall inspect any building or premises involved in the appeal. Notice of such inspection shall be given to the parties before the inspection is made that the parties are permitted to be present during the inspection. Each party then shall have a right to rebut or explain the matters so stated to the board.~~

~~(Ord. 1665 Exh. A (part), 1997)~~

15.24.440 Variations and modifications.

A. The **Board of Appeals** board, after hearing an appeal, may vary the application of any provision of this code to any particular case when, in its opinion, the enforcement thereof would cause undue hardship and would be contrary to the spirit and purpose of this code or public interest or when, in its opinion, the interpretation of the housing official should be modified or reversed.

B. A decision of the **Board of Appeals** board to vary the application of any provision of this code or to modify an order of the housing official shall specify in what manner such variation or modification is made.

15.24.450 Decisions.

A. Every decision of the **Board of Appeals** board shall be final except as allowed in subsection C of this section.

B. The **Board of Appeals** board shall, in every case, reach a ~~written~~ decision without unreasonable or unnecessary delay.

C. The appellant shall comply with the **Board of Appeals'** ~~board's~~ decision unless appealed to the circuit court within thirty (30) days after the date of decision.

15.24.1380 Appeals.

Within ~~seven~~ **twenty-one (21)** days from service of notice as provided for in this chapter, the owner or his ~~agent~~ **agency** may file an appeal with the **Board of Appeals** ~~housing board of adjustments and appeals~~ stating in detail the reasons as to why the action proposed by the housing official should not be taken. Upon receipt of such appeal, the **Board of Appeals** ~~housing board of adjustments and appeals~~ shall proceed under ~~Article X, Section~~ **17.12.090 through 17.12.130** ~~15.24.360 et seq.~~

15.24.1590 Appeals.

Within ~~seven~~ **twenty-one (21)** days after service of notice as provided in this chapter, the owner or his agent may file an appeal with the **Board of Appeals** ~~housing board of adjustments and appeals~~ stating in detail the reasons as to why the action proposed by the housing official should not be taken. Upon receipt of such appeal, the **Board of Appeals** ~~housing board of adjustments and appeals~~ shall proceed under ~~Article X, Section~~ **17.12.090 through 17.12.130** ~~15.24.360, et seq.~~

15.24.1710 Appeal procedure.

Within twenty-one (21) days after service of a notice provided for herein, a property owner may file a notice of appeal with the housing official. The notice shall state in detail the reasons the action proposed by the housing official should not be taken. Upon receipt of such notice of appeal, the housing official shall refer the appeal to the **Board of Appeals** ~~housing board of adjustments and appeals~~, which shall proceed in accordance with ~~article X, section~~ **17.12.090 through 17.12.130** ~~15.24.360 et seq.~~

15.26.120 Appeals procedure.

A. Any person wishing to appeal a determination of the director recommending denial, nonrenewal, revocation, or suspension of a license or registration shall file a written notice of appeal with the director within twenty-one (21) days after receipt of the notice of denial, nonrenewal, revocation, or suspension. The notice shall contain a statement of the grounds for the appeal. The notice of appeal shall be accompanied by a fee **as set from time to time by the city council** ~~of one hundred dollars (\$100.00).~~

B. The director shall refer the appeal to the **Board of Appeals** ~~housing board of adjustments and appeals~~ to either accept the appeal and schedule a hearing, or reject the appeal. ~~The board shall meet monthly, or more frequently at the call of the chair, to hear appeals. The board shall notify the owner in writing of the time and place of the hearing.~~

C. When hearing appeals under this chapter, the **Board of Appeals** ~~board~~ shall follow the procedures set forth in Chapter **17.12.090 through 17.12.130** ~~15.24~~ of the Salisbury Municipal Code.

D. Should the decision of the housing official be overturned by the **Board of Appeals** ~~Housing Board of Adjustments and Appeals~~, the appellant shall receive a full refund of the ~~one hundred dollar (\$100.00)~~ appeal application fee within thirty (30) days of the date of the decision of the Board.

15.27.060 Appeal.

A. Any person wishing to appeal a determination of the Director of the Housing and Community Development Department regarding the provisions of this chapter shall file a written notice of appeal with the Housing and Community Development Department within twenty-one (21) days after receipt of a notice sent pursuant to the provisions of this chapter. The notice of appeal shall contain a statement of grounds for the appeal. The notice of appeal shall be accompanied by a fee **as set from time to time by the city council** ~~of one hundred dollars (\$100.00).~~

- 503 B. The Director of the Housing and Community Development Department shall refer the appeal to the
504 **Board of Appeals** ~~housing board of adjustments and appeals. The board shall meet monthly, or~~
505 ~~more frequently at the call of the chair, to hear appeals. The board shall notify the owner in writing~~
506 ~~of the time and place of the hearing, pursuant to the rules of the housing board of adjustments and~~
507 ~~appeals.~~
- 508 C. When hearing appeals under this chapter, the board shall follow the procedures set forth in Chapter
509 **17.12.090 through 17.12.130** ~~15.24.~~
- 510 D. If the **Board of Appeals** ~~board~~ overturns the decision of the housing official, the owner shall be
511 refunded the ~~one hundred dollar (\$100.00)~~ appeal fee.

512 **16.16.010 Preliminary plat.**

- 513 A. Scope—Procedure. A preliminary subdivision plat is required to be submitted to the planning
514 commission for review and approval for all proposed major subdivisions, as defined by Section
515 16.08.020, and any subdivision where five lots have already been subdivided from a parcel of
516 record. This provision shall apply regardless of ownership or change in ownership since the original
517 lots were subdivided.
- 518 1. The preliminary plat shall be submitted to the planning department which is from time to
519 time established by the planning commission.
 - 520 2. The planning commission shall consider such preliminary plat and take action thereon at a
521 meeting open to the public but the plat shall not be scheduled for action by the commission
522 until the director of infrastructure and development certifies that all requirements of these
523 regulations applying to a preliminary plat have been met.
 - 524 3. In the event of a disagreement between the applicant and the director of infrastructure and
525 development concerning the application of this title, either party may, no sooner than sixty
526 (60) days after the plat is received by the department of infrastructure and development,
527 submit the plat to the commission for its review.
 - 528 4. No plat shall be acted upon by the planning commission except at a public meeting, notice
529 of the time and place of which shall be sent by regular mail to the applicant or his
530 representative not less than five days before the date of the meeting.
 - 531 5. The planning commission may approve the preliminary plat with or without conditions or
532 modifications or may disapprove the plat.
 - 533 6. If the planning commission disapproves the plat, reasons therefore shall be submitted in
534 writing to either the applicant or his representative.
 - 535 7. If the commission does not approve, disapprove, table for further consideration, or review
536 and make recommendations on the plat within sixty (60) days after the meeting at which
537 the preliminary plat was first reviewed, the plat shall be deemed approved as submitted,
538 and may be prepared and submitted by the applicant as a final plat.
- 539 B. Drafting Standards. All preliminary plats shall be prepared in accordance with the following
540 drafting standards:
- 541 1. The plat shall be drawn at a scale of one inch equals one hundred (100) feet or other
542 appropriate scale approved by the director of infrastructure and development.
 - 543 2. When more than one sheet is necessary, each sheet shall bear the name of the subdivision
544 and shall be numbered and show its relationship to the total number of sheets.

3. Where any revision is made, or when a plat is a resubdivision of a previously recorded plat, dashed or light dotted lines shall be used to show features or locations to be changed. Solid lines shall be used to show the existing features.
4. The perimeter boundary line of the subdivision shall be shown as a solid heavy line and all proposed lots shall be shown solid with lines of lesser thickness and/or different patterns.
5. All existing parcels within a proposed subdivision shall be shown by a different line pattern or line weight than the proposed lots and clearly labeled.
6. Easements shall be shown with dotted lines and clearly labeled.
7. All plats shall be clearly titled "Preliminary—Not for Recording," on a sheet size of either twenty-four (24) inches by thirty-six (36) inches or eighteen (18) inches by twenty-four (24) inches.

C. Information Required. The preliminary plat shall meet the minimum design standards for the construction of public improvements set forth in Chapter 16.40 and shall give the following information insofar as possible:

1. The name and location of the proposed subdivision, the name and address of the owner or owners and the name and seal of the surveyor who prepared the plat and an acknowledgment that the professional land surveyor or property line surveyor is duly licensed by the state of Maryland;
2. The date, geographic scale and a north arrow designating the northerly direction of the Y-axis of the Maryland State Grid Coordinate System;
3. The location and vicinity map showing relationship of subdivision site to area;
4. The location of existing and platted property lines, streets, buildings, watercourses, with detailed or approximately one hundred (100) year floodplain delineation, water and sewer lines, railroads, bridges, culverts, drain pipes, and any easements based on an accurate field survey and the names of all adjoining owners or subdivisions;
5. Plans of proposed sewer or water utility layouts showing feasible connections to existing or proposed systems when required by the director of infrastructure and development. The number of service connections will be determined by the director of the city department of infrastructure and development;
6. When public sewer and water systems are not available, any proposed individual on-site water supply and/or sewage disposal system must be specifically approved by the city director of infrastructure and development and the county health officer;
7. The tax map, city property maps, grid and parcel numbers, deed reference, zoning classifications; the water and sewerage plan service area; the tax ditch, and the urban services district in which the subdivision is located, if applicable;
8. The names, locations, widths and other dimensions of proposed streets, alleys, easements, parks and other open spaces, reservations and stormwater management areas;
9. Approximate dimensions, lot numbers, block letters, front building lines and any other proposed private setback lines for the proposed lots;
10. Contours at vertical intervals of not more than one foot, when required by the director of the department of infrastructure and development. The director may require contours of a lesser interval where conditions of the parcel warrant;

11. The preliminary plat shall include a signed certificate showing ownership or legal control of the property and a tabular summary of the following:
- a. The total acreage of the site being subdivided,
 - b. The total number of lots proposed and average lot size,
 - c. The area of natural vegetation to remain on the site and all buffer or screening areas as proposed or as may be required by the commission,
 - d. The estimated total amount of land area on the site to be reserved and used for stormwater management areas,
 - e. The total amount of land area proposed for access rights-of-way, easement areas, on-site recreation, open spaces, and other parcels or areas in the subdivision reserved for the common use of residents,
 - f. The estimated linear footage and area of new public roads to be constructed or widened;
12. The following information shall also be shown, if applicable:
- a. Chesapeake Bay Critical Area. All preliminary plats for land located in the Chesapeake Bay Critical Area shall be in accordance with the requirements of Chapter 12.20, Chesapeake Bay Critical Area Natural Resources Protection.
 - b. The one hundred (100) year floodplain. The one hundred (100) year floodplain line and elevations shall be shown on the plat in accordance with a method approved by the director of infrastructure and development.
 - c. Forest Conservation Act. All areas required for preservation or conservation as may be required by the Forest Conservation Act.
 - d. A note indicating that the property is located in an airport zoning district and any airport approach, horizontal, transitional or turning surface and an airport clear zone; and the identification of any easement related to airport safety, maintenance or operations which may affect the property.
 - e. When required by the director of infrastructure and development location and general design of any stormwater management pond as required by Chapter 13.28, Stormwater Management, of this Code. A general description of the proposed flow pattern for the entire drainage system, including the paved surfaces, open ditches and piped sections, with outfall points indicated shall be included or available for reference.
 - f. All preliminary plats for land located in a well head protection area shall be in accordance with the requirements of the city well head protection areas ordinance.
 - g. The Paleochannel. On all preliminary plats for land located over the paleochannel, the paleochannel line shall be shown.
- D. Copies. Four copies of the preliminary plat shall be submitted to the planning department. The staff shall distribute the copies as follows: two copies of the plat will be submitted to the department of infrastructure and development, one copy to the fire chief, and one copy will be retained in the files of the planning commission.
- E. Concept Approval or Denial. The planning commission may provide concept approval or denial of a preliminary plat of a parcel that could only be developed by special consideration in order to allow a developer to obtain an approval before proceeding with the required engineering.

1. All such plats shall clearly show the reasons for the commission's action, be legible and drawn to approximate scale.

2. Once approval has been obtained from the commission, the plat shall be reviewed and approved in accordance with all final plat requirements of this chapter.

F. Preliminary Plat of Entire Tract. If, after the subdivision of any five lots from a legally established parcel of record, the planning commission determines that it is necessary in order to assure the future coordination of any street, drainage area or other community services or facilities, the commission may require the preparation of a preliminary plat for up to one hundred (100) acres of the entire tract regardless of current ownership or change in ownership since the original lots were subdivided from the property.

G. Denial of Preliminary Plats. The planning commission may deny approval of any preliminary plat of the subdivision of land if, after investigations conducted or recommendations by the public agencies concerned, it is determined that at least one of the following factors exists in regard to the subdivision:

1. The land is subject to flooding or is topographically unsuitable for residential occupancy or for such other use and the development or occupancy may increase the danger to health, life, or property, or aggravate erosion or create a flood hazard to future occupants or the general public; or

2. Inadequate drainage ways or public accessways exist, either on-site or off-site, to serve the proposed development; or

3. A subdivision is proposed without frontage on a governmentally owned or maintained street or road; or

4. The health department has determined that the soils on the site or the water supply serving the subdivision is contaminated and development would pose a danger to the health and safety of the public; or

5. The layout of the lots are such that intensive development of the site will create a safety hazard to the future residents of the subdivision or to the general public; or

6. The proposed subdivision does not meet the requirements of this title and the applicant is unable to receive a waiver or a variance.

H. Appeal of Preliminary Plat Denial. All decisions of the commission to deny approval of a preliminary plat may be appealed to the city Board of Appeals ~~board of zoning appeals~~ in accordance with the provisions of Chapter 16.52, Appeals.

16.20.010 Final plat.

A. Scope—Procedure. Final plats may be submitted to the planning department for consideration by the planning commission at any time during the year for official action at a public meeting.

1. No final plat shall be acted upon by the planning commission until the director of infrastructure and development verifies that the plat meets the following:

a. Actual size of lots, as approved by the health department or in conformance with Title 17, Zoning, are shown in the plat;

b. All requirements for a final plat as required by this chapter and the plat contains the signature of the owner(s), the signature of the surveyor and the signature of the appropriate health department official.

672 B. Drafting Standards. All final plats shall be prepared in accordance with the following drafting
673 standards:

- 674 1. The plat shall be drawn at a scale of one inch equals one hundred (100) feet or other
675 appropriate scale approved by the director of infrastructure and development.
- 676 2. Dimensions shall be in feet and decimal parts thereof to the nearest hundreds and bearings
677 in degrees, minutes and seconds.
- 678 3. When more than one sheet is necessary, each sheet shall bear the name of the subdivision
679 and shall be numbered and show its relationship to the total number of sheets.
- 680 4. Where any revision is made, or when a plat is a resubdivision of a previously recorded plat,
681 dashed or light dotted lines shall be used to show features or locations to be changed and
682 solid lines shall be used to show the existing features.
- 683 5. The perimeter boundary line of the subdivision shall be shown as a solid heavy line and all
684 proposed lots shall be shown with lines of lessor thickness and/or different patterns.
- 685 6. All existing parcels within a proposed subdivision shall be shown by a different line pattern
686 or line weight than the proposed lots and clearly labeled.
- 687 7. Easements shall be shown with light dashed lines and clearly labeled.
- 688 8. All said plats shall be clearly titled "Final Subdivision Plat" or "Final Resubdivision Plat."

689 C. Information Required. The final plat shall show:

- 690 1. The date, title, name and location of the subdivision, graphic scale and a north arrow
691 referenced to the Maryland Grid Coordinate System;
- 692 2. Location and vicinity map showing the site in relation to area;
- 693 3. The final lines of all streets and roads, alleys lines, lot lines, dimensions and sizes, front
694 building setback lines, lots numbered in numerical order, blocks numbered in alphabetical
695 order; reservations, easements, existing structures and any areas to be dedicated to common
696 use or public use or sites for other than residential use with notes stating their purpose and
697 any limitations thereto;
- 698 4. Sufficient data to readily determine and to reproduce on the ground the location, bearing
699 and length of every street line, boundary line, block line and front building line whether
700 curved or straight. This shall include the radius, central angle, tangent, arc length and chord
701 distance for all curved property lines;
- 702 5. The names and location of adjoining subdivisions and streets and the location and
703 ownership of adjoining unsplit property;
- 704 6. The plat shall be legible, drawn accurately and to scale and shall be submitted for
705 recordation using black ink on transparent mylar, or linen or black-line photo process
706 comparable to original quality that will conform to the state's archival standards;
- 707 7. All courses shown on the plat shall be calculated from the plat meridian. The plat shall
708 include a north arrow designating the northerly direction of the Y-axis of the Maryland
709 Grid Coordinate System;
- 710 8. No distance on the plat may be marked, "more or less," except on lines which begin,
711 terminate, or bind on a marsh, stream or any body of water. When binding on water or
712 marsh, a traverse line (meandering line) may be required with tie in distances to water line;

9. The plat shall show the position by coordinates of all monuments, and monuments shall be set to delineate all perimeter corners of the subdivision and streets including points of curve and points of tangents. These monuments shall comply with Chapter 56, Section 333(D) of the Annotated Code of Maryland and Code of Maryland Regulations, COMAR 09.13.03;

10. The Maryland State Grid Coordinate System shall be used for horizontal control. Bearings of lines and coordinates of corners, points of curvature, and traverse points shall be referenced to the Maryland State Coordinate System in accordance with the Special Publication No. 235 "THE STATE COORDINATE SYSTEMS" (A Manual for Surveyors) published by the U.S. Department of Commerce, National Geodetic Survey, and the plat shall indicate the traverse point of origin of the survey. The city's vertical control datum shall be used. All vertical elevations shall be referred to a city's approved project benchmark;

11. The following certificate shall be placed on the plat and signed by the owner of the land shown on the plat and by the surveyor preparing it. Each plat shall be signed and sealed by a surveyor registered in the state of Maryland.

Certificate

I/We certify that the requirements of real property Section 3-108 of the Annotated Code of Maryland, latest edition, as far as it concerns the making of this plat and setting of markers have been complied with.

12. Certification by county health office for adequacy of service or water supply shall be shown on the plat;

13. The location and designation of any stormwater management areas shall be shown on the plat;

14. The following note shall appear on the final plat:

Note: Final Plat approval certifies that the subdivision has been reviewed for stormwater drainage affecting only streets and public areas within its own boundaries, not individual lots.

15. The following information shall also be shown:

a. Chesapeake Bay Critical Area. All final plats for land located in the Chesapeake Bay Critical Area shall be in accordance with the requirements of Chapter 12.20, Chesapeake Bay Critical Area Natural Resources Protection;

b. The one hundred (100) year floodplain. The one hundred (100) year floodplain line and elevations shall be shown on the plat in accordance with a method approved by the director of infrastructure and development consistent with the requirements of Chapter 15.16, Floodplain Management;

c. All areas reserved for conservation or preservation in order to comply with the requirements of the Forest Conservation Act'

d. A note indicating that the property is located in an airport zoning district and any airport approach, horizontal, transitional or turning surface and an airport clear zone; and the identification of any easement related to airport safety, maintenance or operations which may affect the property;

e. When required by the director of the department of infrastructure and development any on-site stormwater management pond as may be required by Chapter 13.28, Stormwater Management;

- f. All final plats for land located in a well head protection area shall be in accordance with the requirements of the city well head protection areas ordinance;
- g. The Paleochannel. All final plats for land located over the paleochannel, the paleochannel line shall be shown;
- h. Wetlands delineation as required by state and/or federal agencies;
16. Bodies of Water. The location of any watercourse, channel, stream, creek, lake, pond or marsh shall be shown on the final plat. The direction of flow and ebb shall be shown for tidal waters;
17. Improvements. If any existing or required utilities or improvements are to be installed other than in the streets of such subdivision, then the subdivider shall show upon the plat and dedicate the necessary easements thereof;
18. Building setback lines as may be proposed on each lot but not less than required by Title 17, Zoning, of this code;
19. The corporate limit lines of the city and any other municipality, if applicable;
20. Statements or certificates as required by federal, state and/or county agencies concerning floodplains, non-tidal wetlands, tidal wetlands, and other such areas.
- D. Copies. Five copies of the final plat shall be submitted to the planning director for submission to the planning commission and appropriate review agencies.
1. Sheet sizes shall be either twenty-four (24) inches by thirty-six (36) inches or eighteen (18) inches by twenty-four (24) inches.
2. When more than one sheet is required, an index sheet of the same size shall be filed showing the name of the subdivision and entire subdivision drawn to scale with the sheets numbered in numerical order as a key.
3. The planning commission may, after favorable recommendation by the director of infrastructure and development, permit a different scale than required by this chapter.
- E. Denial of Final Plats. The planning commission may deny approval of any final plat of the subdivision of land if, after investigations conducted or recommendations by the public agencies concerned, it is determined that one of the following factors exists in regards to the subdivision:
1. The land is subject to flooding or is topographically unsuitable for residential occupancy or for such other use and the development or occupancy of which may increase the danger of health, life, property or aggravate erosion or flood hazard to future occupants or the general public; or
2. Inadequate drainage ways or public accessways exist, either on-site or off-site, to serve the proposed development; or
3. A subdivision is proposed without frontage on a governmentally owned or maintained street or road; or
4. The health department has determined that the soils on the site or the water supply serving the subdivision is contaminated and development would pose a danger to the health and safety of the public; or
5. The layout of the lots are such that intensive development of the site will create a safety hazard to the future residents of the subdivision or to the general public; or

6. The proposed subdivision will not meet the floodplain regulations in Chapter 15.16 of Title 15, floodplain management ordinance; or

7. The proposed subdivision does not meet the requirements of this chapter and the applicant is unable to receive a waiver or a variance.

