

ORDINANCE NO. 2769

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

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

52 **12.10.060 Appeal.**

- 53 A. Any person wishing to appeal a determination of the director of the Housing and Community
- 54 Development Department regarding the provisions of this chapter shall file a written notice of
- 55 appeal with the Housing and Community Development Department within twenty-one (21) days
- 56 after receipt of a notice sent pursuant to the provisions of this chapter. The notice of appeal shall
- 57 contain a statement of grounds for the appeal. The notice of appeal shall be accompanied by a fee
- 58 as set from time to time by the city council ~~of one hundred dollars (\$100.00)~~. Municipal
- 59 infraction citations are subject to the jurisdiction of the District Court of Maryland and, once issued,
- 60 are not subject to the provisions of this chapter.
- 61 B. The director of the Housing and Community Development Department shall refer the appeal to the
- 62 Board of Appeals ~~housing board of adjustments and appeals~~ for hearing pursuant to Section
- 63 17.12.090 through 17.12.130 ~~15.24.360~~.
- 64 C. Should the decision of the housing official be overturned by the Board of Appeals ~~housing board~~
- 65 ~~of adjustments and appeals~~ the appellant shall receive a full refund of the ~~one hundred dollar~~

66 ~~(\$100.00)~~ appeal application fee within thirty (30) days of the date of the decision of the **Board of**
67 **Appeals** ~~board~~.

68 **12.40.040 Appeals.**

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

75 B. The director of the department of infrastructure and development shall refer the appeal to the **Board**
76 **of Appeals** ~~housing board of adjustments and appeals~~ for hearing pursuant to Sections ~~15.24.360~~
77 ~~through 15.24.450~~ **17.12.090 through 17.12.130.**

78 **13.28.110 Appeals.**

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

87 **15.16.120 Duties and responsibilities of the floodplain administrator.**

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

89 A. Review applications for permits to determine whether proposed activities will be located in flood
90 hazard areas.

91 B. Interpret floodplain boundaries and provide available base flood elevation and flood hazard
92 information.

93 C. Review applications to determine whether proposed activities will be reasonably safe from flooding
94 and require new construction and substantial improvements to meet the requirements of these
95 regulations.

96 D. Review applications to determine whether all necessary permits have been obtained from the
97 Federal, State or local agencies from which prior or concurrent approval is required; in particular,
98 permits from MDE for any construction, reconstruction, repair, or alteration of a dam, reservoir, or
99 waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or
100 any change of the course, current, or cross section of a stream or body of water, including any
101 change to the one hundred (100) year frequency floodplain of free-flowing nontidal waters of the
102 State.

103 E. Verify that applicants proposing an alteration of a watercourse have notified adjacent communities
104 and MDE (NFIP State Coordinator), and have submitted copies of such notifications to FEMA.

105 F. Approve applications and issue permits to develop in flood hazard areas if the provisions of these
106 regulations have been met, or disapprove applications if the provisions of these regulations have
107 not been met.

- 108 G. Inspect or cause to be inspected, buildings, structures, and other development for which permits
109 have been issued to determine compliance with these regulations or to determine if non-compliance
110 has occurred or violations have been committed.
- 111 H. Review Elevation Certificates and require incomplete or deficient certificates to be corrected.
- 112 I. Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to
113 maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the
114 City of Salisbury, Maryland, within six months after such data and information becomes available
115 if the analyses indicate changes in base flood elevations or boundaries.
- 116 J. Maintain and permanently keep records that are necessary for the administration of these
117 regulations, including:
- 118 1. Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps
119 and current effective studies and maps) and Letters of Map Change; and
- 120 2. Documentation supporting issuance and denial of permits, Elevation Certificates,
121 documentation of the elevation (in relation to the datum on the FIRM) to which structures
122 have been floodproofed, other required design certifications, variances, and records of
123 enforcement actions taken to correct violations of these regulations.
- 124 K. Enforce the provisions of these regulations, investigate violations, issue notices of violations or
125 stop work orders, and require permit holders to take corrective action.
- 126 L. Advise the **Board of Appeals** ~~Building Board of Adjustments and Appeals~~ regarding the intent of
127 these regulations and, for each application for a variance, prepare a staff report and
128 recommendation.
- 129 M. Administer the requirements related to proposed work on existing buildings:
- 130 1. Make determinations as to whether buildings and structures that are located in flood hazard
131 areas and that are damaged by any cause have been substantially damaged.
- 132 2. Make reasonable efforts to notify owners of substantially damaged structures of the need
133 to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant
134 repair of substantially damaged buildings except for temporary emergency protective
135 measures necessary to secure a property or stabilize a building or structure to prevent
136 additional damage.
- 137 N. Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances,
138 other actions which may include but are not limited to: issuing press releases, public service
139 announcements, and other public information materials related to permit requests and repair of
140 damaged structures; coordinating with other Federal, State, and local agencies to assist with
141 substantial damage determinations; providing owners of damaged structures information related to
142 the proper repair of damaged structures in special flood hazard areas; and assisting property owners
143 with documentation necessary to file claims for Increased Cost of Compliance (ICC) coverage
144 under NFIP flood insurance policies.
- 145 O. Notify the Federal Emergency Management Agency when the corporate boundaries of the City of
146 Salisbury, Maryland have been modified and:
- 147 1. Provide a map that clearly delineates the new corporate boundaries or the new area for
148 which the authority to regulate pursuant to these regulations has either been assumed or
149 relinquished through annexation; and
- 150 2. If the FIRM for any annexed area includes special flood hazard areas that have flood zones
151 that have regulatory requirements that are not set forth in these regulations, prepare