F. Appeal of Final Plat Denial. All decisions of the planning commission to deny approval of a final plat may be appealed to the city **Board of Appeals** ~~board of zoning appeals~~ in accordance with the provisions of Chapter 16.52, Appeals, of this title.

G. Phased Approval. The final plat shall conform substantially to the preliminary plat as approved, except that:

1. At the option of the subdivider, the final plat may cover only that portion of the approved preliminary plat which the subdivider proposes to record at that time; provided, that all requirements are met for the area included in the final plat.

2. If a final plat is submitted for only a portion of the area approved in the preliminary plat, the subdivider shall have one year from the date of approval by the commission within which to present a final plat or plats in substantial conformance with the approved preliminary plat, covering that area or areas on the preliminary plat not already recorded on the final plat.

3. The final subdivision of any future phase shall be in conformance with the city's requirements in existence at the time the final plat is approved.

16.52.010 Appeal to board of ~~zoning~~ appeals.

A. Any person, officer or department of the city, aggrieved by any final ruling of the planning commission on a preliminary or final plat as to the interpretation or application of the terms or conditions of this title, may appeal in writing to the **Board of Appeals** ~~board of zoning appeals~~, within ~~fifteen (15)~~ **twenty-one (21)** days after such final ruling.

B. Within ten days after the filing of the written appeal, the party appealing shall file with the **Board of Appeals** ~~board of zoning appeals~~ a statement setting forth, with reasonable particularity, the grounds for the appeal, including the error committed by the commission in taking the final action, the relief sought, and the reasons why the final action appealed from should be reversed or remanded. A copy of the statement shall be served on the commission. Failure to file the statement is grounds for dismissal of the appeal.

C. The **Board of Appeals** ~~board~~ shall not hear any appeal to the city's construction and material specifications or the construction standards requirements.

D. The board of ~~zoning~~ appeals shall hold a public hearing on all such appeals.

E. The **Board of Appeals** ~~board of zoning appeals~~ shall cause a notice of the public hearing to be published in a newspaper of general circulation once a week for two consecutive weeks. The site of all proposed subdivisions involved in any site specific appeal shall be posted.

F. Upon the hearing of such appeal, on the record, the final decision of the planning and zoning commission shall be presumed by the **Board of Appeals** ~~board of zoning appeals~~ to be proper and to best serve the public interest. The burden of proof shall be upon the appellant, or appellants, to show that the decision or ruling complained of was arbitrary, capricious, discriminatory or unsupported by any substantial evidence.

G. If the **Board of Appeals** ~~board of zoning appeals~~ finds that the decision of the commission was improper under the provisions of this chapter, it shall have the power to affirm, modify, or reverse

in part or in whole any decision or ruling appealed from and remand any case for the entering of a proper order or for further proceedings as the **Board** ~~board~~ shall determine.

- H. The decision of the **Board of Appeals** ~~board of zoning appeals~~ shall be set forth in its minutes and a notation of such action placed on the preliminary and final plat or both, together with the date of the **Board's** ~~board's~~ action and signed by the secretary to the **Board** ~~board~~.

16.52.020 Appeal to circuit court.

Any person, officer, department or board of the city aggrieved by the decision of the **Board of Appeals** ~~board of zoning appeals~~ and a party to the proceeding may appeal to the circuit court for Wicomico County, Maryland, provided that the appeal is taken within thirty (30) days after the final decision has been rendered by the **Board of Appeals** ~~board of zoning appeals~~.

17.04.110 Word usage.

For the purpose of this title, the following rules shall be observed and applied, except where the context indicates otherwise:

- A. Words used in the present tense shall include the future; words used in the singular number shall include the plural, and the plural the singular.
- B. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- C. Whenever a provision or regulation applies to a "building" or "structure," it shall be deemed to apply to any part or portion of such building or structure.
- D. The word "city" means the city of Salisbury, Maryland.
- E. The word "board" means the board of ~~zoning~~ appeals for the city of Salisbury, Maryland.
- F. The word(s) "commission" or "planning commission" shall mean the Salisbury-Wicomico County Planning and Zoning Commission.
- G. The word "council" shall mean the Salisbury city council.
- H. The word "person" includes individuals, firms, corporations, partnerships, associations and all other legal entities.
- I. The word "used" and "occupied" shall be considered as though followed by the words "or changed, intended or designed to be occupied or used."
- J. Unless otherwise specified, all distances shall be measured horizontally, and setbacks shall be measured from the curbline.

17.04.120 Definitions.

The following definitions have been used or considered in the construction of this title and shall be used in its interpretation:

"Accessory apartment" means a dwelling unit, limited to no more than one bedroom, incorporated within a single-family dwelling or its accessory building. The accessory apartment or the principal dwelling shall be occupied by the owner(s) of the property on which the accessory apartment is located.

"Accessory use" means a use which is customarily incidental and subordinate to a principal use and which is located on the same lot therewith.

"Adult arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, videos, or other image-producing devices are maintained to show images to five or fewer persons

per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

"Adult cabaret" means any bar, dance hall, restaurant, or other place of business which features dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers, or waiters or waitresses that engage in specified sexual activities or display specified anatomical areas, or any such business establishment, the advertising for, or a sign identifying which, uses the words, "adult," "topless," "nude," "bottomless," or other words of similar import. Any establishment in which employees perform straddle dances is considered an adult cabaret.

"Adult entertainment business" means an adult arcade, adult cabaret, adult motion picture theater, adult photographic and modeling studio, adult retail store, adult theater, sexual encounter center, or any other business establishment whose primary business stock in trade is dependent upon the activities relating to specified sexual activities, specified anatomical areas, private performances or straddle dances. An adult entertainment business does not include a modeling class operated by a proprietary school, licensed by the state of Maryland, a college, junior college, or university supported entirely or partly by taxation, or a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

"Adult motion picture theater" means any commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly, commonly, habitually, or consistently shown that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

"Adult photographic and modeling studio" means any commercial establishment which offers or advertises, as its primary business stock in trade, the use of its premises for the purpose of photographing or exhibiting specified sexual activities or specified anatomical areas, or modeling of apparel that exhibits specified anatomical areas, or modeling, demonstrating, or presenting any product or service for sale, in a private performance setting, in which the model or sales representative exhibits specified anatomical areas.

"Adult retail store" means a commercial establishment that offers for sale or rental for any form of consideration a significant amount of any one or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations, that depict or describe specified sexual activities or specified anatomical areas; or
2. Novelty items, games, greeting cards, instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

"Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment that regularly, commonly, habitually, or consistently features persons who appear, in person, in a state of nudity, and/or live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.

"Animal hospital" means facilities for the care and treatment of animals by a qualified veterinarian, completely enclosed within a building.

"Animal shelter" means facilities for the seizure and impounding of all unlicensed or untagged dogs and provision of shelter for lost, strayed or homeless animals.

"Apartment" means a dwelling unit, as defined herein.

"Apartment building" means a single residential structure designed and constructed to contain three or more separate dwelling units, regardless of the internal arrangement of such units or the ownership thereof.

"Apartment, efficiency" means a dwelling unit consisting of not more than one habitable room together with kitchenette and sanitary facilities.

"Apartment project" means a group of two or more apartment buildings constructed in accordance with a comprehensive development plan.

"Bed and breakfast inn" means the renting of not more than three rooms in an owner-occupied dwelling for lodging and serving of breakfast to not more than six casual and transient adult roomers (and the children of those six adults), provided that:

1. The renting of such rooms for such purpose is incidental and subordinate to the principle use of the dwelling;
2. No roomer's stay shall exceed fourteen (14) days in any six month period;
3. All meals and all amenities connected with the guest rooms shall be solely for use by the owner, the owner's family and the owner's registered guests;
4. There shall be only one kitchen and no guest room shall include cooking facilities;
5. The owner shall maintain a guest register, shall preserve all registration records for no less than three years, and shall consent to and thereafter make such records available immediately to the housing official upon request;
6. The owner may display a single exterior sign, as provided for under section 17.216.060, "sign standards"; and
7. The owner has been issued a permit for the use and operation of the owner occupied dwelling as a bed and breakfast inn by the housing official pursuant to the requirements established by ordinance.

"Boardinghouse/rooming house" means a building other than a hotel or restaurant where lodging and/or meals are regularly furnished by prearrangement for which compensation is paid in advance.

"Building" means any structure used or intended for supporting or sheltering any use or occupancy.

"Building, accessory" means a building subordinate to, and located on the same lot with, a main building and designed, intended or used as an accessory use.

"Building deficiencies" means any defect, deterioration or need for alteration in the structure or architectural members of a structure, and shall include the following:

1. Defects which, under the housing or building code of the city of Salisbury, would require removal;
2. Deterioration which cannot be corrected by normal maintenance;
3. Excessive minor defects which, when taken collectively, cause the building to have a deteriorating or undesirable effect on the surrounding area;
4. "Inadequate" original construction or subsequent alteration;
5. Inadequate, unsafe or nonconforming plumbing, heating or electrical facilities.

"Building height" means the vertical distance from the grade to the top of the highest roof beams of a flat roof or to the mean level of the highest gable or slope of a hip roof. When a building faces on more than one street, the height shall be measured from the average of the grades at the center of each street front.

"Building inspector" means the department of building, permitting and inspections, and the duly designated building official.

"Building supply and lumber yard" means the sale and storage of supplies and materials used in construction or repair of buildings, but not to include stockpiling, storage or sale of sand, gravel, cement or similar materials.

"Business center" means a group of buildings for business use arranged on a parcel of land or on a group of individual lots in accordance with a predetermined development plan.

"Care home" means a facility established to render domiciliary care for eleven (11) or more chronic or convalescent patients, which includes common features and services, including assistance with daily activities. This category includes assisted-living facilities, rest homes, and nursing homes. This category excludes group domiciliary care facilities and group homes, as defined by this chapter.

"Church" means an institution that people regularly attend to participate in or hold religious services, meetings, and other activities. The term shall include buildings and all customary accessory activities including but not limited to a chapel, day care center, school of general instruction, gymnasium, or social hall.

"Club," "lodge" and "fraternal organization" mean a nonprofit organization whose premises are restricted to members or guests, excluding a fraternity or sorority house.

"Cluster development" means a residential development constructed in accordance with a comprehensive development plan, permitting reduction and modification of lot area and size, provided that any reduction in area is retained as open space. Cluster development provides for the grouping of lots and open space in predetermined areas on the tract as an alternative to traditional zoning, while maintaining the established density of development for the district in which the cluster development is located.

"Commercial auction" means the sale of any article or property, excluding animals and farm produce, by auction, conducted entirely within the confines of a building so that noise from within the building does not pass beyond the lot lines, and provided that there is no outside storage of inventory or property to be sold at said auction on the same or contiguous lots.

"Common open space" means open space within the boundaries of a development, designed and set aside for use by all residents or a designated portion of residents of the development under the bylaws of an association.

"Community impact statement" includes the following:

A. A marketing study related to the type of development proposed; e.g. retail marketing, housing market, transient housing, etc. This study shall include an estimate of existing need and reasonable forecast of future demand for the kind of development proposed. It will be used to determine that extent of existing facilities of a type similar to that proposed and used to estimate when development may be needed in the community;

B. An impact study related to the quantity and kind of improvement and service to be provided by the community for the proposed development. This study should include an estimate of revenue to the community from proposed development and an estimate of the cost of improvements and services required to serve the development. The cost of improvements shall include those immediately needed to serve the development and those that may be needed in the future. The impact study related to services and improvements should include, where applicable, but not be limited to services and improvements, such as schools, utilities, including sewage, water mains, and storm drains, streets, traffic signals, police and fire protection, refuse collection and disposal, recreation facilities and any other service to be provided by the city;

C. An environmental impact statement related to the effect of proposed development on natural drainage channels and streams, natural growth, soils, air and water quality, etc., and a statement related to the effect of the proposed development on the use and development of adjoining property and the general neighborhood. This statement should include such considerations as the effects of noise, dust, odor, traffic, lighting, smoke, erosion, sediment control, flooding, change in natural ground cover, etc.

1012 "Community shopping center" means a shopping center containing between one hundred thousand one
1013 (100,001) and three hundred thousand (300,000) square feet in gross floor area.

1014 "Compact concrete dispenser" means a concrete dispenser that does not exceed a mix of twenty-five (25)
1015 cubic yards of concrete per hour, and a height of thirty (30) feet.

1016 "Comprehensive development plan" means a comprehensive set of plans, specifications and measures for
1017 either private or public development, such as but not limited to townhouse development, apartment project,
1018 shopping center or other such development permitted in this code. The development plan shall include:

1019 A. A preliminary comprehensive development plan, at the option of the applicant, showing the design
1020 of the development or project in sketch form drawn to scale prior to preparation of the final
1021 comprehensive development plan;

1022 B. A site plan showing the location of all streets, pedestrian ways, rail lines, utility systems and
1023 buildings;

1024 C. Any restrictions to be included in the sale or lease of land for parking, building locations, property
1025 maintenance, sign control and any other protective measures;

1026 D. A schedule, timetable or proposed phasing for the development of streets, grading, utility
1027 installation, rail facilities, docking facilities or other improvements to be provided for the project
1028 area and occupants thereof;

1029 E. A statement of intent to proceed and financial capability of the developer or sponsor;

1030 F. A community impact statement as defined in this section.

1031 "Comprehensive site plan" means a plan, drawn to scale, which shows the proposed location and
1032 dimensions of all roads, vehicular and pedestrian accessways, buildings, building footprints, parking areas,
1033 including the type and size of all spaces, open spaces, landscaping, recreation facilities, natural features,
1034 drainage ways, fire-fighting facilities, existing zoning, abutting property owners, stormwater management
1035 areas, setbacks from all property lines, on-site loading and unloading spaces and recreational facilities, as
1036 well as any on-site refuse disposal or recycling areas and facilities or both as may be required by the city
1037 together with measures necessary to provide screening in accordance with the requirements of chapter
1038 17.220.

1039 "Construction contractor's equipment, supplies, plant or storage yard" means the storage or keeping of
1040 construction equipment, machinery or supplies which are for use by a construction contractor.

1041 "Construction contractor's establishment" means an establishment where a construction contractor conducts
1042 his business, including the indoor storage of materials used in the conduct of business.

1043 "Convenience store" means a neighborhood-serving retail sales establishment wherein groceries and other
1044 miscellaneous convenience items may be purchased by residents of the neighborhood which it serves.

1045 "Cultivation of land" means the use of land for agricultural purposes limited to raising field crops,
1046 horticulture and accessory uses, but excluding animal husbandry.

1047 "Custom repair and service shop" means a shop for the repair and servicing of small appliances, televisions
1048 or other household goods, excluding repair and servicing of any type requiring other than pickup trucks and
1049 vans for delivery, and excluding repair and servicing of any type of vehicle.

1050 "Day-care center" means any place, however designated, licensed by the appropriate state or county health
1051 or welfare agency that, for part or all of a day, or on a twenty-four-hour basis on a regular schedule, and at
1052 least twice a week, offers or provides child care to children who do not have the same parentage except as
1053 otherwise provided for in law or regulation.

1054 "Day-care facilities for the elderly and handicapped" means any place, however designated, providing
1055 training, guidance, counseling and care for the elderly and handicapped during any part of the day, but not
1056 to include rest and nursing homes, convalescent homes, or domiciliary care for chronically ill or
1057 convalescents.

1058 "Day-care service" means any type of child care, provided on a full-time, part-time or temporary basis,
1059 including a day-care center, which is approved, endorsed or licensed by the appropriate state or county
1060 agency.

1061 "Density" means the maximum number of dwelling units which are permitted in a given area.

1062 "Developed open space" means that portion of common open space within the boundaries of a development
1063 improved for recreational purposes, such improvements to include but not be limited to areas for passive
1064 recreation, parks, bridle paths, play lots and playgrounds and sports facilities, such as tennis and
1065 shuffleboard courts, golf courses, boating docks and community buildings.

1066 "Dormitory housing" means a building or group of buildings containing rooms forming habitable units
1067 which are used or intended to be used for living and sleeping by persons enrolled or participating in an
1068 academic or other institution, but not for cooking or eating purposes.

1069 "Dwelling" means a building or portion thereof used for residential occupancy, including single-family,
1070 two-family and three-family, but not including hotel, motel or other accommodations used for transient
1071 occupancy.

1072 "Dwelling, duplex" means the same as semidetached dwelling.

1073 Dwelling, Multifamily. See "apartment" and "townhouse" definitions.

1074 "Dwelling, patio" means one building arranged or designed as one dwelling unit to either abut one side lot
1075 line, hereinafter called the zero lot line, or be within three feet of a lot line, but no portion of which is to
1076 encroach upon any adjoining lot other than provided for in section 17.200.020(A), Note b, and separated
1077 from any other building or structure by space on all sides.

1078 "Dwelling, semidetached" means a building arranged or designed to contain two abutting single-family
1079 dwelling units, separated from each other by a vertical party wall, and separated from any other building or
1080 structure by space on all sides.

1081 "Dwelling, single-family" means a dwelling containing one dwelling unit.

1082 "Dwelling, single-family attached" means a dwelling which is joined to another dwelling at one or more
1083 sides by an approved party wall or walls.

1084 "Dwelling, single-family detached" means a dwelling arranged or designed for occupancy for only one
1085 family which is not attached to any other dwelling.

1086 "Dwelling, three-family" means a dwelling containing three dwelling units.

1087 "Dwelling, two-family" means a dwelling containing two dwelling units.

1088 "Dwelling unit" means a single unit providing complete independent facilities for occupancy by one family
1089 and containing permanent provisions for living, sleeping, eating, cooking and sanitation (bathroom).

1090 "Environmental deficiencies" means those deficiencies which affect the living standards of the persons
1091 occupying the premises, and shall include the following:

1092 A. Overcrowding or improper location of structures on the land which are evidenced through violation
1093 of setbacks and/or yard restrictions;

1094 B. Excessive dwelling density or density that exceeds that permitted in the district;

- 1095 C. Obsolete building types (i.e., large residential buildings or other buildings which, through lack of
1096 maintenance, have a blighting influence);
- 1097 D. Detrimental land use or conditions such as incompatible uses, structures in mixed use not permitted
1098 by this chapter or adverse influence from noise, smoke, fumes or traffic;
- 1099 E. Unsafe, congested, poorly designed or otherwise deficient streets (i.e., streets not in conformance
1100 with current city standards);
- 1101 F. Inadequate public utilities or community facilities contributing to unsafe living conditions or
1102 economic decline.

1103 "Family" means and includes, subject to the exceptions stated below:

- 1104 I. A core consisting of one person living alone or one of the following groups living as a single
1105 housekeeping unit:

1106 A. Two or more persons who are related by blood, marriage, adoption, guardianship or other
1107 duly authorized custodial relationship, such as foster children, placed by an agency licensed
1108 to operate in Maryland;

1109 B. Up to a maximum of four persons who are not so related, hereinafter referred to as
1110 "unrelated persons" provided, however, that:

1111 1. a. Any existing lawful occupancy, in any dwelling or dwelling unit, including an
1112 apartment, in an R-5, R-8 or R-10 district or in Spring Chase PRD No. 1, the maximum
1113 shall be two unrelated persons, not including the children of either of them, after December
1114 16, 2002, subject to the occupancy permitted by subsections (I)(B)(1)(b) and (c) of this
1115 section.