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

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

160 **15.16.360 General.**

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

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

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

176 A record of all variance actions, including justification for issuance shall be maintained pursuant to Section
177 15.16.120.J.

178 **15.16.370 Application for a variance.**

179 A. The owner of property, or the owner's authorized agent, for which a variance is sought shall submit
180 an application for a variance to the Floodplain Administrator.

181 B. At a minimum, the application shall contain the following information: name, address, and
182 telephone number of the applicant and property owner; legal description of the property; parcel
183 map; description of the existing use; description of the proposed use; site map showing the location
184 of flood hazard areas, designated floodway boundaries, flood zones, base flood elevations, and
185 flood protection setbacks; description of the variance sought; and reason for the variance request.
186 Variance applications shall specifically address each of the considerations in Section 15.16.380.

187 C. If the application is for a variance to allow the lowest floor of a building or structure below the
188 applicable minimum elevation required by these regulations, the application shall include a
189 statement signed by the owner that, if granted, the conditions of the variance shall be recorded on
190 the deed of the property.

191 D. If the application is for a variance for a historic structure pursuant to Section 15.16.220 of these
192 regulations, the application shall contain documentation that the proposed work does not preclude
193 the structure's continued eligibility and designation as a historic structure. The documentation shall
194 be obtained from a source that is authorized to make such determinations (see definition of "
195 Historic Structure").

196 **15.16.380 Considerations for variances.**

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

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

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

223 **15.16.390 Limitations for granting variances.**

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

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

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

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

243 **15.21.070 Appeals procedures.**

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

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

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

256 **15.22.080 Appeals procedure.**

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

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

265 C. When hearing appeals under this chapter, the board shall follow the procedures set forth in Chapter
266 17.12.090 through 17.12.130 ~~15.24~~ of this code.

267 **~~Article X Means of Appeal~~**

268 **~~15.24.360 Establishment of board.~~**

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

273 **~~15.24.370 Terms of office.~~**

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

277 **~~15.24.380 Quorum.~~**

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

282 **15.24.390 Application for appeal.**

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

290 ~~**15.24.391 Request for Waiver of Fee.**~~

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

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

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

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

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

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

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

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

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

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

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

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

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

316 **15.24.400 Effect of failure to appeal.**

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

319 **15.24.410 Scope of hearing on appeal.**

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

322 **~~15.24.420 Staying of order under appeal.~~**

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

325 **~~15.24.430 Conduct of hearing.~~**

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

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

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

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

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

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

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

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

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

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

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

347 **15.24.440 Variations and modifications.**

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

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

355 **15.24.450 Decisions.**

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

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

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

362 **15.24.1380 Appeals.**

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

368 **15.24.1590 Appeals.**

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

374 **15.24.1710 Appeal procedure.**

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

380 **15.26.120 Appeals procedure.**

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

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

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

393 D. Should the decision of the housing official be overturned by the Board of Appeals ~~Housing Board~~
394 ~~of Adjustments and Appeals~~, the appellant shall receive a full refund of the ~~one hundred dollar~~
395 ~~(\$100.00)~~ appeal application fee within thirty (30) days of the date of the decision of the Board.