1116 b. Any existing lawful occupancy, in any dwelling or dwelling unit, including an
1117 apartment in an R-5, R-8 or R-10 district, or Spring Chase PRD No. 1, the maximum shall
1118 be three unrelated persons, not including the children of either of them, if the dwelling or
1119 dwelling unit was occupied by three unrelated persons, during the one year period prior to
1120 December 16, 2002. The occupancy may continue as a nonconforming use. In an
1121 apartment, the maximum occupancy shall not exceed the number of unrelated persons set
1122 forth in subsection (I)(B)(1)(c) of this section.

1123 c. Any existing lawful occupancy, in any dwelling or dwelling unit, including an
1124 apartment in an R-5, R-8 or R-10 district, or Spring Chase PRD No. 1, the maximum shall
1125 be four unrelated persons, not including the children of either of them, if the dwelling or
1126 dwelling unit was occupied by four unrelated persons, during the one year period prior to
1127 December 16, 2002, and meets the requirements of section 15.24.1600. The occupancy
1128 may continue as a nonconforming use. In an apartment, the maximum occupancy shall not
1129 exceed the number of unrelated persons set forth in subsection (I)(B)(2) of this section.

1130 d. The following lots are exempt from the occupancy restriction set forth in
1131 subsection (I)(B)(1)(a) of this section: all dwelling units shown on an approved final
1132 comprehensive development plan; and where the total land area shown thereon is subject
1133 to a special exception granted by the board of zoning appeals prior to December 23, 2002;
1134 and for which the director of building, housing and zoning has determined that the units
1135 were proposed and constructed primarily for student housing.

1136 2. In any district other than an R-5, R-8 or R-10 district, in an apartment or any
1137 attached dwelling unit, except a townhouse or duplex dwelling, the maximum shall be the
1138 following number of unrelated persons not including the children of any of them:

1139 Two - in an efficiency or one bedroom unit;

1140 Three - in a unit having two or more bedrooms; or
1141 Four - in any unit constructed after November 25, 2002 (effective date of
1142 Ordinance No. 1864) having two or more bedrooms, if the entire parcel or tract of
1143 land on which it is located complies with the off-street parking requirement in
1144 effect when it was completed.

1145 All dwelling units shall comply with parking code requirements.

1146 C. 1. A group of not more than four persons who are approved by the Department of
1147 Neighborhood Services and Code Compliance pursuant to section 15.24.1620(1) as a
1148 "functional family," and

1149 2. A group of four or more disabled persons (as defined by the Americans with Disability
1150 Act), who are approved by the Department of Neighborhood Services and Code
1151 Compliance pursuant to section 15.24.1620(2).

1152 II. In addition to its core member(s) a family may include:

1153 A. One or more persons who provide health care or assisted living services to any core
1154 member of the family that are essential to the health, safety or general well-being of such
1155 core member, by performing such services at least eight hours each day.

1156 B. One or more domestic servants who perform personal or household services at the dwelling
1157 or dwelling unit at least eight hours each day.

1158 C. In the case of an owner-occupied dwelling unit in an R-5, R-8 or R-10 district, one person
1159 who is not a core member of the family, provided that no more than two unrelated persons, not
1160 including any permitted provider of health care or assisted living services, may reside in the
1161 dwelling.

1162 III. A "family" may not include or consist in whole or in part of:

1163 A. Any society, club, fraternity, sorority, association, lodge, federation, or like organization.

1164 B. Occupants of a rooming house or boarding house.

1165 C. Persons whose association as a group is temporary or seasonal in nature.

1166 D. Persons living in a group arrangement as a result of criminal conduct.

1167 IV. The "family" definition shall be applied to occupancy in accordance with the requirements of state
1168 and federal law.

1169 "Family day-care home" means any dwelling unit either licensed or registered by the appropriate state
1170 and/or county health or welfare agency to provide care for no more than eight children separated from their
1171 parents or guardians during any part of the day and occupied by the family of the licensee, provided that
1172 written consent is obtained from the owner(s) of the unit and owner(s) of any attached dwelling units. Any
1173 such consent may be withdrawn after thirty (30) days' written notice by the owner of said unit to the day-
1174 care home operator.

1175 "Floodplain" means a relatively flat or low land area adjoining a river, stream or watercourse, which is
1176 subject to partial or complete inundation, or any area subject to the unusual and rapid accumulation of
1177 runoff of surface waters or from tidal action or from any source, and specifically including those areas
1178 subject to the United States Department of Housing and Urban Development, Federal Insurance
1179 Administration, Flood Hazard Rate Maps (Flood Hazard Boundary Maps) for the city of Salisbury.

1180 "Floor area, gross" means the floor area within the perimeter of the outside walls of the building under
1181 consideration, without deduction for hallways, stairs, closets, thickness of walls, columns or other features.

1182 "Fraternity" or "sorority" means a private club maintained exclusively for members affiliated with an
1183 academic or professional college or university or other recognized institution of higher learning, wherein
1184 members may reside and conduct social activities.

1185 "Gross leasable area" means the total floor area of a building designed for tenant occupancy and exclusive
1186 use, including basements, mezzanines and upper floors, expressed in square feet and measured from the
1187 center line of joining partitions and from outside wall faces. It is all that area on which tenants pay rent.

1188 "Gross tract area" means the area of land within the boundaries or property lines of a proposed development.

1189 "Group domiciliary care facility" means a facility which does not constitute a group home and which
1190 provides lodging and residence services in a single dwelling which is occupied by ten or fewer unrelated
1191 persons, including support personnel and that provides service and supervision by licensed operators in
1192 accordance with federal, state and local laws, regulations and requirements. Residents shall be the elderly
1193 or persons protected by reason of handicap or familial status under the Federal Fair Housing Act, as
1194 amended, or Maryland housing discrimination statutes. As permitted by 32 U.S.G.S. section 3604(f)(9), the
1195 residents of a group domiciliary care facility shall not include any person who, during his term of residence
1196 at such facility, commits a violent act or causes substantial physical damage to the property of others, and
1197 any such person must be removed from such facility.

1198 "Group home" means a facility providing housing facilities and/or rehabilitation in a single dwelling for
1199 not more than ten persons, including support personnel, for persons who need specialized housing,
1200 treatment and/or counseling service because of delinquency or criminal rehabilitation, such as a criminal
1201 half-way house, current addiction to or illegal use of a controlled substance, or a type of mental illness that
1202 involves or has involved behavior related to violent felony crime. Residents are provided service and
1203 supervision by licensed operators in accordance with federal, state and local laws, regulations and
1204 requirements. Treatment and counseling shall be limited to the residents of the dwelling. The residents of a
1205 group home shall not include any person who, during his term of residence at such facility, commits a
1206 violent act or causes substantial physical damage to the property of others, and any such person must be
1207 removed from such home.

1208 "Hairdresser shop" means a barbershop or beauty shop, or combination thereof.

1209 "Home occupation" means an accessory use conducted entirely within a detached single-family dwelling
1210 or its residential accessory building, which is clearly incidental and secondary to the use of the property for
1211 residential purposes and which does not change the character thereof, and provided that:

- 1212 A. No person other than members of the family residing on the premises shall be engaged in such
1213 occupation;
- 1214 B. There shall be no change in the outside residential appearance of the building or premises or other
1215 visible evidence of the conduct of such home occupation other than one sign, not exceeding one
1216 square foot in area, nonilluminated and mounted flat against the exterior of the building;
- 1217 C. Electrical or mechanical equipment which creates visible or audible interference in radio or
1218 television receivers or causes fluctuation in line voltage outside the dwelling or which creates noise
1219 not normally associated with residential uses shall be prohibited;
- 1220 D. No vehicle or pedestrian traffic shall be generated by the home occupation greater than normal for
1221 the district in which it is located;
- 1222 E. To the extent that there is any sale of any item related to a home occupation, no delivery of that
1223 item to the buyer shall occur on or adjacent to the premises;
- 1224 F. No storage or display of materials, goods, supplies or equipment related to the operation of a home
1225 occupation shall be visible from the outside of any structure located on the premises.

1226 "Home office" means an accessory use conducted entirely within a room(s) located in a detached single-
1227 family dwelling, provided that:

1228 A. The dwelling is the bona fide residence of the principal practitioner;

1229 B. There is no more than one employee or person engaged in or serving the business other than the
1230 principal practitioner;

1231 C. There shall be no change in the outside residential appearance of the dwelling or premises or other
1232 visible conduct of such office other than one sign, not exceeding one square foot in area,
1233 nonilluminated and mounted flat against the exterior of the dwelling;

1234 D. There shall be no mechanical or electrical equipment used that will interfere with use of adjoining
1235 properties;

1236 E. There is no outside storage or display of any material visible outside the dwelling;

1237 F. Parking is provided only between the front building line and the rear lot line;

1238 G. There is no outside storage of trucks or vans used in conduct of the business.

1239 "Hotel," "motel" or "motor hotel" means an establishment where sleeping accommodations for transient
1240 customers are provided.

1241 "Housing for the elderly and handicapped" means a dwelling specifically designed for the needs of the
1242 elderly and/or handicapped person or persons and conforming to the requirements of state and/or federal
1243 programs providing for housing for the elderly and/or handicapped.

1244 "Housing inspector" means the department of neighborhood services and code compliance and the duly
1245 designated housing official.

1246 "Industrial auction" means the sale of animals, farm produce or any article or property by auction, conducted
1247 on a lot without regard to whether there may be outside storage of inventory or property to be sold or
1248 whether the auction is conducted within a building or in the open.

1249 "Industrial vocational training school" means a public or private school which trains students in industrial
1250 skills.

1251 "Junkyard" means any area, lot, land, parcel, building or structure or part thereof used for the storage,
1252 collection, processing, purchase, sale or abandonment of wastepaper, rags, scrap metal or other scrap or
1253 discarded goods, materials, machinery or unregistered, inoperable motor vehicles, marine equipment and/or
1254 vessels or other type of junk.

1255 "Kennel" means any place in or at which any number of dogs or cats are kept for the purpose of sale or in
1256 connection with the boarding, care or breeding, for which any fee is charged.

1257 "Landscaping" means a combination of grass and shrubs and/or trees and other decorative plantings,
1258 materials, statues, fountains and other special features as may be approved by the planning commission.

1259 "Liquor store" or "liquor dispensary" means any establishment or business which keeps for sale or sells
1260 liquor in any quantity and delivers the same in a sealed package or container which is not to be opened nor
1261 its content consumed on the premises where sold.

1262 "Lot" means land occupied or to be occupied by a building and any building accessory thereto or by a
1263 building group and any buildings accessory thereto, with open space and land area required by this chapter,
1264 and having its principal frontage on a public street or public way or on a private right-of-way or easement
1265 as approved by the planning commission and/or council.

1266 "Lot area" means the total horizontal area included within lot lines.

1267 "Lot, corner" means a lot at the junction of and abutting on two or more intersecting streets.

1268 "Lot coverage" means the percentage of land permitted by this chapter to be covered by a building or
1269 buildings.

1270 "Lot depth" means the average horizontal distance between the front lot line and rear lot line for an interior
1271 lot. In the case of a corner lot, the lot depth is the greater of the average horizontal distances between the
1272 front lot lines and the respective side lot line opposite each.

1273 "Lot frontage" means the side(s) of a lot abutting a street(s); on a corner lot, the shortest side that abuts a
1274 street; where sides are of equal length, the side fronting on the street having the longest frontages within
1275 the same block.

1276 "Lot, interior" means any lot other than a corner lot.

1277 "Lot lines" means lines bounding a lot as hereinafter described:

1278 A. "Front" means the line running along the front of a lot and separating it from the street. In a through
1279 lot, both lines abutting streets are deemed front lot lines.

1280 B. "Rear" means the line generally opposite or parallel to the front lot line, except in a through lot. If
1281 a rear lot line is less than ten feet long or if the lot comes to a point at the rear, the rear lot line shall
1282 be deemed to be a line at least ten feet long, lying wholly within the lot parallel to the front lot line,
1283 or if the front lot line is curved, parallel to the chord of the arc of said front lot line.

1284 C. "Side" means any lot line other than a front or a rear lot line.

1285 "Lot of record" means land designated as a separate and distinct parcel of land on a legally recorded
1286 subdivision plat or in a legally recorded deed filed in the land records of Wicomico County.

1287 "Lot, through" means an interior lot fronting on two streets.

1288 "Lot width" means the mean horizontal distance between the side lot lines of a lot measured at the
1289 setback/building line.

1290 "Marina" means a facility for the docking, storage, servicing and sale of recreational boats.

1291 "Medical-care facility" means a facility, however designated, providing medical treatment and short-term
1292 inpatient care, other than a hospital or medical clinic.

1293 "Mixed-use building" means a building or structure of less than fifteen thousand (15,000) square feet
1294 containing two or more different uses.

1295 "Mobile home" means a detached residential unit containing not less than five hundred (500) square feet of
1296 gross livable floor area in the original manufactured unit, designed and intended for repeated or periodic
1297 transportation in one or more sections on the highway, on a chassis which is permanent or designed to be
1298 permanent, and arriving at the site where it is to be occupied, complete and ready for occupancy except for
1299 minor and incidental unpacking and assembly of sections, location of jacks or other foundations, connection
1300 to utilities and the like. Units commonly known as "double-wides" and any unit classified by an applicable
1301 financing or construction standard, including without limitation, the United States Department of Housing
1302 and Urban Development Regulations, State of Maryland Department of Economic and Community
1303 Development Regulations or state or federal law, as such laws or regulations are in effect as of the date of
1304 passage hereof, as a mobile home shall be considered mobile homes. The placing of a mobile home on a
1305 permanent foundation or the construction of additions, porches and the like shall not change the
1306 classification of such mobile home. Recreational trailers and vehicles and modular homes are not
1307 considered as mobile homes.

1308 "Mobile home park" means any lot, parcel or tract of land planned, developed and improved for the
1309 placement of three or more mobile homes on a permanent or semi-permanent basis.

1310 "Modular home" means a detached residential unit built to a recognized building code, containing not less
1311 than five hundred (500) square feet of gross livable floor area in the original manufactured unit, designed
1312 and intended for delivery by transportation on the highway for permanent assembly on a permanent and
1313 separately constructed foundation. A modular home may be considered a single-family dwelling. A modular
1314 home must meet the requirements and definitions of the Maryland Industrialized Buildings and Mobile
1315 Homes Act as in effect as of the date of passage hereof.

1316 "Multi-use facility" means two or more similar or different uses on a lot or parcel that are conducted in
1317 physically separate areas and permitted inherently or otherwise in the district in which located, provided
1318 that the lot or parcel and improvements thereon satisfy the total parking, lot area and other requirements of
1319 the uses; the facility shall not be deemed to be a shopping center if the total floor area of the uses in which
1320 the principal activity is on-site retail sales does not exceed one-third of the gross floor area of the entire
1321 facility.

1322 "Neighborhood shopping center" means a shopping center not exceeding one hundred thousand (100,000)
1323 square feet in gross floor area.

1324 "Net tract area" means the gross project area less the area of land devoted to streets.

1325 "Nonconforming use, structure, lot and dwelling." See chapter 17.16.

1326 "Nudity" or "state of nudity" means the visibility or exposure of a human bare buttock, anus, anal cleft or
1327 cleavage, pubic area, male genitals, female genitals, or vulva, with less than a fully opaque covering; or a
1328 female breast with less than a fully opaque covering of any part of the areola; or human male genitals in a
1329 discernibly turgid state even if completely and opaquely covered.

1330 "Nursery school" means a licensed establishment providing care and an educational program under the
1331 jurisdiction of and accredited by the state Board of Education to up through second grade aged children.

1332 "Open space" means the portion of a tract of land within the boundaries of a development not covered by
1333 principal and accessory buildings, parking lots, streets and utility structures, except buildings and structures
1334 for recreational use.

1335 "Outdoor advertising structure" means any structure which contains a sign, poster, panel, billboard, painted
1336 bulletin or any other structure, device, surface or display which advertises or displays any other message
1337 related to a business, profession, commodity, service or entertainment or event conducted, sold or offered
1338 elsewhere than on the premises where the advertising structure is located.

1339 "Outdoor storage yard" means the keeping or storing, other than in a wholly enclosed building, of goods,
1340 items, materials or merchandise, except for scrap materials, debris, or a junkyard.

1341 "Parks" and "playgrounds, public and private" means recreation facilities, such as picnic areas, ballfields,
1342 basketball and tennis courts, etc., not operated for profit.

1343 "Pet-grooming shop" means an establishment wherein pets may be bathed, clipped or otherwise groomed,
1344 but not to include facilities for overnight care, boarding, breeding or medical treatment.

1345 "Plat" means a sketch, map or survey of a lot(s), tract or parcel of land, indicating lot lines, street rights-of-
1346 way and easements, with the dimensions of these features inscribed thereon.

1347 "Principal use" means the principal purpose for which a lot or the main building or structure thereon is used,
1348 occupied or maintained.

1349 "Private club" means an association for civic, social, cultural, religious, literary, fraternal, political,
1350 recreational, or like activities, which is operated for the benefit of its members and not open to the general
1351 public.

1352 "Private performance" means the modeling, posing, or display or exposure of any specified anatomical area
1353 by an employee of an adult entertainment business to a person other than another employee, while the

person is in an area not accessible during such display to all other persons in the establishment, or while the person is in an area in which the person is totally or partially screened or partitioned during such display from the view of persons outside the area.

"Public" or "private utility buildings and uses" means facilities and structures owned or maintained by a government, a public or private agency or a public or private utility company for the purpose of and directly necessary for rendering or providing communication, electric, gas, sewer, water or comparable service of a public utility nature, and in fact used in the rendition of such service. Nothing in this title or amendment thereto is intended to limit or restrict the use of property in any zone for poles, mains, pipes, conduits or wires erected and maintained for the transmission and distribution of electric energy over wires for any lawful purpose or gas to customers for such energy or municipal water or sewer services or any equipment or device necessary or incident to such use or uses.

"Public utility operation center" means facilities, structures and any or all uses directly relating to the operation and maintenance of a public utility:

A. Including, but not limited to:

1. Operating utility system controls;
2. Business offices and associated accessory uses;
3. Indoor and outdoor repair, maintenance and/or storage of motor vehicles and utility construction and maintenance equipment; and associated storage of fuels, lubricants, coolants and fluids and substances, not for sale to the public;
4. Indoor and outdoor assembly, repair, maintenance, testing and storage of utility system components, equipment, tools and supplies; and;
5. Staging area for contractors constructing, repairing, and/or maintaining the utility system;
6. And may include a solar farm.

"Recreational establishment, indoor" means billiard parlor, bowling alley, skating rink, tennis or racquetball center, automatic amusement device center, swimming pool, convention hall and other similar indoor recreational uses.

"Recreational establishment, outdoor" means miniature golf course, amusement park, private zoo, kiddieland ride, driving range, sports stadium, arena and other similar outdoor recreational uses.

"Recreational vehicle" means any type of vehicle, whether self-propelled, vehicle-mounted or vehicle-pulled, used for camping or recreational purposes, including but not limited to pickup campers, motor homes, tent campers and travel trailers.

"Regional shopping center" means a shopping center containing more than three hundred thousand (300,000) square feet in gross floor area.

"Restaurant" means any establishment of which the principal business is the sale of food and of which the principal method of operation is to serve food ordered from a menu to seated customers at a table, booth or counter inside the establishment. However a snack bar or refreshment stand at a public or nonprofit community swimming pool, playground or park, operated solely for the convenience of patrons of the facility, shall not be deemed to be a restaurant.

"Restaurant, fast-food" means any establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and packaged or presented so that it can readily be eaten outside the premises where it is sold and where facilities for on-premises consumption of food are insufficient for the volume of food sold.

1396 "Restaurant, fast-food cafeteria" means any establishment where ready-to-eat food is available upon a short
1397 waiting time and served to customers on a tray through a cafeteria line for consumption at a table, booth or
1398 counter inside the establishment.

1399 "Restaurant, fast-food carry-out" means any establishment where ready-to-eat food primarily intended for
1400 immediate consumption is available upon a short waiting time and packaged or presented so that it can
1401 readily be eaten away from the premises where it is sold and where there are no facilities for on-premises
1402 consumption of food.

1403 "Restaurant, fast-food drive-in" means any establishment where ready-to-eat food primarily intended for
1404 immediate consumption is available upon a short waiting time and packaged or presented so that it can
1405 readily be eaten outside the premises and whose principal method of operation is to serve food to customers
1406 in motor vehicles.