396 **15.27.060 Appeal.**

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

- 403 B. The Director of the Housing and Community Development Department shall refer the appeal to the
404 **Board of Appeals** ~~housing board of adjustments and appeals. The board shall meet monthly, or~~
405 ~~more frequently at the call of the chair, to hear appeals. The board shall notify the owner in writing~~
406 ~~of the time and place of the hearing, pursuant to the rules of the housing board of adjustments and~~
407 ~~appeals.~~
- 408 C. When hearing appeals under this chapter, the board shall follow the procedures set forth in Chapter
409 **17.12.090 through 17.12.130** ~~15.24.~~
- 410 D. If the **Board of Appeals** ~~board~~ overturns the decision of the housing official, the owner shall be
411 refunded the ~~one hundred dollar (\$100.00)~~ appeal fee.

412 **16.16.010 Preliminary plat.**

- 413 A. Scope—Procedure. A preliminary subdivision plat is required to be submitted to the planning
414 commission for review and approval for all proposed major subdivisions, as defined by Section
415 16.08.020, and any subdivision where five lots have already been subdivided from a parcel of
416 record. This provision shall apply regardless of ownership or change in ownership since the original
417 lots were subdivided.
- 418 1. The preliminary plat shall be submitted to the planning department which is from time to
419 time established by the planning commission.
 - 420 2. The planning commission shall consider such preliminary plat and take action thereon at a
421 meeting open to the public but the plat shall not be scheduled for action by the commission
422 until the director of infrastructure and development certifies that all requirements of these
423 regulations applying to a preliminary plat have been met.
 - 424 3. In the event of a disagreement between the applicant and the director of infrastructure and
425 development concerning the application of this title, either party may, no sooner than sixty
426 (60) days after the plat is received by the department of infrastructure and development,
427 submit the plat to the commission for its review.
 - 428 4. No plat shall be acted upon by the planning commission except at a public meeting, notice
429 of the time and place of which shall be sent by regular mail to the applicant or his
430 representative not less than five days before the date of the meeting.
 - 431 5. The planning commission may approve the preliminary plat with or without conditions or
432 modifications or may disapprove the plat.
 - 433 6. If the planning commission disapproves the plat, reasons therefore shall be submitted in
434 writing to either the applicant or his representative.
 - 435 7. If the commission does not approve, disapprove, table for further consideration, or review
436 and make recommendations on the plat within sixty (60) days after the meeting at which
437 the preliminary plat was first reviewed, the plat shall be deemed approved as submitted,
438 and may be prepared and submitted by the applicant as a final plat.
- 439 B. Drafting Standards. All preliminary plats shall be prepared in accordance with the following
440 drafting standards:
- 441 1. The plat shall be drawn at a scale of one inch equals one hundred (100) feet or other
442 appropriate scale approved by the director of infrastructure and development.
 - 443 2. When more than one sheet is necessary, each sheet shall bear the name of the subdivision
444 and shall be numbered and show its relationship to the total number of sheets.

- 445 3. Where any revision is made, or when a plat is a resubdivision of a previously recorded plat,
446 dashed or light dotted lines shall be used to show features or locations to be changed. Solid
447 lines shall be used to show the existing features.
- 448 4. The perimeter boundary line of the subdivision shall be shown as a solid heavy line and all
449 proposed lots shall be shown solid with lines of lesser thickness and/or different patterns.
- 450 5. All existing parcels within a proposed subdivision shall be shown by a different line pattern
451 or line weight than the proposed lots and clearly labeled.
- 452 6. Easements shall be shown with dotted lines and clearly labeled.
- 453 7. All plats shall be clearly titled "Preliminary—Not for Recording," on a sheet size of either
454 twenty-four (24) inches by thirty-six (36) inches or eighteen (18) inches by twenty-four
455 (24) inches.
- 456 C. Information Required. The preliminary plat shall meet the minimum design standards for the
457 construction of public improvements set forth in Chapter 16.40 and shall give the following
458 information insofar as possible:
- 459 1. The name and location of the proposed subdivision, the name and address of the owner or
460 owners and the name and seal of the surveyor who prepared the plat and an
461 acknowledgment that the professional land surveyor or property line surveyor is duly
462 licensed by the state of Maryland;
- 463 2. The date, geographic scale and a north arrow designating the northerly direction of the Y-
464 axis of the Maryland State Grid Coordinate System;
- 465 3. The location and vicinity map showing relationship of subdivision site to area;
- 466 4. The location of existing and platted property lines, streets, buildings, watercourses, with
467 detailed or approximately one hundred (100) year floodplain delineation, water and sewer
468 lines, railroads, bridges, culverts, drain pipes, and any easements based on an accurate field
469 survey and the names of all adjoining owners or subdivisions;
- 470 5. Plans of proposed sewer or water utility layouts showing feasible connections to existing
471 or proposed systems when required by the director of infrastructure and development. The
472 number of service connections will be determined by the director of the city department of
473 infrastructure and development;
- 474 6. When public sewer and water systems are not available, any proposed individual on-site
475 water supply and/or sewage disposal system must be specifically approved by the city
476 director of infrastructure and development and the county health officer;
- 477 7. The tax map, city property maps, grid and parcel numbers, deed reference, zoning
478 classifications; the water and sewerage plan service area; the tax ditch, and the urban
479 services district in which the subdivision is located, if applicable;
- 480 8. The names, locations, widths and other dimensions of proposed streets, alleys, easements,
481 parks and other open spaces, reservations and stormwater management areas;
- 482 9. Approximate dimensions, lot numbers, block letters, front building lines and any other
483 proposed private setback lines for the proposed lots;
- 484 10. Contours at vertical intervals of not more than one foot, when required by the director of
485 the department of infrastructure and development. The director may require contours of a
486 lesser interval where conditions of the parcel warrant;