1407 "Resubdivision" means a subdivision which has been altered by changing of a line, bearing or other
1408 measurement and which is subsequently platted and recorded in a legal manner.

1409 "Retail establishment" means a structure containing one retail use or several uses under one ownership in
1410 one structure or within one unit of a structure from which merchandise is sold to the general public including
1411 the rendering of services incidental to the sale of such merchandise.

1412 "Satellite simulcast betting facility" includes any place where pari-mutuel betting occurs on any race that
1413 is simulcast from any type of sending track by either thoroughbred or harness racing or any other type of
1414 human, animal or vehicle racing; or on any other type of sporting event. This definition also includes any
1415 place known as an off-track betting (OTB) facility. No such facility shall be allowed in any city zoning
1416 district.

1417 "School of general instruction" means a public, parochial or private school or college providing regular
1418 instruction at least five days a week (except for holidays) for a normal school year, but not including a
1419 school of special instruction, a nursery school, unless conducted as part of a school of general instruction,
1420 or a riding school.

1421 "School of special instruction" means a school primarily devoted to giving instruction in vocational,
1422 professional, commercial, musical, dramatic, artistic, linguistic, scientific, religious or other special
1423 subjects, but not including a nursery school, or a riding school.

1424 "Screening" means landscaping, berms or fencing, or any combination thereof, designed to obstruct view
1425 of a particular use.

1426 "Self storage" means a facility used for the purpose of renting or leasing secure, interior, individual storage
1427 space. This may include rooms, compartments, and lockers in which individuals store and remove their
1428 own goods, records, and personal property on a self-service basis. This definition does not preclude such
1429 self storage from inclusion within other use categories (i.e. warehousing).

1430 "Setback/building line" means a line parallel to the front lot line beyond which no principal building or
1431 structure is permitted to extend.

1432 "Sexual conduct" means any and all acts or conduct which include, involve, or which display, exhibit, or
1433 simulate the following:

- 1434 1. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual
1435 acts which are prohibited by law;
- 1436 2. The touching, caressing, and/or fondling of the breast, buttocks, anus, or genitals; or
- 1437 3. The displaying of the breasts, buttocks, pubic hair, anus, vulva or genitals.

1438 "Sexual encounter center" means a commercial enterprise that, as one of its principal business purposes,
1439 offers for any form of consideration:

1440 1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
1441 2. Activities between persons of the opposite sex and/or persons of the same sex when one or more
1442 of the persons is in a state of nudity.

1443 "Shopping center" means two or more commercial establishments either in one structure or in two or more
1444 separate structures built on one parcel of land that is planned and developed as an operating unit related in
1445 location, size and type of shops to the trade area that the center is designed to serve; it provides common
1446 on-site parking access and other amenities in definite relationship to the type and total size of the center.

1447 A. "Neighborhood" means a shopping center not exceeding thirty thousand (30,000) square feet in
1448 gross floor area.

1449 B. "Community" or "Regional" means a shopping center exceeding thirty thousand (30,000) square
1450 feet in gross floor area.

1451 Sign. See chapter 17.216.

1452 "Significant amount" means the following:

1453 1. At least fifteen (15) percent of the stock in the establishment or on display consists of adult
1454 entertainment or material;

1455 2. At least fifteen (15) percent of the area used for the display or storage of merchandise on the floor,
1456 walls, or vertical display area of the cabinets, shelves or racks which rise from the floor (or any
1457 combination thereof which is at least fifteen (15) percent of the area used for display or storage) is
1458 used for the display or storage of adult entertainment or material or houses or contains devices
1459 depicting, describing, or relating to adult entertainment or material; or

1460 3. At least fifteen (15) percent of the gross revenue is, or may reasonably be expected to be, derived
1461 from the provision of adult entertainment or material.

1462 "Site plan" means a detailed plan of development showing the arrangement of any building(s) in relation to
1463 parking, streets, entrances, exits, open space and adjoining properties, with all information relevant to size
1464 of area, number of parking spaces and square footage of buildings, etc., inscribed thereon in addition to any
1465 other pertinent information as may be required by a specific section of this code.

1466 "Solar farm" means a utility-scale energy generation facility, principally used to convert solar energy to
1467 electricity for the primary purpose of use by the owner and/or wholesale and/or retail sales of said
1468 electricity.

1469 "Special exception" means a land use authorized by the board of ~~zoning~~ appeals pursuant to the provisions
1470 of this title and subject to standards and conditions set forth for such use. It is a use which has been
1471 legislatively predetermined to be conditionally compatible with uses permitted as of right in a particular
1472 zoning district, the conditions being that the board of ~~zoning~~ appeals must, in each case, decide under the
1473 standards set forth in chapter 17.232 whether the presumptive compatibility in fact exists.

1474 "Specialty shop" means a shop for the sale of antiques/collectibles or handicraft and supplies, including
1475 artwork, leatherwork, pottery, needlework or similar items which may be made on the premises.

1476 "Specified anatomical areas" means the following:

1477 1. Less than completely or opaquely covered:

1478 a. Human genitals or pubic region;

1479 b. Entire cleft of the male or female buttocks. Attire which is insufficient to comply with this
1480 requirement includes, but is not limited to, G-strings, T-backs, and thongs;

1481 c. That portion of the human female breast below a point immediately above the top of the
1482 areola; this definition shall include the entire lower portion of the human female breast, but
1483 shall not include any portion of the cleavage of the human female breast exhibited by a
1484 dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is
1485 not so exposed.

1486 2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

1487 "Specified sexual activities" means the following:

1488 1. Human genitals in a state of sexual stimulation or arousal or tumescence;

1489 2. Acts of anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellation, flagellation,
1490 masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sapphism,
1491 sexual intercourse, sodomy, urolagnia or zooerasty;

1492 3. Fondling or other erotic touching of human genitals, pubic region, buttock, anus or female breast;
1493 or

1494 4. Excretory functions as part of, or in connection with, any of the activities set forth in subsections
1495 (1) through (3) of this definition.

1496 "Straddle dance" means the following:

1497 1. The use by an employee of an adult entertainment business of any part of his or her body to directly
1498 or indirectly touch the genital or pubic area of a person, excluding another employee, while at the
1499 adult entertainment business, in exchange for a tip, donation, gratuity, or other thing of value,
1500 regardless of whether the employee is displaying or exposing any specified anatomical area; or

1501 2. The straddling of the legs of an employee of an adult entertainment business over any part of the
1502 body of a person, excluding another employee, regardless of whether there is any touching.

1503 A straddle dance is also known as a "lap dance," "table dance," or "face dance."

1504 "Street" means a public thoroughfare, however designated, maintained by the city of Salisbury, state of
1505 Maryland or Wicomico County, which affords the principal means of access to abutting property and which
1506 is hereafter developed according to the regulations for the city of Salisbury, or a public way, private right-
1507 of-way or easement as approved by either the planning commission or city council.

1508 "Structure" means that which is built or constructed.

1509 "Studio" means an establishment wherein music, photography, dancing, sculpting or other artistic
1510 instructions may be given.

1511 "Subdivision" means a lot, parcel or tract of land which has been legally subdivided, platted and recorded
1512 in the land records of Wicomico County.

1513 "Townhouse" means a single-family dwelling forming one of no fewer than three attached single-family
1514 dwellings with property lines and party walls separating such units and which are separated from any other
1515 building or structure by space on all other sides.

1516 "Transient" means on a one-day or a day-to-day basis.

1517 "Travel trailer" means a portable vehicular structure not over eight feet wide or thirty-five (35) feet in
1518 length, designed as a temporary living unit for travel, recreational and vacation uses. It is designed solely
1519 for short-term occupancy and for travel purposes.

1520 "Truck terminal" means a building or area where trucks, including tractors or trailer units, are parked, stored
1521 or serviced, which may also include areas, buildings or structures for the transfer, loading or unloading or
1522 storage of a wide array of goods and materials of various types and sizes.

"Utility substation" means a station subordinate to a public or private utility building or use for the provision of services through areas which cannot be serviced by the facilities of the main building or use.

"Variance" means a modification only of the required density, bulk or area requirements set forth in this title where such modification will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the results of any action taken by the applicant, a literal enforcement of the title would result in unnecessary hardship.

"Warehouse" means a building or structure used for the inside storage of goods and materials.

"Warehousing" means facilities or structures operated for the storage of prefinished goods and materials, with not more than two bays to be used for maintenance within the same building where goods or materials are stored.

"Width of street" means the mean of the distance between the right-of-way lines of a street between two intersecting streets.

"Yard" means an open space on the same lot with a building or building group lying between the front, rear or side wall of a building and the nearest lot line, unoccupied except for projections and specific minor uses or structures allowed in such open space under the provisions of the zoning ordinance.

"Yard, front" means a yard extending the full width of the lot on which a building is located and situated between the front lot line and a line parallel thereto and passing through the nearest point of the building.

"Yard, interior side" means a side yard located immediately adjacent to another lot or to an alley separating such side from another lot.

"Yard, rear" means a yard extending the full width of the lot on which a building is located and situated between the rear lot line and a line parallel thereto and passing through the nearest point of the building.

"Yard, side" means a yard on the same lot as a building situated between the side lot line and a line parallel thereto and passing through the nearest point of a building and extending from the front yard to the rear.

17.04.140 Interpretation.

A. In the event that there is a question as to interpretation of any part of this title, a written request for interpretation shall be submitted to the planning commission.

B. The planning commission shall review that part of this title requested for interpretation and determine its original purpose and intent at the time of the writing and adoption of this title.

C. The planning commission shall forward its interpretation to the applicant in writing within forty-five (45) days from receipt of the request. All such interpretations shall serve as the commission's policy until such time as the code is amended to include the interpretation as a part of the zoning code.

D. The city of Salisbury recognizes that the Federal Fair Housing Act imposes upon it a duty to make "reasonable accommodations," as such term may be defined under the Fair Housing Act from time-to-time, in its land use and zoning policies and procedures where such accommodations may be necessary to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing. The planning commission and board of ~~zoning~~ appeals shall interpret this title so as to comply with the Fair Housing Act and other applicable law.

17.12.010 Administrative agencies.

The administration of this title is vested in the following offices of the government of the city of Salisbury:

A. Housing and Community Development Department;

B. Department of infrastructure and development;

- C. The planning commission;
- D. The Salisbury city council;
- E. The board of ~~zoning~~ appeals.

17.12.030 Duties.

Duties of the Housing and Community Development Department shall be as follows:

- A. To issue zoning authorizations and make and maintain records thereof;
- ~~B. To receive applications for variances, special exceptions or any other matter to be considered by the board of zoning appeals;~~
- ~~C.~~ **B.** To initiate and request inspections of structures and use of land to determine compliance with the terms of this title or actions of the planning commission, city council or board of ~~zoning~~ appeals and, where there are violations, to initiate action to secure compliance therewith.

17.12.040 Zoning authorizations.

- A. Authorization Required. No land or building may be used, or any building constructed, extended, altered, changed or converted, without written authorization from the building inspector that the proposed structure, alteration, change, conversion or use complies with the provisions of this title. Where no other permit is required for the use of land, this zoning authorization shall be construed as the permit to so use the land. A building permit or occupancy certificate issued in conflict with the provisions of this title shall be null and void.
- B. Zoning Authorizations.
 - 1. Application for Zoning Authorization. The application for a zoning authorization shall be accompanied by a plot plan, indicating the parcel of land, lot or lots, block or blocks or portions thereof, drawn, to scale and fully dimensioned, showing the ground area, height and bulk of the structure or land and such other information as may be required by the building inspector for the proper administration and enforcement of this title. Whenever a structure or use is of the type requiring off-street parking on a ratio to the number of employees, the number of employees on which the parking is based shall be shown on the application.
 - 2. Critical Area Program. The requirements of this title are modified to the extent necessary in order that all land within the critical area as established by the Chesapeake Bay critical area commission, the critical area program and chapter 12.20 of the city code shall also comply with the provisions of the city of Salisbury Chesapeake Bay critical area program, where applicable.
- C. Disapproval. If the application and the accompanying papers do not comply in all respects with the regulations of this title, it shall be disapproved by the building inspector, and the applicant shall be notified in writing. The building inspector may, in his discretion, before disapproving any application, return such application to the applicant, who may amend said application, plans or specifications in order to make the proposal comply with the regulations of this title. In such event, the building inspector shall proceed to pass upon the application as if it were an original one.
- D. Issuance. If the application, filed together with the plans and specifications, conform in all respects with the requirements of this title, the building inspector shall issue written zoning authorization and any necessary permits.
- E. Appeal. If an application is disapproved, the applicant shall be notified in writing, with the reasons for disapproval. If the applicant wishes to pursue the request, an application for an appeal before the board of ~~zoning~~ appeals shall be filed with the building inspector. Such application shall be

transmitted forthwith to the planning director who, in turn, shall forward such application to the board for its action. The planning director shall return the board's action to the building inspector in writing. If the appeal application is approved, the building inspector shall issue written zoning authorization and any necessary permits.

F. Plan Applications.

1. Applications requiring review and approval by the planning commission, board of zoning appeals and downtown/riverfront development review committee shall be forwarded to the City Planner ~~planning director~~ for scheduling before the appropriate commission, committee or board.

2. No such application shall be accepted by the director of infrastructure and development or scheduled by the City Planner ~~planning director~~ until all plans and documentation required by and in compliance with this title have been received; except that,

a. An application for official action by the planning commission or board of zoning appeals may be scheduled for review with only a site plan showing all required elements of the proposed development;

b. An application for review by the downtown/riverfront development review committee may be scheduled for review with only a site plan showing all required elements of the proposed development and exterior elevations showing the design of the proposed development;

c. Any commission, committee or board may render its decision if it determines that the information on the site plan or exterior elevations is sufficient; provided, that such approval is conditioned upon an applicant completing all other plans and documentation as may be required by this title.

3. The City Planner ~~planning director~~ shall advise, in writing, the director of infrastructure and development of all action taken on the application.

4. If the application is approved, the director of infrastructure and development may issue written zoning authorization or conditional zoning authorization, subject to compliance with all other requirements of this title and all other applicable city regulations.

17.12.050 Jurisdiction and authority.

The department of infrastructure and development shall have the following jurisdiction and authority wherever required by this title:

A. To review and make recommendations on street width and layout of streets serving a development;

B. To review and make recommendations on access from a development onto public streets and highways;

C. To review and approve any plan relative to public utilities as requested by the planning commission, board of zoning appeals or city council.

17.12.060 Jurisdiction and authority.

The planning commission shall have the following jurisdiction and authority:

A. To initiate, to receive and to review applications for and to make recommendations to the city council on all text amendments and zoning reclassifications;

B. To review and approve all development where required by this title and to review development for recommendation to the board of zoning appeals or the city council, as required;

- C. To receive, review and recommend all requests for determination of unclassified uses and to interpret any part of this title where there is question as to the purpose and intent of its originality;
- D. To review certain uses in the industrial park and paleochannel districts and make recommendations to the city council;
- E. To review ordinance permit requests and make recommendations to the city council;
- F. To review and approve landscaping plans in accordance with chapter 17.220;
- G. In reviewing and approving any plan for development or landscaping as enumerated in subsections (A) through (F) of this section, the commission may establish those conditions it deems necessary to accomplish the purpose and intent of this title.

Article VI Board of Zoning Appeals

17.12.090 Composition—Employees—Meetings.

- A. The **Board of Appeals** ~~board of zoning appeals~~ shall consist of five members and ~~one~~ **two** alternates appointed by the mayor **and confirmed by** ~~with the advice and consent of the city council.~~ **When possible, preference shall be given in order to ensure that the Board of Appeals includes at least one building professional/architect/engineer, tenant, property owner and attorney, as well as potential members who have a demonstrated special interest, specific knowledge, or professional or academic training in public health.** The alternates shall attend the **Board of Appeals** ~~board of zoning appeals~~ meetings and shall sit for an absent member, when appropriate. The members and alternate members of the **Board of Appeals** ~~board of zoning appeals~~ shall be appointed for terms of three years. One member shall be named by the board as chairman. ~~The~~ **An** alternate member may complete the unexpired term of any member, who, for whatever reason, vacates his seat on the board. The members of the **Board of Appeals** ~~board of zoning appeals~~ may be removed for cause by the appointing authority upon written charges and after a public hearing.
- B. The **Board of Appeals** ~~board of zoning appeals~~, hereinafter referred to as "the board," shall appoint such employees as may be authorized from time to time by the city council; ~~however, the employees of the planning commission shall also serve as employees to the board.~~
- C. The board shall adopt rules necessary for carrying out the provisions of this chapter. The rules shall be approved by the city council. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine by general rule. Three members shall constitute a quorum. **A member of a board of appeals shall recuse himself or herself from participating in a matter in which the member may have a conflict of interest or an appearance of a conflict of interest.** If a majority of the board does not approve the application or find in the favor of the appellant, the board's inability to reach a decision by majority vote shall result in denial of the application or appeal. The chairman or, in his absence, the acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall record and keep minutes of its proceedings, which show the vote of each member upon each question, or, if a member is absent or fails to vote, the minutes shall indicate such fact. The board shall keep **recordings of all proceedings**, records of its examinations and other official actions, all of which shall be filed immediately in the office of the board and shall be a public record open to inspection during the hours of normal operation of the office. Copies of the minutes shall be made available to interested parties. A party who requests a copy of the recording or its transcript shall pay the cost of the recording or transcript.

17.12.100 Jurisdiction and authority.

Jurisdiction and authority of the board shall be as follows:

- A. To hear and decide applications for special exceptions in the manner prescribed by and subject to the standards established herein;
- B. To hear and decide applications for variances from the terms provided in this title in the manner prescribed by and subject to the standards established herein;
- C. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the director of the department of infrastructure and development or the Housing and Community Development Department under this title;
- D. To hear and decide applications for the change, alteration or enlargement of nonconforming uses and enlargement of nonconforming dwellings, in accordance with Sections 17.16.040 and 17.16.050;
- E. To hear and decide all matters referred to it or upon which it is required to act under **the Salisbury Municipal Code** ~~this title~~;
- F. To adopt and establish general rules for the conduct of its proceedings.

17.12.110 Appeals.

- A. Appeals to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of **an administrative officer or unit pursuant to the Salisbury Municipal Code** ~~the building inspector~~. Such appeal shall be taken within a reasonable time, as approved by the rules of the board, by filing with the **administrative officer or unit from whose action the appeal is taken** ~~building inspector~~ and with the board a notice of appeal, specifying the grounds thereof. The **administrative officer or unit from whose action the appeal is taken** ~~building inspector~~ shall forthwith transmit to the board all of the papers constituting the record upon which the action appealed from was taken.
- B. An appeal stays all proceedings in furtherance of the action appealed from, unless the **administrative officer or unit from whose action the appeal is taken** ~~building inspector~~ certifies to the board after the notice of appeal shall have been filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board or by a court of record, on application, on notice to the **administrative officer or unit from whose action the appeal is taken** ~~building inspector~~ and on **good** ~~due~~ cause shown.
- C. **On appeal, the Board of Appeals may:**
- 1. Wholly or partly reverse the order, requirement, or decision that is the subject of the appeal;**
 - 2. Wholly or partly affirm the order, requirement, or decision that is the subject of the appeal;**
 - 3. Modify the order, requirement, or decision that is the subject of the appeal; or**
 - 4. Issue a new order, requirement, or decision.**
- D. **The Board of Appeals shall have all the powers of the administrative officer or unit from whose action the appeal is taken.**

~~17.12.111 Pre-hearing procedure.~~

- ~~A. The applicant/appellant shall file two copies of a pre-hearing statement no later than twenty (20) days prior to the public hearing. The statement shall include the following information:~~
- ~~1. Citation to the city code authorizing the board of zoning appeals to appear and decide the application.~~

2. ~~Citations to all ordinances, rules, regulations and cases upon which the applicant relies.~~
3. ~~All facts upon which the application/appeal is based.~~
4. ~~All documentary evidence upon which the applicant/appellant relies.~~
5. ~~The identity of any expert who will testify and a summary of all expert opinion to be offered.~~
6. ~~The area of expertise and qualifications of all expert witnesses.~~
7. ~~Identity of all other witnesses who will testify.~~
8. ~~Copies of all written affidavits upon which the applicant/appellant relies.~~
- B. ~~Response. City departments or personnel intending to appear in opposition to an application/appeal shall file a similar pre-hearing statement no later than ten days prior to the date of the hearing.~~
- C. ~~Public Participation. The public may present testimony during the hearing but written documents or affidavits must be submitted no later than ten days prior to the date of the hearing.~~
- D. ~~Non-binding. The information submitted in compliance with this article shall be construed only as a statement of the party's intent to submit such information or to provide testimony from witnesses, but no parties are bound to introduce the same at a hearing.~~
- E. ~~Non-compliance. The rebuttal evidence is not required to be submitted in advance. No evidence which is required to be submitted in advance under this article will be admitted as evidence unless the offering party has complied with this article. Failure to comply with the requirements of this article may result in a postponement, continuance or dismissal of an application at the discretion of the board.~~

17.12.130 Appeals to courts.

- A. Any person or persons jointly or severally aggrieved by any decision of the **Board of Appeals** ~~board of zoning appeals~~ or of final decision of the planning commission or any taxpayer or office, department, board or bureau of the municipality may **file a request for judicial review** ~~appeal such decision~~ to the Wicomico County Circuit Court setting forth that such decision is unlawful, in whole or in part, and specifying the unlawful grounds thereof.
- B. Such appeals shall follow the procedures established by the Maryland Rules, as promulgated from time to time by the Court of Appeals of Maryland. The appeal shall not stay proceedings upon the decision appealed from, but upon notice to the board or commission and to the applicant and on **good due** ~~cause~~ shown, the court may grant a restraining order to stay all current and further proceedings in the matter.
- C. The board or commission shall not be required to forward to the court the original papers acted upon by it, but it shall be sufficient to forward certified or sworn copies thereof or such portions thereof as may be called for by such appeal.
- D. When **an** ~~the~~ applicant files an appeal with the Wicomico County Circuit Court, a copy thereof shall be filed with the board or commission. It shall be the duty of the board or commission to notify the city solicitor and all interested parties promptly of the filing of every petition of appeal. The clerk of the Wicomico County Circuit Court shall notify the board of the final action of the court on each appeal.
- E. ~~When applicant files an appeal with the Wicomico County Circuit Court, a copy thereof shall be filed with the board. It shall be the duty of the board to notify the city solicitor and all interested parties promptly of the filing of every petition of appeal. The clerk of the Wicomico County Circuit Court shall notify the board of the final action of the court on each appeal.~~

17.16.030 Nonconforming structures.

- 1781 A. A "nonconforming structure" is a structure lawfully existing at the effective date of adoption or
1782 amendment of this title that could not be built under the terms of this title by reason of restrictions
1783 on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot.
- 1784 B. A nonconforming structure may continue so long as it remains lawful and such structures may be
1785 maintained to assure compliance with other applicable city codes.
- 1786 C. A nonconforming structure shall not be structurally changed or enlarged without approval of the
1787 **Board of Appeals** ~~board of zoning appeals~~ in accordance with Article II of this section.
- 1788 D. A nonconforming structure that is wholly or partially destroyed by fire, act of God or other casualty
1789 beyond the control of the owner may be reconstructed within one year afterward, as follows:
- 1790 1. More than fifty (50) percent destroyed—all such nonconforming structures may be
1791 reconstructed, provided that all provisions of this chapter are met for the zoning district in
1792 which the structure is located; or
- 1793 2. Less than fifty (50) percent destroyed—may be reconstructed exactly as existed prior to
1794 the structure being damaged.
- 1795 E. The **Board of Appeals** ~~board of zoning appeals~~ may grant an extension to the one year time
1796 limitation upon application to the board showing that strict compliance with this one year period
1797 will result in either an unwarranted hardship or injustice to the owner, provided that such extension
1798 will not be contrary to the public interest.

1799 **17.16.040 Nonconforming uses.**

- 1800 A. A "nonconforming use" is a use which legally exists at the effective date of adoption or amendment
1801 of this title but that does not comply with the use regulations of the district in which it is located.
1802 Such nonconforming use may consist of a nonconforming use of land, a nonconforming use of a
1803 structure or a nonconforming use of land and a structure.
- 1804 B. A nonconforming use may continue so long as it otherwise remains lawful.
- 1805 C. A nonconforming use may not be changed to another nonconforming use, extended or enlarged
1806 without approval of the **Board of Appeals** ~~board of zoning appeals~~ in accordance with Article II
1807 of this chapter.
- 1808 D. No building, structure or lot where a nonconforming use has substantially ceased for a continuous
1809 period of one year, whether or not fixtures or equipment are removed, shall again be put to a
1810 nonconforming use.
- 1811 E. The casual, temporary or illegal use of land or structure does not establish the existence of a
1812 nonconforming use.
- 1813 F. A nonconforming use or structure housing a nonconforming use that is wholly or partially
1814 destroyed by fire, act of God or other casualty beyond the control of the owner may be reconstructed
1815 within one year afterward, as follows:
- 1816 1. More than fifty (50) percent destroyed—all such nonconforming uses or structures may be
1817 reconstructed only in conformance with all provisions of this chapter for the zoning
1818 districts in which the structure or use is located; or
- 1819 2. Less than fifty (50) percent destroyed—may be reconstructed and sued exactly as existed
1820 prior to the structure being damaged.
- 1821 G. The **Board of Appeals** ~~board of zoning appeals~~ may grant an extension to the one year time
1822 limitation upon application to the board showing that strict compliance with this one year period

will result in either an unwarranted hardship or injustice to the owner, provided that such extension will not be contrary to the public interest.

17.16.050 Nonconforming single-family dwellings.

- A. A single-family dwelling lawfully existing on the effective date of this title but which could no longer be constructed in the district in which it is located because of a restriction of use may be enlarged or altered without permission of the Board of Appeals ~~board of zoning appeals~~.
- B. A single-family dwelling lawfully existing on the effective date of this title but nonconforming in setback with the regulations for the district in which it is located may be enlarged in line with the existing nonconforming setback without permission of the Board of Appeals ~~board of zoning appeals~~; except, that on a corner lot no enlargement shall be made extending toward the intersecting street corner without permission of the Board of Appeals ~~board of zoning appeals~~ upon a finding that the enlargement will not be detrimental to the use or further development of the intersecting streets or create a safety hazard to motorists thereon.

17.16.070 Purpose.

Although there are uses which do not fit into the desired pattern of a zoning district and become nonconforming, it is the policy of the city of Salisbury to provide for the continuation of certain nonconformities which do not endanger the public health, safety and welfare and to recognize that certain uses, although nonconforming in their location, are needed and useful to the area they serve without great detriment to their surrounding neighbors. To provide for change, alteration or enlargement of these uses, the following criteria are established, and approval by the Board of Appeals ~~board of zoning appeals~~ is required, after public notice and hearing.

17.16.080 Criteria for approval—Conditions.

- A. The Board of Appeals ~~board of zoning appeals~~ may approve change, alteration or enlargement of a nonconforming use or structure after consideration of the following:
1. The intensity of the existing use relative to the district in which it is located, the scale of the change or enlargement in relation to the intensity of the use and whether it will have serious negative effects on the surrounding area, depreciating property values;
 2. Whether the change, alteration or enlargement is of benefit to or in the best interest of the community or surrounding area, such as providing additional employment or housing for the community or services to a neighborhood;
 3. Existing or possible traffic and parking problems and how they can be reduced or minimized;
 4. Screening, buffering or architectural improvements which may make the use more compatible with the surrounding area;
 5. Whether the change, alteration or enlargement will upgrade or improve the existing nonconforming use, such as change to a less-intensive use, change in operation, structural changes or redesign of the site relative to parking areas, entrances, exits, loading or unloading and traffic flow.
- B. Upon approval of a change, alteration or enlargement of a nonconforming use, the Board of Appeals ~~board of zoning appeals~~ may impose such conditions or restrictions on the proposal as deemed necessary to reduce or minimize any effect upon other properties in the neighborhood and to secure compliance with the intent of the criteria for approval of such change, alteration or enlargement.

17.16.090 Nonconforming Use Zoning Exemption Program.

- 1867 A. Purpose. To assist in the reduction of vacant properties and provide for increased available housing
1868 within the City of Salisbury.
- 1869 B. Definitions.
- 1870 1. "Applicant" means the owner of a property who submits an application to participate in the
1871 Nonconforming Use Zoning Exemption Program.
- 1872 2. "Program" means the Nonconforming Use Zoning Exemption Program identified in this
1873 chapter.
- 1874 3. "Property" means a residential property subject to the Nonconforming Use Zoning
1875 Exemption Program.
- 1876 C. Criteria for approval—Conditions.
- 1877 1. The Property must have lost its nonconforming use within sixty (60) months prior to
1878 submitting an application under the Program; or
- 1879 2. The Property must be vacant and the Property's nonconforming use must have substantially
1880 ceased for a continuous period of one year.
- 1881 D. Application Requirements.
- 1882 1. All applications to participate in the Program must be submitted on or before November
1883 30, 2022.
- 1884 2. Applicant shall be in good standing with the City of Salisbury. "Good standing" shall be
1885 defined as:
- 1886 a. Applicant shall not owe delinquent taxes to the City of Salisbury.
- 1887 b. Applicant shall not have outstanding code violations on any property owned by
1888 Applicant within the City of Salisbury.
- 1889 c. Applicant shall not own a condemned property within the City of Salisbury, unless
1890 Applicant has an approved rehabilitation plan for the condemned property.
- 1891 3. Applicant shall submit an application and rehabilitation plan for approval by the Housing
1892 and Community Development and Infrastructure and Development Departments. The
1893 rehabilitation plan shall include architectural renderings of the exterior and interior of the
1894 Property, and shall certify that the Property contains off-street and/or on-street parking of
1895 at least one space per unit.
- 1896 4. Applicant shall agree to adhere to Federal/State/Local Fair Housing Guidelines/Practices.
- 1897 5. Applicant shall obtain all permits required to execute the rehabilitation plan and shall
1898 comply with all applicable building codes.
- 1899 E. Program Requirements.
- 1900 1. Within twelve (12) months from application approval by the Housing and Community
1901 Development and Infrastructure and Development Departments, the Applicant shall:
- 1902 a. Complete all terms and conditions of Applicant's rehabilitation plan;
- 1903 b. Obtain a Certificate of Occupancy; and
- 1904 c. The Property must be inspected by the Housing and Community Development
1905 Department.

- 1906 2. The Property must be made available for rent within twelve (12) months following
1907 application approval by the Housing and Community Development and Infrastructure and
1908 Development Departments.
- 1909 3. The Property shall be subject to a three-year probationary period. During the probationary
1910 period, the following additional conditions and requirements apply:
- 1911 a. All units within the Property shall be subject to yearly inspection by the Housing
1912 and Community Development Department;
- 1913 b. The Property owner shall maintain Code and Standards of Livability requirements;
- 1914 c. There shall be no more than three code violations per Property, per year; and
- 1915 d. There shall be no more than three calls for service per unit located on the Property,
1916 per year.
- 1917 4. No Property shall be vacant for more than a twelve-month period following the completion
1918 of rehabilitation plan.
- 1919 F. Costs.
- 1920 1. There shall be a five hundred dollar (\$500.00) non-refundable application fee per Property.
- 1921 2. During the three-year probationary period, Applicant shall pay the following licensing
1922 costs:
- 1923 a. Two hundred forty dollars (\$240.00) per landlord license, per year.
- 1924 b. Two hundred forty dollars (\$240.00) per rental unit, per year.
- 1925 3. At the end of the three-year probationary period, all costs shall return to those then in effect.
- 1926 G. Violations.
- 1927 1. Failure to complete the probationary period shall result in the Property's loss of its legal
1928 nonconforming use status pursuant to the Program.
- 1929 2. Violation of any Program Requirement shall result in the Property's loss of its legal
1930 nonconforming use status pursuant to the Program.
- 1931 H. Appeals. The denial of any application under this chapter may be appealed to the Board of ~~Zoning~~
1932 Appeals. The appeal shall be filed in writing within ~~thirty (30)~~ **twenty-one (21)** days of the date of
1933 the final decision or denial to the Applicant, state clearly the grounds on which the appeal is based,
1934 and be processed in the manner prescribed for hearing administrative appeals under Board of
1935 ~~Zoning~~ Appeals rules of procedure.

1936 **17.24.040 Development standards.**

1937 Minimum development standards for the central business district shall be as follows:

- 1938 A. Minimum Lot Requirements. All lots hereafter established shall meet the following requirements:
- 1939 1. Lot area: five thousand (5,000) square feet;
- 1940 2. Lot width: fifty (50) feet.
- 1941 B. Setback, Height and Density. The following minimum standards are established as guides for
1942 design of development. These standards may be increased or decreased by the planning commission
1943 upon review of individual site design in relation to the surrounding properties and development of
1944 the CBD as a whole.
- 1945 1. Setbacks.

- 1946 a. Setbacks shall be as follows:
- 1947 i. Setbacks shall be the same as the established setbacks for existing
- 1948 buildings within the same block.
- 1949 ii. Where there are minor irregularities in existing setbacks for the same
- 1950 block, any one of the existing setbacks which the planning commission
- 1951 considers most applicable may be used.
- 1952 iii. Where there are major irregularities in existing setbacks for the same
- 1953 block, the setback shall be no less than the average of setbacks for existing
- 1954 buildings on either side of the proposed development.
- 1955 iv. Where no established building setbacks exist, the setback shall be a
- 1956 minimum of five feet from the back of the sidewalk.
- 1957 v. Setbacks from the Wicomico River shall be a minimum of ten feet from
- 1958 the back of the existing or proposed bulkheading line.
- 1959 vi. Setbacks from interior lot lines shall be a minimum of ten feet.
- 1960 b. Modifications to Setbacks.
- 1961 i. During its review of any development requiring a modification to setbacks,
- 1962 the planning commission shall consider the location of buildings on the
- 1963 site relative to safe vehicular movement on existing or proposed streets,
- 1964 light, air and ability of fire or emergency equipment and vehicles to
- 1965 adequately serve the development.
- 1966 ii. Special consideration shall be given to the location of landscaped areas
- 1967 and areas of pedestrian movement to assure coordination of landscaping
- 1968 and freedom and safety of pedestrian movement.
- 1969 iii. The planning commission may increase or decrease setbacks wherever a
- 1970 rearrangement of buildings on the site will aid in achieving a continuous
- 1971 link of development with freedom and encouragement of pedestrian
- 1972 movement from one development to another.
- 1973 2. Density.
- 1974 a. Floor area for commercial or other uses shall not be used when computing density
- 1975 for dwelling units.
- 1976 b. Inherent density shall not exceed forty (40) units per acre.
- 1977 c. Increased density shall require a special exception from the **Board of Appeals**
- 1978 ~~board of zoning appeals~~. In addition to consideration of the criteria required by
- 1979 section 17.232.020, the board shall consider the criteria set forth in subsection
- 1980 (B)(4) of this section.
- 1981 3. Height.
- 1982 a. The height of all buildings or structures shall not exceed seventy-five (75) feet.
- 1983 b. Increased height shall require a special exception from the **Board of Appeals**
- 1984 ~~board of zoning appeals~~. In addition to consideration of the criteria required by
- 1985 section 17.232.020, the board shall consider the criteria set forth in subsection
- 1986 (B)(4) of this section.
- 1987 4. Criteria for Increased Height and/or Density.

1988	a.	When acting upon a request for either increased height or density, the Board of Appeals board of zoning appeals shall consider any or all of the following criteria as may apply to the type of development proposed:
1989		
1990		
1991	i.	Recommendation from the planning commission;
1992	ii.	The type of residential development proposed relative to the ability of the site to accommodate the density proposed;
1993		
1994	iii.	The availability of city services to the site, such as water, sewer, streets and parking lots or structures; and whether the site can accommodate a higher density and/or height without an undue burden of expense to the city;
1995		
1996		
1997		
1998	iv.	The functional, visual and spatial relationship of the proposed height relative to surrounding development and the CBD as a whole;
1999		
2000	v.	Whether the proposed height will create an intrusion or conflict with the spatial arrangement of existing or proposed buildings;
2001		
2002	vi.	Shadows which may interfere with solar panels or other solar equipment already in existence or under contract to be installed on existing buildings or buildings approved for construction in the immediate vicinity;
2003		
2004		
2005	vii.	Water pressure and capability of community firefighting equipment, in addition to any required construction of fire safety devices, to assure safety of occupants;
2006		
2007		
2008	viii.	The merits of the design and whether the treatment of setbacks, landscaping or other amenities, in addition to architectural treatment of the building, provide an excellence of design which contributes to the furtherance of the purpose of the CBD.
2009		
2010		
2011		
2012	b.	The board may solicit any expert review and advice to assist it in making a decision on the request for increased height and/or density.
2013		
2014	C.	Open Space and Landscaping.
2015	1.	Landscaped open space shall be provided wherever possible to attract development and provide a pleasing environment to conduct business, trade, civic and cultural affairs and improve the appearance of downtown.
2016		
2017		
2018	2.	Wherever possible, landscaped open space areas shall be provided adjoining the landscaped open space area on an adjoining parcel. Landscaping for both areas shall be coordinated so as to give the appearance of one continuous landscaped area.
2019		
2020		
2021	3.	Development adjoining the Wicomico River shall provide public open space easements as required in the urban river plan or other adopted plans and shall provide open space and landscaped areas coordinated with existing open space and landscaped areas developed by the city.
2022		
2023		
2024		
2025	D.	Parking. Parking shall be provided in accordance with chapter 17.196, except where governed by established parking tax district regulations.
2026		
2027	E.	Building and Development Restrictions.
2028	1.	Drive-in window service uses shall provide a reservoir of five spaces on site for each drive-in window or stall.
2029		

- 2030 2. Access driveways crossing sidewalks to private parking areas shall be reduced or
2031 eliminated where it is determined that alternative or unified points of access are available
2032 resulting in less traffic congestion and pedestrian interference.
- 2033 3. Common loading and unloading areas serving more than one business shall be encouraged
2034 where possible.
- 2035 4. Entrance to loading and unloading areas shall be located at the rear of the building where
2036 possible. Where a business abuts more than one street, this entrance shall be on the street
2037 with the least amount of traffic.
- 2038 5. Outside storage of materials or parts shall be prohibited, except that outside storage of
2039 service and delivery vehicles used in operation of a business within the CBD shall be
2040 permitted.
- 2041 E. Signs. Signs shall be in accordance with chapter 17.216.

2042 **17.72.010 Purpose.**

2043 The purpose of the industrial district is to recognize those areas of industrial development which have
2044 developed historically along the rivers and portions of rail lines in or close to the central part of the city and
2045 to provide additional areas along the river and rail lines for location of industries dependent, to a great
2046 extent, upon these facilities for transport of materials used in their operation. These uses also require large
2047 sites and good access to major highways. To protect surrounding areas and assure compatibility of
2048 development within the district, those uses which may create excessive external noise, vibration, smoke,
2049 dust, lint, odor, heat, glare or which use explosive, toxic or otherwise hazardous materials are permitted
2050 only by special exception upon approval of the **Board of Appeals** ~~board of zoning appeals~~. The following
2051 uses, standards and area regulations have been developed in accordance with this purpose, which is in
2052 accord with findings and recommendations of the city's adopted land use element of the metro core
2053 comprehensive plan.

2054 **17.104.040 Development standards.**

2055 Minimum standards for development in the riverfront redevelopment multiuse district No. 1 shall be as
2056 follows:

- 2057 A. Minimum Lot Requirements. All lots hereafter established shall meet the following minimum
2058 requirements:
- 2059 1. Lot area: five thousand (5,000) square feet;
- 2060 2. Lot width: fifty (50) feet.
- 2061 B. Setback, Height and Density. The following minimum standards are established as guides for
2062 design of development. These standards may be increased or decreased by the planning commission
2063 upon review of individual site design in relation to surrounding properties and development of the
2064 riverfront redevelopment multiuse district No. 1 as a whole.
- 2065 1. Setbacks.
- 2066 a. Setbacks shall be as follows:
- 2067 i. Setbacks shall be the same as the established setbacks for existing
2068 buildings within the same block.
- 2069 ii. Where there are minor irregularities in existing setbacks for the same
2070 block, any one of the existing setbacks which the planning commission
2071 considers most applicable may be used.