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

- 530 1. All such plats shall clearly show the reasons for the commission's action, be legible and
531 drawn to approximate scale.
- 532 2. Once approval has been obtained from the commission, the plat shall be reviewed and
533 approved in accordance with all final plat requirements of this chapter.
- 534 F. Preliminary Plat of Entire Tract. If, after the subdivision of any five lots from a legally established
535 parcel of record, the planning commission determines that it is necessary in order to assure the
536 future coordination of any street, drainage area or other community services or facilities, the
537 commission may require the preparation of a preliminary plat for up to one hundred (100) acres of
538 the entire tract regardless of current ownership or change in ownership since the original lots were
539 subdivided from the property.
- 540 G. Denial of Preliminary Plats. The planning commission may deny approval of any preliminary plat
541 of the subdivision of land if, after investigations conducted or recommendations by the public
542 agencies concerned, it is determined that at least one of the following factors exists in regard to the
543 subdivision:
- 544 1. The land is subject to flooding or is topographically unsuitable for residential occupancy
545 or for such other use and the development or occupancy may increase the danger to health,
546 life, or property, or aggravate erosion or create a flood hazard to future occupants or the
547 general public; or
- 548 2. Inadequate drainage ways or public accessways exist, either on-site or off-site, to serve the
549 proposed development; or
- 550 3. A subdivision is proposed without frontage on a governmentally owned or maintained
551 street or road; or
- 552 4. The health department has determined that the soils on the site or the water supply serving
553 the subdivision is contaminated and development would pose a danger to the health and
554 safety of the public; or
- 555 5. The layout of the lots are such that intensive development of the site will create a safety
556 hazard to the future residents of the subdivision or to the general public; or
- 557 6. The proposed subdivision does not meet the requirements of this title and the applicant is
558 unable to receive a waiver or a variance.
- 559 H. Appeal of Preliminary Plat Denial. All decisions of the commission to deny approval of a
560 preliminary plat may be appealed to the city **Board of Appeals** ~~board of zoning appeals~~ in
561 accordance with the provisions of Chapter 16.52, Appeals.

562 **16.20.010 Final plat.**

- 563 A. Scope—Procedure. Final plats may be submitted to the planning department for consideration by
564 the planning commission at any time during the year for official action at a public meeting.
- 565 1. No final plat shall be acted upon by the planning commission until the director of
566 infrastructure and development verifies that the plat meets the following:
- 567 a. Actual size of lots, as approved by the health department or in conformance with
568 Title 17, Zoning, are shown in the plat;
- 569 b. All requirements for a final plat as required by this chapter and the plat contains
570 the signature of the owner(s), the signature of the surveyor and the signature of the
571 appropriate health department official.