- 2072 iii. Where there are major irregularities in existing setbacks for the same
2073 block, the setback shall be no less than the average of setbacks for existing
2074 buildings on either side of the proposed development.
- 2075 iv. Where no established building setbacks exist, the setback shall be a
2076 minimum of five feet from the back of the sidewalk.
- 2077 v. Setbacks from the Wicomico River shall be a minimum of ten feet from
2078 the back of the existing or proposed bulkheading line.
- 2079 vi. Setbacks from interior lot lines shall be a minimum of ten feet.
- 2080 b. Modifications to Setbacks.
- 2081 i. During its review of any development requiring a modification to setbacks,
2082 the planning commission shall consider the location of buildings on the
2083 site relative to safe vehicular movement on existing or proposed streets,
2084 light, air and ability of fire or emergency equipment and vehicles to
2085 adequately serve the development.
- 2086 ii. Special consideration shall be given to the location of landscaped areas
2087 and areas of pedestrian movement to assure coordination of landscaping
2088 and freedom and safety of pedestrian movement.
- 2089 iii. The planning commission may consider an increase or decrease setbacks
2090 wherever a rearrangement of buildings on the site will aid in achieving a
2091 continuous link of development with freedom and encouragement of
2092 pedestrian movement from one development to another.
- 2093 2. Density.
- 2094 a. Floor area for commercial or other uses shall not be used when computing density
2095 for dwelling units.
- 2096 b. Inherent residential density shall not exceed forty (40) units per acre.
- 2097 c. Increased density shall require a special exception from the **Board of Appeals**
2098 ~~board of zoning appeals~~. In addition to consideration of the criteria required by
2099 section 17.232.020 of this title, the board shall consider the criteria set forth in
2100 subsection (B)(4) of this section.
- 2101 3. Height.
- 2102 a. Inherent height shall not exceed seventy-five (75) feet.
- 2103 b. Increased height shall require a special exception from the **Board of Appeals**
2104 ~~board of zoning appeals~~. In addition to consideration of the criteria required by
2105 section 17.232.020 of this title, the board shall consider the criteria set forth in
2106 subsection (B)(4) of this section.
- 2107 4. Criteria for Increased Height and/or Density.
- 2108 a. When acting upon a request for either increased height or density, the **Board of**
2109 **Appeals** ~~board of zoning appeals~~ shall consider any or all of the following criteria
2110 as may apply to the type of development proposed:
- 2111 i. Recommendation from the planning commission;
- 2112 ii. The type of residential development proposed relative to the ability of the
2113 site to accommodate the density proposed;

- 2114 iii. The availability of city services to the site, such as water, sewer, streets
2115 and parking lots or structures; and whether the site can accommodate a
2116 higher density and/or height without an undue burden of expense to the
2117 city;
- 2118 iv. The functional, visual and spatial relationship of the proposed height
2119 relative to surrounding development and the CBD as a whole;
- 2120 v. Whether the proposed height will create an intrusion or conflict with the
2121 spatial arrangement of existing or proposed buildings;
- 2122 vi. Shadows which may interfere with solar panels or other solar equipment
2123 already in existence or under contract to be installed on existing buildings
2124 or buildings approved for construction in the immediate vicinity;
- 2125 vii. Water pressure and capability of community fire-fighting equipment, in
2126 addition to any required construction or fire safety devices, to assure safety
2127 of occupants;
- 2128 viii. The merits of the design and whether the treatment of setbacks,
2129 landscaping or other amenities, in addition to architectural treatment of the
2130 building, provide an excellence of design which contributes to the
2131 furtherance of the purpose of the CBD.
- 2132 b. The board may require a party to provide any expert review and advice, on the
2133 record, to assist it in making a decision on the request for increased height and/or
2134 density.

2135 C. Open Space and Landscaping.

- 2136 1. Landscaped open space shall be provided to attract development, provide a pleasing
2137 environment and improve the appearance of the entire area.
- 2138 2. Wherever possible, landscaped open space areas shall be provided adjoining the
2139 landscaped open space area on an adjoining parcel. Landscaping for both areas shall be
2140 coordinated so as to give the appearance of one continuous landscaped area.
- 2141 3. Parking lots shall be landscaped in accordance with chapter 17.220 of this title.
- 2142 4. Landscaped screening areas may be required along any property line where the planning
2143 commission finds that such landscaped screening area is necessary to further the purpose
2144 of the riverfront district and provide separation to minimize any possible adverse effect
2145 from adjoining uses.

2146 D. Parking. Parking shall be provided in accordance with chapter 17.196 of this title.

2147 E. Signs. Signs shall be in accordance with section 17.216.160 of this title.

2148 **17.105.040 Development standards.**

2149 Minimum standards for development in the riverfront redevelopment multiuse district shall be as follows:

- 2150 A. Minimum Lot Requirements. All lots hereafter established shall meet the following minimum
2151 requirements:
- 2152 1. Lot area: five thousand (5,000) square feet;
- 2153 2. Lot width: fifty (50) feet.
- 2154 B. Setback, Height and Density. The following minimum standards are established as guides for
2155 design of development. These standards may be increased or decreased by the development review

committee upon review of individual site design in relation to surrounding properties and development of the riverfront redevelopment multiuse district as a whole.

1. Setbacks.

a. Setbacks shall be as follows:

- i. Setbacks shall be the same as the established setbacks for existing buildings within the same block.
- ii. Where there are minor irregularities in existing setbacks for the same block, any one of the existing setbacks which the planning commission considers most applicable may be used.
- iii. Where there are major irregularities in existing setbacks for the same block, the setback shall be no less than the average of setbacks for existing buildings on either side of the proposed development.
- iv. Where no established building setbacks exist, the setback shall be a minimum of five feet from the back of the sidewalk.
- v. Setbacks from the Wicomico River shall be a minimum of ten feet from the back of the existing or proposed bulkheading line.
- vi. Setbacks from interior lot lines shall be a minimum of ten feet.

b. Modifications to Setbacks.

- i. During its review of any development requiring a modification to setbacks, the planning commission shall consider the location of buildings on the site relative to safe vehicular movement on existing or proposed streets, light, air and ability of fire or emergency equipment and vehicles to adequately serve the development.
- ii. Special consideration shall be given to the location of landscaped areas and areas of pedestrian movement to assure coordination of landscaping and freedom and safety of pedestrian movement.
- iii. The planning commission may consider an increase or decrease in setbacks wherever a rearrangement of buildings on the site will aid in achieving a continuous link of development with freedom and encouragement of pedestrian movement from one development to another.

2. Density.

- a. Floor area for commercial or other uses shall not be used when computing density for dwelling units.
- b. Inherent density shall not exceed forty (40) units per acre.
- c. Increased density shall require a special exception from the **Board of Appeals** ~~board of zoning appeals~~. In addition to consideration of the criteria required by section 17.232.020 of this title, the board shall consider the criteria set forth in subsection (B)(4) of this section.

3. Height.

- a. Inherent height shall not exceed seventy-five (75) feet.
- b. Increased height shall require a special exception from the **Board of Appeals** ~~board of zoning appeals~~. In addition to consideration of the criteria required by

2198 section 17.232.020 of this title, the board shall consider the criteria set forth in
2199 subsection (B)(4) of this section.

2200 4. Criteria for Increased Height and/or Density.

2201 a. When acting upon a request for either increased height or density, the **Board of**
2202 **Appeals** ~~board of zoning appeals~~ shall consider any or all of the following criteria
2203 as may apply to the type of development proposed:

2204 i. Recommendation from the planning commission;

2205 ii. The type of residential development proposed relative to the ability of the
2206 site to accommodate the density proposed;

2207 iii. The availability of city services to the site, such as water, sewer, streets
2208 and parking lots or structures; and whether the site can accommodate a
2209 higher density and/or height without an undue burden of expense to the
2210 city;

2211 iv. The functional, visual and spatial relationship of the proposed height
2212 relative to surrounding development and the CBD as a whole;

2213 v. Whether the proposed height will create an intrusion or conflict with the
2214 spatial arrangement of existing or proposed buildings;

2215 vi. Shadows which may interfere with solar panels or other solar equipment
2216 already in existence or under contract to be installed on existing buildings
2217 or buildings approved for construction in the immediate vicinity;

2218 vii. Water pressure and capability of community fire-fighting equipment, in
2219 addition to any required construction or fire safety devices, to assure safety
2220 of occupants;

2221 viii. The merits of the design and whether the treatment of setbacks,
2222 landscaping or other amenities, in addition to architectural treatment of the
2223 building, provide an excellence of design which contributes to the
2224 furtherance of the purpose of the CBD.

2225 b. The board may solicit any expert review and advice to assist it in making a decision
2226 on the request for increased height and/or density.

2227 C. Open Space and Landscaping.

2228 1. Landscaped open space shall be provided to attract development, provide a pleasing
2229 environment and improve the appearance of the entire area.

2230 2. Wherever possible, landscaped open space areas shall be provided adjoining the
2231 landscaped open space area on an adjoining parcel. Landscaping for both areas shall be
2232 coordinated so as to give the appearance of one continuous landscaped area.

2233 3. Parking lots shall be landscaped in accordance with chapter 17.220 of this title.

2234 4. Landscaped screening areas shall be provided along side and/or rear property lines of
2235 industrially used property except where adjoining the Wicomico River. All areas not used
2236 for loading and unloading along the riverfront shall be landscaped.

2237 5. Landscaped screening areas may be required along any property line where the
2238 development review committee and planning commission find that such landscaped
2239 screening area is necessary to further the purpose of the riverfront district and provide
2240 separation to minimize any possible adverse effect from adjoining uses.

2241 D. Parking. Parking shall be provided in accordance with chapter 17.196, except where governed by
2242 the established parking tax district regulations.

2243 E. Signs. Signs shall be in accordance with chapter 17.216 of this title.

2244 **17.166.020 Permit required.**

2245 A. No adult entertainment business may operate within the city of Salisbury unless and until said
2246 business has obtained an adult entertainment permit from the city in accordance with this chapter.
2247 Permits shall be renewed on an annual basis on or before March 1st of each year.

2248 B. Permit applications shall be provided by the director of the department of infrastructure and
2249 development. The permit application shall include the street address of the proposed adult
2250 entertainment business, the names and addresses of all owners, as hereinafter described, and any
2251 other information deemed necessary by the director.

2252 1. If the owner is a corporation, the permit application shall provide the names and residence
2253 addresses of all officers of the corporation, and names and residence addresses of all
2254 shareholders or members with an interest of ten percent or greater;

2255 2. If the owner is a partnership, the permit application shall provide the names and residence
2256 addresses of all partners with an interest of ten percent or greater;

2257 3. If the owner is any other form of unincorporated association, the permit application shall
2258 provide the names and residence addresses of all principals with an interest of ten percent
2259 or greater;

2260 4. If the owner is an individual person, the permit application shall provide the name and
2261 address of that individual person;

2262 5. If none of the persons listed in subsections (B)(1) through (B)(4) hereinabove has an
2263 address in this state, the permit application also shall provide the name and address of a
2264 person who resides within the state and who is authorized to accept service of process on
2265 behalf of the owner(s) and who shall be designated as a responsible, local party or agent,
2266 both for purposes of notification in the event of an emergency affecting the public health,
2267 safety or welfare and as herein authorized and in connection herewith.

2268 C. Each application for an adult entertainment permit shall also include the following:

2269 1. A certification by a licensed surveyor or licensed engineer showing distances from the
2270 nearest portion of the structure to be used for an adult entertainment business to the nearest
2271 property line of the premises of a church, school, park, day care center, residential zoning
2272 district or other residential use, or another adult entertainment business, as those terms are
2273 defined in Title 17 of this code.

2274 D. Permit Fees. The application fee for an adult entertainment permit shall be one hundred dollars
2275 (\$100.00).

2276 E. Processing a Permit Application for an Adult Entertainment Business.

2277 1. The adult entertainment permit shall be approved or denied in writing within ten working
2278 days after the application is filed and determined to be complete, unless additional time is
2279 needed to review structural issues unrelated to the use of the adult entertainment business,
2280 in which case the generally applicable time period relating to issuance of a building permit
2281 shall apply.

2282 2. If the adult entertainment permit is not approved or denied within the time period
2283 established in this section, the application shall be deemed approved.

3. In order to guarantee prompt judicial review of any adult entertainment application, and in recognition of the restrictions on the city of Salisbury's authority to require courts in Maryland or the federal circuits to take action within any given time period, a temporary zoning certificate shall be issued if:

a. The adult entertainment permit is denied,

b. The applicant brings a timely action for administrative review by the **Board of Appeals** ~~board of zoning appeals~~ and/or judicial review, as defined in the rules of procedure for the court in which the application is brought, and

c. The proposed adult entertainment business is not located in a residential zoning district.

4. A temporary adult entertainment permit issued pursuant to this section expires when a final judicial determination is made relating to the application. If the applicant prevails, and the city does not seek additional review, then a permanent adult entertainment permit shall be issued within five working days after the applicant notifies the director of the department of infrastructure and development of the reviewing body's decision; if the applicant does not prevail, the temporary adult entertainment permit becomes null and void, and the applicant shall bring the premises into compliance with this code within ten working days after the final judicial decision is rendered.

17.166.050 Variance.

A. Applicability. The **Board of Appeals** ~~board of zoning appeals~~ may authorize variances to the provisions of section 17.166.030 of this chapter in accordance with the criteria set forth in subsection B of this section. The granting of a variance does not exempt the applicant from any provisions of this section other than modifying the locational restrictions set forth in section 17.166.030.

B. Decision making Criteria, Variances for Adult Entertainment Businesses. The board may authorize a variance only upon specific findings that:

1. A sufficient physical barrier separates the adult entertainment business from any of the protected uses set forth in section 17.166.030, so as to substantially fulfill the purpose of the distance requirement. Such physical barriers may include, but are not limited to, limited access streets or highways, walls, and natural or man-made waterways;

2. The strict application of the provisions of these regulations will create an undue hardship unique to the applicant for a particular location; and

3. All other applicable provisions of this chapter will be observed.

17.168.010 Purpose.

To avoid excessive concentration of population, prevent overcrowding of land and congestion in streets, minimize adverse effects on surrounding development, assure the safety of inhabitants and residents in the vicinity and to provide the amenities essential to a residential environment, the following minimum standards for apartment development are established. Recognizing that there may be certain locations where services, access, topography, amenities and design of the site can accommodate higher densities than permitted, inherently special standards and requirement of **Board of Appeals** ~~board of zoning appeals~~ approval for higher densities are also established in addition to minimum standards.

17.168.040 Density or height increases permitted by special exception.

A. In all districts where apartment development is permitted, the **Board of Appeals** ~~board of zoning appeals~~ may approve an increase in height or density up to a maximum of thirty (30) units per acre

after consideration of the following criteria in addition to satisfying the requirements of chapter 17.232 pertaining to special exceptions:

1. The additional ten-foot setback required for each story above three is provided in any combination to provide distance and separation from lower profile residential development.
2. Open space is increased to forty (40) percent of the net project area.
3. Arrangement of buildings on the site can be designed to minimize the effect of shadows, interference with light and air and intrusion on privacy of adjoining residential yards.
4. Additional landscaping and screening is provided around parking areas, where the board deems necessary, and adjoining residential development.

B. In determining whether an increase in height or density should be approved, the board shall consider such factors as:

1. The topography of the site and whether it can be used to soften the impact of any increased building height in relation to the surrounding area;
2. Existing and proposed streets and traffic patterns relative to the amount of traffic to be generated by the increased density and whether it can easily be accommodated without being detrimental to surrounding residential area;
3. Whether the site is further separated from residential areas by streets or nonresidential uses or the site adjoins or is immediately across the street from a public pond, lake or park;
4. Provision of recreational facilities in relation to maximum density of people to be served;
5. How the criteria have been used in designing the site to achieve maximum results in integration of greater building height and density without harsh contrast in relation to surrounding development.

C. After consideration of the criteria and factors for review, the board shall approve such increase in building height and density as it considers will have the least impact on and be the least detrimental to the surrounding area.

17.180.050 Special exceptions.

For all developments requiring a special exception, the planning commission shall, after reviewing applicant's preliminary comprehensive development plan, all plans and comments, submit its review findings, together with all plans and comments and any suggested conditions or changes, to the board of zoning appeals for ~~final~~ consideration at a formal public hearing. **A final comprehensive development plan shall not be approved by the planning commission until the Board of Appeals has rendered a decision on the special exception.**

17.180.060 Waiver.

The planning commission and/or the Board of Appeals ~~board of zoning appeals~~ may waive any or all of the statements or studies required as part of the comprehensive development plan set forth in the definition in section 17.04.120, after consideration of the extent and impact of the development proposed, whether the requirement is necessary and in the best interest of the city, and the hardship imposed by the requirement upon the applicant.

17.196.020 General standards.

No land shall be used or occupied, no structure shall be designed, erected or expanded, used or occupied, and no establishment shall be operated, unless sufficient off-street parking and loading spaces are provided

in accordance with this chapter. However, the provisions of this chapter shall not apply to established parking districts or uses for which a valid permit has been issued.

A. Uses Not Listed. For any use, the wording of which is not specifically listed, the housing official shall determine if any other use is similar in nature, and the parking provisions for such a use shall prevail. Where the director of the department of infrastructure and development cannot make a determination of similar use, the planning commission, in accordance with the provisions of chapter 17.04, Article II, shall review the proposal and make a written determination of similar use upon which the parking provisions for such use shall prevail.

B. Encroachment. An off-street parking area shall not be encroached upon by buildings, storage, loading or unloading or any other use where such reduction or encroachment will reduce the area below that required by this article, nor shall the number of parking spaces be reduced except upon the granting of a variance by the **Board of Appeals** ~~board of zoning appeals~~. However, the placement of construction above such parking area shall not be deemed an encroachment if it is part of a building on the site and at least eight feet above the surface of the parking area.

C. Prohibited Uses.

1. No parking area shall be used for the sale, repair, dismantling or servicing of any vehicle or equipment or for the storage of materials or supplies, excluding emergency service and repair of vehicles.

2. No motor vehicle, whether operable or inoperable, shall be parked in the front yard of any residence unless the same shall be positioned in a driveway or designated parking area with continuous access to a public street.

In the event of a violation, the following procedures will be followed:

a. A parking violation citation will be issued and placed on the windshield of the vehicle. A separate parking violation may be issued after each twenty-four-hour time period.

b. A person who receives a citation under subsection (C)(2)(a) of this section may:

i. Pay the penalty, in accordance with instructions on the citation, directly to the city; or

ii. Elect to stand trial for the alleged violation pursuant to section 10.24.050 of this code.

D. Location.

1. All required parking spaces shall be located on the same lot as the use they serve, except that:

a. The owner of two or more abutting lots may locate the use on one lot and the parking spaces required for the use on another of his abutting lots; or

b. Two or more abutting property owners may locate the parking spaces required for their uses on any of their lots if:

i. The lot(s) providing the parking space abuts the lot(s) containing the use(s) it serves;

ii. All of the affected lots are in the same zoning district;

iii. The total number of spaces provided is not less than the sum of spaces required for all the uses;

2412 iv. Means of pedestrian access is provided from the parking space to the uses
2413 so that pedestrians are not required to traverse property owned by other
2414 than said property owners, except where public sidewalks may provide the
2415 access;

2416 v. That a recorded lease, easement or other form of agreement be executed
2417 among said property owners assuring perpetual use of the required parking
2418 spaces until or unless the required parking spaces are located on the same
2419 lot as the use they serve. In all cases above, both lots shall be included in
2420 the application for a building permit or certificate of occupancy.

c. Where buildings existing on the date of enactment of this chapter cover a lot or parcel of land to the extent that required parking cannot be accommodated on the site, required parking may be provided on another lot in the same or adjoining district by special exception of the **Board of Appeals** ~~board of zoning appeals~~ in accordance with chapter 17.232.

2426 2. All parking spaces and lots open to the sky (i.e., not in garages or carports) shall be located
2427 no closer than three feet from the interior property line or back of the sidewalk or eight feet
2428 from the curbline where no sidewalk exists, except for abutting property lines of two or
2429 more lots exercising the options for common parking stipulated above.

2430 3. All covered parking spaces and lots, including garages and carports, shall not be located
2431 within any yard setback area, except when permitted as an accessory building.

2432 E. Existing Facilities. Parking spaces and lots serving structures and uses in existence on the initial
2433 date of adoption of this chapter and any amendments thereto shall not be subject to the changed
2434 requirements of this chapter so long as the kind or extent of use was legal when the structure or use
2435 began and has not changed; any requirement for parking spaces, lots, or facility now serving such
2436 structures or uses shall not in the future be increased or otherwise changed in kind or extent.

2437 F. Change in Requirements. Whenever there is an alteration or extension of a use or structure which
2438 increases the parking requirements according to subsection H of this section, the total additional
2439 parking required for the alteration or extension shall be provided in accordance with the
2440 requirements of that subsection.

2441 G. Construction. All required off-street parking spaces and aisles shall be paved with an all-weather
2442 material. For spaces and aisles which are not part of a parking lot as herein defined, this may include
2443 gravel or other dust-free material to provide a surface resistant to erosion. However, for parking
2444 lots, the paving material shall be limited to asphalt, concrete or similar hard surface material with
2445 all parking spaces designated with a four-inch white or yellow stripe painted the entire length of
2446 each space in accordance with the dimensional requirements stipulated in subsection H of this
2447 section. All parking areas shall be drained to prevent flooding or damage on adjoining properties
2448 or city streets.

2449 H. Required Off-Street Parking Spaces.

2450 1. All uses and structures shall provide off-street parking spaces in an amount equal to, and
2451 not to exceed the number required in section 17.196.030, parking space requirements,
2452 except by an approved request made to the planning commission, as described herein.

Property owners may request up to twenty percent (20%) more parking spaces than allowed by section 17.196.30. The request may be granted upon a finding that the use of the property will require more spaces than are available within nine hundred (900) feet of the property, either on area streets or in public parking facilities, or that the use requires that additional parking be located on-site.

The planning commission may grant a request to allow additional parking spaces and impose additional requirements to address the impact of the additional spaces. Additional requirements may include:

- a. The use of pervious pavers;
- b. The installation of vegetative planting or structural screening beyond that otherwise required in this chapter and in chapter 17.220; and
- c. The installation of sidewalks, walkways, pedestrian lighting, landscaping, and other site improvements beyond that required in this chapter and chapter 17.220.

2. Dimensions.

- a. Parking spaces other than those parallel to a curb, aisle or accessway required for off-street parking space shall be at least nine feet wide and twenty (20) feet long. For parallel parking spaces abutting a curb, aisle or accessway, each space shall be eight feet wide and twenty-four (24) feet long.
- b. The Director of the Department of Infrastructure and Development, at the request of an applicant, may approve alternative parking space dimensions of not less than nine feet wide and eighteen (18) feet in length, provided that:
 - i. A comprehensive site plan is submitted to the director showing alternative parking space dimensions;
 - ii. No compact vehicle spaces shall be approved to meet the minimum parking requirements of this chapter, but said spaces may be used to provide parking above the required minimum.
 - iii. These provisions shall not apply to parallel parking.
- c. When approving a comprehensive development plan for a shopping center, the planning commission, at the request of the applicant, may approve a parking space dimension of not less than nine feet in width and eighteen (18) feet in length, provided that no compact vehicle spaces shall be approved to meet the minimum parking requirements of this chapter. Compact spaces may be used to provide parking above the required minimum parking.
- d. Compact Vehicle Spaces Required. No more than fifty (50) percent of parking lots for ten or more vehicles shall be reserved for compact vehicles. Parking spaces for compact vehicles shall be at least eight feet in width by seventeen (17) feet in length. Such spaces shall be designated by signs measuring at least ten by sixteen (16) inches, with letters at least three inches high stating "COMPACT VEHICLES ONLY." Where spaces are grouped together, signs may be placed at each end of the group; otherwise, spaces shall be individually signed.
- e. Number and Computation. In computing the required number of spaces, all fractional numbers shall be increased to the next highest integer. When computation is based on the number of employees, the number employed during the largest work shift shall be used.

3. Parking and loading requirements shall be determined on the basis of the total amount of gross square feet of building area.

- I. Parking Lots. For the purpose of this title, "parking lots" are defined as facilities providing off-street parking space for five or more vehicles. All parking lots shall meet the design and maintenance standards specified below. All applications for a building or occupancy permit to use

land, in whole or in part, as a parking lot as herein defined shall be accompanied by a landscaping plan as stipulated in chapter 17.220.

1. Dimensions.

- a. All parking spaces shall comply with the dimensions specified in subsection (H)(1)(a). The minimum dimensions of all aisles providing access to parking lot spaces shall be as follows:

Angle of Space to Aisle	Parking Aisle Width	
	One-Way	Two-Way
Parallel	12	20
30° (150°)	12	20
45° (135°)	15	20
60° (120°)	18	20
90°	24	24

- b. No portion of any parking space shall intrude into the required aisle width. For aisles providing access to parking spaces set at angles other than those specified above, the required aisle width shall be that of the nearest specified angle of parking. If equidistant from specified angles, the greatest aisle width of the two nearest angles shall apply.

- c. Handicapped spaces and dimensions shall be provided in accordance with state law.

2. Obstructions. Parking lots shall be designed to permit each motor vehicle to proceed to and from all unoccupied parking spaces without requiring the moving of any other parked vehicle.

3. Ingress and Egress. Entrance and exit driveways and aisles linking parking lots to public streets shall comply with the requirements for motor vehicle access stipulated by the city department of infrastructure and development. Parking spaces, other than residential, shall be designed to prevent motor vehicles from backing onto a public street in order to leave the lot.

4. Location and Yard Requirements.

- a. All parking lots shall meet the location requirements stipulated in section 17.196.020(D).

- b. All yards surrounding the parking lot, exclusive of driveways providing ingress and egress to the lot, shall be bordered by a curb six inches high along the sides of the yard area abutting the parking lot, including spaces and aisles. Concrete curb or bumpers shall be required in areas where, in the opinion of the director of department of infrastructure and development, a curb constructed of asphalt or similar material would be vulnerable to vehicular damage. If bumpers are provided at the end of each parking space, a curb is not required. Setback areas shall be planted with grass or similar vegetative material and may include shrubs, fences or walls, provided that they are not placed closer than three feet from any parking space.

5. Structures. Utility poles, light standards and similar structures shall not be permitted within any aisle or parking space. Any structure located elsewhere within a parking lot shall be

2539 surrounded on all sides abutting the spaces or aisles by a curb six inches high, separated
2540 from the structure by at least three feet, the distance to be measured from the broadest point
2541 on each side, exclusive of any portion greater than ten feet from the ground.

2542 6. Raised Islands. Raised islands shall be installed at the ends of all parking bays abutting an
2543 aisle or driveway. The raised island shall be bordered by an asphalt or concrete curb six
2544 inches high wherever it abuts a space or aisle and shall each be an average of at least eight
2545 feet wide and extend the length of the parking space and/or bay. The islands shall be planted
2546 with trees, grass, shrubs and similar vegetative materials (see chapter 17.220) and may be
2547 combined with crushed stone. Utility poles and light standards may be installed within the
2548 raised islands, provided that they are separated from the spaces and aisles as required in
2549 subsection (I)(5) above.

2550 7. Maintenance. All parking lots shall be kept free from litter and trash. Any vegetative
2551 material required herein which dies shall be replaced as soon as recommended seasonal
2552 conditions occur for the replacement of the species.

2553 8. Reduction of Paved Areas. The Board of Appeals ~~board of zoning appeals~~ may reduce the
2554 required number of paved parking spaces for a proposed retail sales use, provided that the
2555 board determines the proposed paved areas will adequately serve the proposed use and
2556 provided that land to accommodate the required number of paved parking spaces is set
2557 aside and maintained in grass area, and further provided that should the retail sales use be
2558 changed, the required paved parking spaces shall be provided.

2559 9. Up to fifty (50) percent of the parking spaces required for theaters, public auditoriums,
2560 bowling alleys, dance halls and nightclubs, and up to one hundred (100) percent of the
2561 parking spaces required for a church auditorium, may be provided and used jointly by
2562 banks, offices, retail stores, repair shops, service establishments and similar uses not
2563 normally open, used or operated during the same hours as those uses listed above; provided,
2564 however, that such joint use is approved by the Board of Appeals ~~board of zoning appeals~~
2565 and written agreement thereto is properly executed and recorded in the land records of
2566 Wicomico County, except that such joint use in a planned development district shall be
2567 approved by the city council as part of the development plan.

2568 **17.212.020 Development standards.**

2569 A. A shopping center shall be developed in accordance with a comprehensive development plan as
2570 defined in section 17.04.120, which shall be submitted and reviewed in accordance with chapter
2571 17.180.

2572 B. The site shall be designed so that buildings, parking areas and landscaping are harmonious and
2573 attractively arranged and in a manner which will not adversely affect existing or future development
2574 in the area.

2575 C. Buildings shall be designed so that facades, signs and other appurtenances have an integrated and
2576 harmonious appearance.

2577 D. Access to and from the site shall be provided so as not to create a traffic hazard on boundary streets
2578 or interrupt traffic flow near an intersection. Entrance and exit drives shall be designed so that
2579 traffic will flow smoothly into and out of the parking lot without stacking of cars in entrance ways,
2580 onto boundary streets, in front of building entrances or blocking interior access drives to parking
2581 areas and shall be delineated from interior parking areas by permanent curbing or similar barriers
2582 to effectively channel traffic within the parking lot.

2583 E. Parking shall be arranged to avoid excessive walking and minimize conflict between pedestrian
2584 and interior traffic movements. Loading and unloading areas shall be separated from customer

2585 parking areas, and safety provisions shall be made for protection of pedestrians through adequate
2586 location of sidewalks and crossovers which are provided with drainage, lighting, directional signs
2587 and supervision as may be necessary.

2588 F. Shopping centers shall be served by common sewers, gas, water, lighting, power and services where
2589 feasible.

2590 G. A minimum of ten percent of the total construction must be initiated within two years of
2591 comprehensive development plan approval.

2592 H. Needs Analysis.

2593 1. A needs analysis shall be prepared and submitted with the application for a comprehensive
2594 development plan for:

2595 a. Any proposed shopping center greater than one hundred thousand (100,000) gross
2596 square feet of floor area approved after July 1, 1989;

2597 b. The expansion of any existing or previously approved shopping center greater than
2598 one hundred thousand (100,000) gross square feet of floor area where such
2599 expansion exceeds fifty (50) percent of the approved gross floor area;

2600 c. The requirement for a needs analysis shall not be waived by the planning
2601 commission.

2602 2. The needs analysis shall be prepared to demonstrate that the amount of proposed building
2603 area can be properly absorbed by the local or regional market it is planned to serve.

2604 3. The needs analysis shall include an assessment of the existing amount of retail floor space
2605 in the community and the amount approved in the past but currently unbuilt in order to
2606 assure that premature development or a surplus of new commercial floor space does not
2607 occur which will oversaturate the city with commercial floor space resulting in the potential
2608 deterioration and blight of existing approved commercial areas in the city.

2609 4. If the planning commission finds, during its review of the comprehensive development
2610 plan, that the proposed shopping center will result in the creation of surplus retail square
2611 footage in the city which may result in the blight or deterioration of existing commercial
2612 areas or that the proposed shopping center may be premature or that the needs analysis is
2613 inadequate in content to provide the required information, then it shall recommend denial
2614 of the special exception to the **Board of Appeals** ~~board of zoning appeals~~.

2615 5. If the commission finds that the proposed development will add to the economic viability
2616 of the city and will not create the adverse conditions stated in subsection (H)(4) of this
2617 section, a recommendation for approval of the proposed development shall be forwarded
2618 to the **Board of Appeals** ~~board of zoning appeals~~.

2619 6. The **Board of Appeals** ~~board of zoning appeals~~ shall consider the results of the needs
2620 analysis and the planning commission's recommendation in making its decision on any
2621 request for a special exception for a shopping center. **A final comprehensive development**
2622 **plan shall not be approved by the planning commission until the Board of Appeals**
2623 **has rendered a decision on the special exception.**

2624 **17.216.070 Signs which may be erected in R-5A, RR-5A and R-8A residential districts.**

2625 Signs which may be erected in residential R-5A, RR-5A and R-8A districts are as follows:

2626 A. Signs as listed in section 17.216.050;

- B. One temporary sign not exceeding thirty-two (32) square feet in area, nonilluminated, identifying a model unit in a townhouse or apartment project;
- C. One nonilluminated or indirectly illuminated sign not exceeding two square feet in area identifying an ongoing management or rental office in an apartment or townhouse project or for a temporary sales office until all units have been sold;
- D. One identification sign for a townhouse or apartment project not to exceed fifty (50) square feet in surface area, which may be reduced by the Board of Appeals ~~board of zoning appeals~~ upon review of the site and size of projects. Such sign may be ground-mounted not to exceed five feet above grade and set back fifteen (15) feet from the curblin or may be a flat wall sign.

17.216.200 General provisions.

- A.
1. No sign, unless excepted by these regulations, shall be erected, constructed, posted, painted, altered, maintained or relocated until a permit has been issued by the director of the department of infrastructure and development. Before any permit is issued, an application provided by the director shall be filed with three sets of drawings and/or specifications as may be necessary to fully advise and acquaint the director with the location, construction, materials, manner of illumination and/or securing or fastening and the number of signs applied for. All signs shall be erected on or before the expiration of six months from the date of issuance of the permit; otherwise a new permit shall be required. Fees for sign permits shall be in accordance with the fee schedule adopted by ordinance, a copy of which is maintained in the office of the department of infrastructure and development. Each sign requiring a permit shall be clearly marked with the permit number and name of the person or firm placing the sign on the premises.
 2. Where the director of the department of infrastructure and development determines that an application for a sign is either prohibited under section 17.216.030 or is not permitted to be erected in its applicable district, the director shall deny the permit.
 3. Any interested party may submit within ~~thirty (30)~~ **twenty-one (21)** days from the issuance or denial of the permit a written appeal to the Board of Appeals ~~board of zoning appeals~~, which shall promptly hear that appeal at a public meeting. ~~A majority vote of the board shall either affirm the decision of the director or shall reverse the decision.~~
- B. The following signs do not require a permit as required in subsection (A) of this section; provided, they are in compliance with section 17.216.030:
1. Public Signs. Signs erected by or required to be erected by any government agency;
 2. Changing of copy on a bulletin board, poster board, display easement, outdoor advertising structure or marquee;
 3. Temporary (as defined in section 17.216.020) instructional signs not exceeding two square feet in area or three feet in height;
 4. Signs on trucks, buses or other vehicles while in use in the normal course of business;
 5. Nonilluminated signs, not exceeding six square feet in area, with letters not exceeding one foot in height, painted, stamped, perforated or stitched on the surface area of an awning, canopy, roller curtain or umbrella;
 6. Memorial tablets or signs and historic markers;
 7. Flags and insignias of bona fide civic, charitable, fraternal and welfare or religious organizations and national flags and flags of political subdivisions of the United States;

2671 provided, there are no more than three flags, any one of which may not exceed twenty (20)
2672 square feet on any single lot;

2673 8. Banners. One banner of no more than thirty-two (32) square feet in area for no more than
2674 fourteen (14) consecutive days in any year;

2675 9. Permanent signs on vending machines and dispensers such as gasoline pumps;

2676 10. Signs not exceeding two square feet locating utility facilities;

2677 11. One or more political campaign signs which, in aggregate, do not exceed a total of thirty-
2678 two (32) square feet in area, set back at least fifteen (15) feet from the curbline, on any
2679 privately owned lot, except where a building is located less than fifteen (15) feet from the
2680 curbline and, in that event, the setback is the lesser of fifteen (15) feet or the distance
2681 between the building and the curbline;

2682 12. Nonbusiness signs (which are not outdoor advertising structures as defined in section
2683 17.216.020) may be erected for a period not to exceed ninety (90) days in any calendar
2684 year by or for the owner or lawful occupant of any lot or structure which signs, in aggregate,
2685 do not exceed a total of six square feet in area, nonilluminated. Such signs must be set back
2686 at least fifteen (15) feet from the curbline on any lot or affixed to an occupied dwelling,
2687 structure or building, except where such dwelling, structure or building is located less than
2688 fifteen (15) feet from the curbline and, in that event, the setback is the lesser of fifteen (15)
2689 feet or the distance between the dwelling structure or building and the curbline;

2690 13. Temporary (as defined in section 17.216.020) real estate signs as specified in section
2691 17.216.050(E), which have a maximum area of eight square feet, nonilluminated;

2692 14. Temporary (as defined in section 17.216.020) construction signs as specified in section
2693 17.216.050(G);

2694 15. Name and address signs not exceeding one for each principal business or use on a premises
2695 and not exceeding two square feet in area;

2696 16. Temporary (as defined in section 17.216.020) directional signs as specified in section
2697 17.216.050(K).

2698 C. The following temporary signs or displays may be permitted upon written approval of the director
2699 of the department of infrastructure and development:

2700 1. Signs advertising a special civic or cultural event such as a fair or exposition, play, concert
2701 or meeting, sponsored by a governmental or charitable organization;

2702 2. Special decorative displays used for holidays, public demonstrations or promotion for
2703 nonpartisan civic purposes;

2704 3. Special sales promotion displays, in districts where sales are permitted, including displays
2705 incidental to the opening of a new business.

2706 D. Signs which are allowed to be lighted may be lighted; provided, that the light illuminating any sign
2707 shall be shaded, shielded or directed so that it shall not adversely affect surrounding properties or
2708 the vision of drivers or pedestrians on public or private rights-of-way or parking areas.

2709 E. No business ground sign may be located closer than twenty-five (25) feet from a residentially zoned
2710 property, and no wall sign shall be placed on the side or rear of a building adjoining a residential
2711 district.

- 2712 F. Wherever a use for which a business ground sign is permitted has frontage on more than one street,
2713 one additional ground sign may be permitted with a total surface area not to exceed one-half that
2714 which is permitted for the first ground sign.
- 2715 G. Setbacks for signs shall be measured from the curblin where existing or proposed, except that
2716 wherever a city or state right-of-way fifteen (15) feet or more in width is maintained beyond the
2717 curblin, setbacks for all ground signs shall be no less than five feet from the right-of-way line.
- 2718 H. Heights of signs shall be measured from the ground to the top edge of the rectangle enclosing the
2719 sign surface area, except for roof signs. Wherever the ground on which the sign is to be located is
2720 below the grade of the roadway for which the sign is designated to be viewed, the height of the sign
2721 shall be measured from the grade level of the curblin along such roadway.
- 2722 I. No ground sign shall be located so as to substantially obstruct the view of a ground sign on
2723 adjoining property when viewed from a distance of two hundred (200) feet at any point four feet
2724 above the roadway grade of the traffic lane closest to the street property line.
- 2725 J. No sign may be arranged or located in any district so that it interferes with traffic through glare,
2726 through blocking of reasonable sight lines for streets, sidewalks or driveways or through confusion
2727 with a traffic control device.
- 2728 K. A sign advertising a nonconforming business or industrial use located in a residential district shall
2729 conform to the sign regulations set forth in section 17.216.080.
- 2730 L. In any district, the surface area of one ground sign may be increased by twenty-five (25) percent if
2731 the permitted wall sign surface area is reduced by fifty (50) percent.