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

- 574 1. The plat shall be drawn at a scale of one inch equals one hundred (100) feet or other
575 appropriate scale approved by the director of infrastructure and development.
- 576 2. Dimensions shall be in feet and decimal parts thereof to the nearest hundreds and bearings
577 in degrees, minutes and seconds.
- 578 3. When more than one sheet is necessary, each sheet shall bear the name of the subdivision
579 and shall be numbered and show its relationship to the total number of sheets.
- 580 4. Where any revision is made, or when a plat is a resubdivision of a previously recorded plat,
581 dashed or light dotted lines shall be used to show features or locations to be changed and
582 solid lines shall be used to show the existing features.
- 583 5. The perimeter boundary line of the subdivision shall be shown as a solid heavy line and all
584 proposed lots shall be shown with lines of lessor thickness and/or different patterns.
- 585 6. All existing parcels within a proposed subdivision shall be shown by a different line pattern
586 or line weight than the proposed lots and clearly labeled.
- 587 7. Easements shall be shown with light dashed lines and clearly labeled.
- 588 8. All said plats shall be clearly titled "Final Subdivision Plat" or "Final Resubdivision Plat."

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

- 590 1. The date, title, name and location of the subdivision, graphic scale and a north arrow
591 referenced to the Maryland Grid Coordinate System;
- 592 2. Location and vicinity map showing the site in relation to area;
- 593 3. The final lines of all streets and roads, alleys lines, lot lines, dimensions and sizes, front
594 building setback lines, lots numbered in numerical order, blocks numbered in alphabetical
595 order; reservations, easements, existing structures and any areas to be dedicated to common
596 use or public use or sites for other than residential use with notes stating their purpose and
597 any limitations thereto;
- 598 4. Sufficient data to readily determine and to reproduce on the ground the location, bearing
599 and length of every street line, boundary line, block line and front building line whether
600 curved or straight. This shall include the radius, central angle, tangent, arc length and chord
601 distance for all curved property lines;
- 602 5. The names and location of adjoining subdivisions and streets and the location and
603 ownership of adjoining unsubdivided property;
- 604 6. The plat shall be legible, drawn accurately and to scale and shall be submitted for
605 recordation using black ink on transparent mylar, or linen or black-line photo process
606 comparable to original quality that will conform to the state's archival standards;
- 607 7. All courses shown on the plat shall be calculated from the plat meridian. The plat shall
608 include a north arrow designating the northerly direction of the Y-axis of the Maryland
609 Grid Coordinate System;
- 610 8. No distance on the plat may be marked, "more or less," except on lines which begin,
611 terminate, or bind on a marsh, stream or any body of water. When binding on water or
612 marsh, a traverse line (meandering line) may be required with tie in distances to water line;

613 9. The plat shall show the position by coordinates of all monuments, and monuments shall be
614 set to delineate all perimeter comers of the subdivision and streets including points of curve
615 and points of tangents. These monuments shall comply with Chapter 56, Section 333(D)
616 of the Annotated Code of Maryland and Code of Maryland Regulations, COMAR
617 09.13.03;

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

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

629 Certificate

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

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

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

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

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

640 15. The following information shall also be shown:

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

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

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

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

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

- 657 f. All final plats for land located in a well head protection area shall be in accordance
658 with the requirements of the city well head protection areas ordinance;
- 659 g. The Paleochannel. All final plats for land located over the paleochannel, the
660 paleochannel line shall be shown;
- 661 h. Wetlands delineation as required by state and/or federal agencies;
- 662 16. Bodies of Water. The location of any watercourse, channel, stream, creek, lake, pond or
663 marsh shall be shown on the final plat. The direction of flow and ebb shall be shown for
664 tidal waters;
- 665 17. Improvements. If any existing or required utilities or improvements are to be installed other
666 than in the streets of such subdivision, then the subdivider shall show upon the plat and
667 dedicate the necessary easements thereof;
- 668 18. Building setback lines as may be proposed on each lot but not less than required by Title
669 17, Zoning, of this code;
- 670 19. The corporate limit lines of the city and any other municipality, if applicable;
- 671 20. Statements or certificates as required by federal, state and/or county agencies concerning
672 floodplains, non-tidal wetlands, tidal wetlands, and other such areas.
- 673 D. Copies. Five copies of the final plat shall be submitted to the planning director for submission to
674 the planning commission and appropriate review agencies.
- 675 1. Sheet sizes shall be either twenty-four (24) inches by thirty-six (36) inches or eighteen (18)
676 inches by twenty-four (24) inches.
- 677 2. When more than one sheet is required, an index sheet of the same size shall be filed
678 showing the name of the subdivision and entire subdivision drawn to scale with the sheets
679 numbered in numerical order as a key.
- 680 3. The planning commission may, after favorable recommendation by the director of
681 infrastructure and development, permit a different scale than required by this chapter.
- 682 E. Denial of Final Plats. The planning commission may deny approval of any final plat of the
683 subdivision of land if, after investigations conducted or recommendations by the public agencies
684 concerned, it is determined that one of the following factors exists in regards to the subdivision:
- 685 1. The land is subject to flooding or is topographically unsuitable for residential occupancy
686 or for such other use and the development or occupancy of which may increase the danger
687 of health, life, property or aggravate erosion or flood hazard to future occupants or the
688 general public; or
- 689 2. Inadequate drainage ways or public accessways exist, either on-site or off-site, to serve the
690 proposed development; or
- 691 3. A subdivision is proposed without frontage on a governmentally owned or maintained
692 street or road; or
- 693 4. The health department has determined that the soils on the site or the water supply serving
694 the subdivision is contaminated and development would pose a danger to the health and
695 safety of the public; or
- 696 5. The layout of the lots are such that intensive development of the site will create a safety
697 hazard to the future residents of the subdivision or to the general public; or