2732 **17.216.210 Nonconforming signs.**

- 2733 A. A legally nonconforming sign, except outdoor advertising structures, shall be any sign which on
2734 the effective date of this title was lawfully existing, having been lawfully erected under any prior
2735 zoning or other ordinance pertaining to signs and having been lawfully maintained since that time,
2736 but which sign does not conform to the regulations for signs established by this chapter.
- 2737 B. A lawful nonconforming sign, except outdoor advertising structures, may continue, provided that
2738 the owner and/or user can provide a notarized statement that the sign was constructed in accordance
2739 with state and local regulations in effect at the time of construction. Such statement shall contain:
- 2740 1. The name and address of the owner of the sign and the owner of the property on which the
2741 sign is located;
- 2742 2. The location of the sign in relation to existing or proposed buildings;
- 2743 3. The size, height, setback and description of the sign;
- 2744 4. The date of erection of the sign and the permit number, if applicable.
- 2745 C. A nonconforming sign, except outdoor advertising structures, which is fifty (50) percent or more
2746 damaged or destroyed or becomes substandard under any applicable city code to the extent that the
2747 sign becomes a hazard or danger shall terminate and shall be removed within thirty (30) days from
2748 the date of notification for removal from the director of the department of infrastructure and
2749 development.
- 2750 D. All outdoor advertising structures of whatever value in the central business district are
2751 nonconforming as of the date of enactment of this title, May 23, 1983, and by May 23, 1991, shall
2752 be removed or conform to the standards set forth in subsection E of this section.
- 2753 E. All outdoor advertising structures of whatever number, size and value in the city of Salisbury, other
2754 than those in the central business district, are nonconforming as of August 13, 1990. By the later

of January 1, 1994, or January 1st of the year following the tenth anniversary of the issuance of the last building permit for the outdoor advertising structure issued by the city prior to August 13, 1990, all outdoor advertising structures shall either be removed or conform to the following standards, which shall also apply to all existing outdoor advertising structures which, after August 13, 1990, are either replaced entirely or are reconstructed or repaired such that the cost of such reconstruction or repair exceeds fifty (50) percent of the replacement cost of the entire outdoor advertising structure at the time of such reconstruction or repair, as follows:

1. The number of outdoor advertising structures on a lot and the number of faces on any outdoor advertising structure may not be increased from the number which exists on such lot as of the date of final passage of this chapter.
2. Any outdoor advertising structure shall be set back twenty-five (25) feet from the curbline of all streets.
3. No outdoor advertising structure shall be located closer than one hundred (100) feet to either a city or county residential zoning district.
4. An outdoor advertising structure face shall be limited to one message per face and shall not exceed a total of one hundred (100) square feet in surface area, except for faces which, on August 13, 1990, exceeded three hundred sixty (360) square feet, exclusive of trim, which shall not exceed a total of three hundred (300) square feet in surface area.
5. All faces on any outdoor advertising structure shall be placed back-to-back.
6. Each outdoor advertising structure face shall be framed with trim work which shall be no smaller than six inches and no larger than one foot. The area of the trim shall not be considered in determining the total square footage of surface area.
7. No outdoor advertising structure face shall exceed a vertical dimension of fourteen (14) feet nor a total horizontal dimension of twenty-five (25) feet.
8. No outdoor advertising structure shall exceed twenty-five (25) feet in height.
9. The base of each outdoor advertising structure at ground level shall be surrounded at each of its base supports by a five-foot landscaped area consisting of flowering trees and evergreen shrubs. Each support pole shall be landscaped. The five-foot landscaped area shall be measured from the outside of said support pole entirely around said pole.
10. All outdoor advertising structures and faces shall be kept repaired and properly painted and maintained.
11. Each outdoor advertising structure shall comply with the licensing provisions of section 17.216.240.
12. Any outdoor advertising structure existing outside the city limits which is annexed into the city limits after August 13, 1990, shall be considered to have existed on August 13, 1990.
13. No existing outdoor advertising structure which exists on August 13, 1990, shall be increased in size or height from the size and height that existed on August 13, 1990.
14. No illegal outdoor advertising structure may continue in existence, and the same shall be removed. This chapter does not make legal any illegal outdoor advertising structure.
15. Any sign, display or device allowed under this chapter may contain, in lieu of any other copy, any otherwise lawful noncommercial message that does not direct attention to a business operated for profit or to a commodity or service for sale and that complies with all other requirements of this chapter.

2798 16. Any variances from the operation of the foregoing standards shall be pursuant to the
2799 provisions of chapter 17.16, Article II, except that in addition to the criteria for approval
2800 contained in chapter 17.16, Article II, the **Board of Appeals** ~~board of zoning appeals~~ may
2801 also consider the following:

- 2802 a. Whether the strict application of the height and setback limitations will prevent the
2803 owner of the outdoor advertising structure from continuing the operation of the
2804 outdoor advertising structure;
- 2805 b. Whether the obligation of the owner of the outdoor advertising structure under any
2806 lease or advertising obligation which existed on April 24, 1989, extends beyond
2807 the date upon which the outdoor advertising structure is required to conform to the
2808 standards contained in this subsection E of this section;
- 2809 c. Whether for practical reasons it will be a hardship or unduly burdensome on the
2810 owner of the outdoor advertising structure to comply with the landscaping
2811 requirements contained in this subsection.

2812 **17.216.230 Unusual signs and displays.**

2813 Applications for unusual signs or displays which give rise to questions of interpretation of these regulations
2814 may be referred by the director of the department of building, permitting and inspections to the **Board of**
2815 **Appeals** ~~board of zoning appeals~~ for the purpose of interpretation by the board and recommendation for
2816 action on the application to the director.

2817 **17.220.020 Landscaping or screening requirements.**

2818 Wherever either landscaping or screening is required by this title, all such areas shall be provided in
2819 accordance with the requirements listed below and the requirements set forth in the special development
2820 standard chart in section 17.220.040.

2821 A. Screening.

- 2822 1. Building Permit Requirements. Wherever landscaping or screening is required by this title
2823 without the necessity of plan approval by the commission and in order to assure compliance
2824 with either the landscaping or screening requirements of this chapter, either landscaping or
2825 screening plans shall be submitted to the director of the department of infrastructure and
2826 development for review and approval as a part of the application for a building permit or
2827 prior to the issuance of any building permit. Said plan or plans may be submitted as separate
2828 documents or as a part of the required site plan and, if required by the director, shall be in
2829 sufficient detail to show:

- 2830 a. The approximate location of neighboring homes or other buildings adjoining the
2831 proposed development site;
- 2832 b. The approximate location of all wooded areas of branches or natural, intermittent
2833 drainage channels;
- 2834 c. The approximate location of any outstanding individual trees or special features
2835 on the development site;
- 2836 d. The location, name, height and diameter of trees and the size of shrubbery to be
2837 planted within landscaped or screened area;
- 2838 e. The height, length, type and location of fencing to be used for screening purposes.

- 2839 2. Screening shall be required along the lot line abutting the street to create a visual barrier
2840 which shall consist of no less than section 17.220.050(K) or either of section 17.220.050(C)
2841 or (D), in combination with section 17.220.050(F), (G), (H), (I), (J) or (L):

- 2842 a. Where a district in an industrial category (listed in Chapters 17.72 and 17.76) is
2843 located across the street from a residential district within or adjoining the city of
2844 Salisbury;
- 2845 b. Where a district boundary line crosses a lot and an industrial use is extended over
2846 the entire lot in a residential district by special exception.
- 2847 3. A five-foot-wide screening area shall be required wherever a parking lot adjoins a
2848 residential property along all lot lines abutting the residential lot.
- 2849 4. Screening is required around three sides of all off-street loading and unloading
2850 areas and solid waste and refuse disposal areas and shall consist of whichever is
2851 not less than either section 17.220.050(A), (B) or (H), depending on the height of
2852 the facility to be screened.

2853 B. Landscaping.

- 2854 1. A twenty-five-foot-wide landscaped area shall be provided:
- 2855 a. Along the lot line abutting a street, where a district of a business category (listed
2856 in Chapters 17.28, 17.32, 17.36, 17.40, 17.44, 17.84, 17.88, 17.92 and 17.96) is
2857 located across the street from a residential district;
- 2858 b. Along the lot line abutting a residential street, where a district boundary line
2859 crosses a lot and a business use is extended over the entire lot in a residential
2860 district by special exception;
- 2861 c. Provided that all such areas along all lot lines abutting a street shall be compatible
2862 with the adjoining residential district and shall consist of no less than any
2863 combination of section 17.220.050(E), (F), (G), (H), (I), (J) and (L).
- 2864 2. Parking Lots. Landscaping requirements and screening requirements shall be as follows:
- 2865 a. All Parking Lots.
- 2866 i. Perimeter Requirements.
- 2867 (A) Setback Area. Three-foot-wide areas from interior property lines
2868 and back of sidewalks and eight-foot-wide areas from curblines where no
2869 sidewalk exists to the edge of a parking lot are required to be landscaped
2870 with any combination of grass, shrubs, trees and decorative plantings.
- 2871 (B) Screening Areas. A five-foot-wide screening area along all
2872 property lines is required where a parking lot adjoins a residential use, such
2873 area to be landscaped with any combination of section 17.220.050(E)
2874 through (L).
- 2875 ii. Interior Requirements for Islands.
- 2876 (A) Landscaped islands an average of eight feet wide, bordered by six-
2877 inch-high asphalt or concrete curbs shall be provided at the ends of all
2878 parking bays abutting an aisle or driveway and are required to be
2879 landscaped with trees, shrubs, grass and similar vegetation which may be
2880 combined with crushed stone or other decorative materials.
- 2881 (B) Apartment and townhouse parking lots. In addition to the above
2882 island requirement, no more than ten parking spaces may be located in a
2883 continuous arrangement without a landscaped divider at least nine feet in
2884 width separating groups of every ten spaces, provided that for groups of

2885 ten or more spaces but less than an even number, the nine-foot divider may
2886 be centered as evenly as possible.

2887 b. Parking Lots of Twenty (20) or More Spaces. For any parking lot of twenty (20)
2888 or more spaces, not less than ten percent of the interior shall be landscaped, in
2889 accordance with the following general guides:

2890 i. The primary landscaping material shall be trees capable of providing shade
2891 at maturity;

2892 ii. Shrubbery, hedges and other planting materials may be used as
2893 complements, and landscaping and planting areas must be reasonably
2894 dispersed throughout the parking lot;

2895 iii. The interior dimensions and height of any planting island or planting
2896 median must be sufficient to protect the landscaping materials planted
2897 therein and to ensure proper growth;

2898 iv. Interior landscaping of parking lots shall be in addition to peripheral
2899 landscaping required herein where applicable;

2900 v. All other provisions for the design and landscaping of parking lots as
2901 required by Chapters 17.96, 17.168 and 17.224 shall apply.

2902 c. Alternative Parking Lot Design. In lieu of the ten-percent interior landscaping
2903 requirements, an applicant has the option of designing a parking lot in accordance
2904 with the specific standards listed below; provided, that this provision shall apply
2905 only in those instances where a plan approval is not required by the planning
2906 commission.

2907 i. Perimeter Landscaping. A three-foot landscaped area adjacent to all
2908 driveways leading to the lot and around the outer edges of all parking lots.

2909 ii. Screening Areas. A five-foot screening area adjacent to all residential uses
2910 to be landscaped with any combination of section 17.220.050(E) through
2911 (L).

2912 iii. Islands. Landscaped islands, each an average of eight feet wide, bordered
2913 by six-inch-high asphalt or concrete curbs, shall be provided at the ends of
2914 all parking bays abutting an aisle or driveway which are required to be
2915 landscaped with trees, shrubs, grass and similar vegetation which may be
2916 combined with crushed stone or other decorative materials.

2917 iv. Dividers. No more than fifteen (15) parking spaces may be located in a
2918 continuous arrangement without a landscape divider at least nine feet in
2919 width separating groups of fifteen (15) spaces; provided, that for fifteen
2920 (15) or more spaces but less than an uneven number, the nine-foot divider
2921 may be centered as evenly as possible.

2922 3. Special Landscaping Guideline Areas. Where landscaping guidelines are established by the
2923 planning commission or city council for any specific street, highway, neighborhood, area
2924 or portion of a district, landscaping and screening shall be provided in accordance with
2925 such guidelines.

2926 C. Landscaping Plan or Screening Plan Requirements.

2927 1. Building Permit Requirements. Wherever landscaping or screening is required by this title
2928 without the necessity of plan approval by the commission and in order to assure compliance

with either the landscaping or screening requirements of this chapter, either landscaping or screening plans shall be submitted to the Director of the Department of Infrastructure and Development for review and approval as a part of the application for a building permit or prior to the issuance of any building permit. Said plan or plans may be submitted as separate documents or as a part of the required site plan and, if required by the director, shall be in sufficient detail to show:

- a. The approximate location of neighboring homes or other buildings adjoining the proposed development site;
- b. The approximate location of all wooded areas or branches or natural, intermittent drainage channels;
- c. The approximate location of any outstanding individual trees or special features on the development site;
- d. The location, name, height and diameter of trees and the size of shrubbery to be planted within landscaped or screened area;
- e. The height, length, type and location of fencing to be used for screening purposes.

2. Plan Approval Requirements. Wherever a landscaping plan or screening plan is required by this title as a part of a comprehensive development plan, certificate of design and site plan approval, a site plan or a planned development district or any project approval to be approved by the planning commission or **Board of Appeals** ~~board of zoning appeals~~, it shall:

- a. Be prepared by a registered landscape architect, architect, engineer, landscape designer or competent nurseryman;
- b. Consist of one or more sheets, drawn to scale, or included as a part of a site plan, including the following information:
 - i. The approximate location of neighboring homes or other buildings in the vicinity of the proposed development site,
 - ii. The location and footprint of all proposed buildings, structures and facilities on the site and proposed landscaping,
 - iii. The approximate location of branches or natural, intermittent drainage channels, ponds, wooded areas or other special features on the development site,
 - iv. A tabular summary of name, size and height or diameter and quantity of shrubbery and trees to be planted within landscaped or screened areas,
 - v. The height, length, type and location of fencing and related planting areas to be used for screening purposes;
- c. Show landscaping proposals for the following areas or facilities where applicable to the type of development proposed:
 - i. Foundation plantings,
 - ii. Dumpster or other solid waste collection area screening,
 - iii. Stormwater management retention or detention area landscaping,
 - iv. Aboveground utility box screening,
 - v. Parking lot plantings,

- 2971 vi. Perimeter plantings,
2972 vii. Recreation facilities landscaping,
2973 viii. Loading and unloading space screening;
2974 d. Be consistent with the provisions of this chapter;
2975 e. Be consistent with the specific requirements of a site plan or comprehensive
2976 development plan and the specific requirements of this title for either the type of
2977 development proposed or the planned development district being requested;
2978 f. Unless otherwise specified by this title, landscaping, as a minimum, shall consist
2979 of a combination of the following species at the sizes specified below, arranged in
2980 such a manner as to complement the proposed structure or project:
2981 i. Deciduous trees with a height of more than thirty (30) feet at maturity, two
2982 to two and one-half (2½) inches in caliper and six feet or more in height at
2983 planting,
2984 ii. Deciduous trees with a height of less than thirty (30) feet at maturity, one
2985 and one-half (1½) to two inches in caliper and four feet in height at
2986 planting,
2987 iii. Evergreen trees at a height of three and one-half (3½) to four feet or greater
2988 at planting,
2989 iv. Evergreen and deciduous shrubs at a height of eighteen (18) to twenty-
2990 four (24) inches or greater at the time of planting,
2991 v. As an alternative, an applicant may propose and the planning commission
2992 may approve:
2993 (A) The retention of natural growth on the site to meet the
2994 requirements of this subsection, depending on width, density and type of
2995 natural growth; provided, that the commission may require additional
2996 supplemental plantings to obtain the effect intended by the purpose and
2997 intent of these requirements;
2998 (B) Landscaping consisting of a combination of the plantings listed in
2999 section 17.220.050 and alternate plantings of various species and sizes;
3000 (C) Landscaping consisting of a combination of architectural
3001 materials, including fountains, special bricks, decorative features, statues
3002 and other combinations of landscaping features, materials and plantings;
3003 (D) Dwarf and other species may be used only for complementary
3004 plantings, and no minimum sizes shall be required.

3005 **17.220.110 More stringent requirements to govern.**

- 3006 A. Wherever screening and landscaping required by another chapter of this title which is more
3007 stringent than this chapter then that chapter shall govern.
3008 B. Wherever the planning commission, **Board of Appeals** ~~board of zoning appeals~~ or city council is
3009 required to review and approve either a landscaping or screening plan and its approval requires
3010 more stringent landscaping and screening than required by this chapter, the decision of the
3011 appropriate board, commission or council shall govern.

- C. Once a landscaping plan or screening and landscaping plan is approved by the council, commission or board, building permits shall be issued consistent with all approved plans.

17.232.020 Criteria—Conditions.

A special exception listed in this title shall be permitted, altered or denied by the **Board of Appeals** ~~board of zoning appeals~~ as authorized in section 17.232.010, in accordance with the standards and procedures of this chapter. In judging whether or not a special exception shall be approved or denied, the **Board of Appeals** ~~board of zoning appeals~~ shall weigh its appropriateness and desirability or public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, in approving such use, shall consider the following criteria, except that the board, in making its decision, may waive those criteria it finds to be not applicable. In the case of a use existing prior to the effective date of this title classified as a special exception, a change in the use or in lot area or an addition to or enlargement of structure shall conform to the requirements for a special exception.

A. Criteria for Consideration of Approval.

1. Decisions of the circuit court for Wicomico County and appellate courts of Maryland;
2. The nature of the proposed site, including its size and shape and the proposed size, shape and arrangement of structures;
3. The resulting traffic patterns and adequacy of proposed off-street parking and loading areas;
4. The nature of the surrounding area and the extent to which the proposed use might impair its present and future development;
5. The proximity of dwellings, churches, schools, public structures and other places of public gathering;
6. Accessibility of the premises for fire and police protection;
7. Accessibility of light and air to the premises and to properties in the vicinity;
8. The type and location of adequate utilities, access roads, drainage and other necessary facilities that have been or will be provided;
9. The preservation of historic, cultural and environmental landmarks;
10. The metro core plan or any other plan for development of the area affected approved by the planning commission or city council;
11. All applicable standards and requirements of this title;
12. Any other matter considered to be in the interest of the general welfare.

B. Criteria for Approval. In approving a special exception, the board shall find the following criteria are either met, can be met by imposition of conditions or are not applicable:

1. The proposal will be consistent with the metro core plan, the objectives of the zoning ordinance and any other applicable policy or plan adopted by the planning commission or city council for development of the area affected;
2. The location, size, design and operating characteristics under the proposal will have minimal adverse impact on the livability, value or appropriate development of abutting properties and the surrounding area;
3. The design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrants;

- 3054 4. The proposal will not be detrimental to or endanger the public health, security, general
3055 welfare or morals;
- 3056 5. The proposal will not impair an adequate supply of light and air to adjacent property or
3057 overcrowd the land or create any undue concentration of population or substantially
3058 increase the congestion of the streets or create hazardous traffic conditions or increase the
3059 danger of fire or otherwise endanger the public safety;
- 3060 6. The proposal will not adversely affect transportation or unduly burden water, sewer,
3061 school, park, stormwater management or other public facilities;
- 3062 7. The proposal will preserve or protect environmental or historical assets of particular
3063 interest to the community;
- 3064 8. The applicant has a bona fide intent and capability to develop and use the land as proposed
3065 and has no inappropriate purpose for submitting the proposal, such as to artificially alter
3066 property value for speculative purposes.
- 3067 C. Placing Conditions on a Special Exception.
- 3068 1. In approving a special exception or alteration of an existing special exception, the board
3069 may impose, in addition to those standards and requirements expressly specified for a special
3070 exception, additional conditions which it finds necessary to avoid any possible detrimental impact
3071 on adjoining properties and to otherwise protect the best interest of the surrounding area or the
3072 community as a whole. These conditions may include, but are not limited to, the following:
- 3073 a. Limiting the manner in which the use is conducted, including restricting the time
3074 a certain activity may take place and restraints to minimize such environmental
3075 effects as noise, vibration, air pollution, glare and odor;
- 3076 b. Establishing a special yard or other open space requirement or lot area or
3077 dimension;
- 3078 c. Limiting the height, size or location of a building or other structure;
- 3079 d. Designating the size, number, location and nature of vehicle access points;
- 3080 e. Increasing the amount of street dedication, roadway width or improvement of a
3081 parking area or truck loading area;
- 3082 f. Designating the size, location, screening, drainage, surfacing or other
3083 improvement of a parking area or truck loading area;
- 3084 g. Limiting or otherwise designating the number, size, location, height and lighting
3085 of signs;
- 3086 h. Limiting the location and intensity of outdoor lighting and requiring its shielding;
- 3087 i. Requiring diking, screening, landscaping or fencing, in addition to the
3088 requirements of chapter 17.220, where applicable, to protect adjoining or nearby
3089 property and designating standards for its installation and maintenance;
- 3090 j. Designating the size, height, location and materials for a fence;
- 3091 k. Protecting and preserving existing trees, vegetation, water resources, wildlife
3092 habitat or another significant natural resource;
- 3093 l. Imposing any other condition to permit the development in conformity with
3094 subsection (B)(1) of this section;

2. Failure to comply with the conditions imposed by the board shall constitute a violation of this title.

BE IT FURTHER ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND, as follows:

Section 2. It is the intention of the Mayor and Council of the City of Salisbury that each provision of this Ordinance shall be deemed independent of all other provisions herein.

Section 3. It is further the intention of the Mayor and Council of the City of Salisbury that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged invalid, unconstitutional or otherwise unenforceable under applicable Maryland or federal law, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and all other provisions of this Ordinance shall remain and shall be deemed valid and enforceable.

Section 4. The recitals set forth hereinabove are incorporated into this section of the Ordinance as if such recitals were specifically set forth at length in this Section 4.

Section 5. This Ordinance shall take effect from and after the date of its final passage.

THIS ORDINANCE was introduced and read at a Meeting of the Mayor and Council of the City of Salisbury held on the _____ day of _____, 2022 and thereafter, a statement of the substance of the Ordinance having been published as required by law, in the meantime, was finally passed by the Council of the City of Salisbury on the _____ day of _____, 2022

ATTEST:

Kimberly R. Nichols, City Clerk

John R. Heath, City Council President

Approved by me, this _____ day of _____, 2022.

Jacob R. Day, Mayor