- 698 6. The proposed subdivision will not meet the floodplain regulations in Chapter 15.16 of Title
699 15, floodplain management ordinance; or
- 700 7. The proposed subdivision does not meet the requirements of this chapter and the applicant
701 is unable to receive a waiver or a variance.
- 702 F. Appeal of Final Plat Denial. All decisions of the planning commission to deny approval of a final
703 plat may be appealed to the city **Board of Appeals** ~~board of zoning appeals~~ in accordance with the
704 provisions of Chapter 16.52, Appeals, of this title.
- 705 G. Phased Approval. The final plat shall conform substantially to the preliminary plat as approved,
706 except that:
- 707 1. At the option of the subdivider, the final plat may cover only that portion of the approved
708 preliminary plat which the subdivider proposes to record at that time; provided, that all
709 requirements are met for the area included in the final plat.
- 710 2. If a final plat is submitted for only a portion of the area approved in the preliminary plat,
711 the subdivider shall have one year from the date of approval by the commission within
712 which to present a final plat or plats in substantial conformance with the approved
713 preliminary plat, covering that area or areas on the preliminary plat not already recorded
714 on the final plat.
- 715 3. The final subdivision of any future phase shall be in conformance with the city's
716 requirements in existence at the time the final plat is approved.

717 **16.52.010 Appeal to board of ~~zoning~~ appeals.**

- 718 A. Any person, officer or department of the city, aggrieved by any final ruling of the planning
719 commission on a preliminary or final plat as to the interpretation or application of the terms or
720 conditions of this title, may appeal in writing to the **Board of Appeals** ~~board of zoning appeals~~,
721 within ~~fifteen (15)~~ **twenty-one (21)** days after such final ruling.
- 722 B. Within ten days after the filing of the written appeal, the party appealing shall file with the **Board**
723 **of Appeals** ~~board of zoning appeals~~ a statement setting forth, with reasonable particularity, the
724 grounds for the appeal, including the error committed by the commission in taking the final action,
725 the relief sought, and the reasons why the final action appealed from should be reversed or
726 remanded. A copy of the statement shall be served on the commission. Failure to file the statement
727 is grounds for dismissal of the appeal.
- 728 C. The **Board of Appeals** ~~board~~ shall not hear any appeal to the city's construction and material
729 specifications or the construction standards requirements.
- 730 D. The board of ~~zoning~~ appeals shall hold a public hearing on all such appeals.
- 731 E. The **Board of Appeals** ~~board of zoning appeals~~ shall cause a notice of the public hearing to be
732 published in a newspaper of general circulation once a week for two consecutive weeks. The site
733 of all proposed subdivisions involved in any site specific appeal shall be posted.
- 734 F. Upon the hearing of such appeal, on the record, the final decision of the planning and zoning
735 commission shall be presumed by the **Board of Appeals** ~~board of zoning appeals~~ to be proper and
736 to best serve the public interest. The burden of proof shall be upon the appellant, or appellants, to
737 show that the decision or ruling complained of was arbitrary, capricious, discriminatory or
738 unsupported by any substantial evidence.
- 739 G. If the **Board of Appeals** ~~board of zoning appeals~~ finds that the decision of the commission was
740 improper under the provisions of this chapter, it shall have the power to affirm, modify, or reverse

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

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

746 **16.52.020 Appeal to circuit court.**

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

751 **17.04.110 Word usage.**

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

754 A. Words used in the present tense shall include the future; words used in the singular number shall
755 include the plural, and the plural the singular.

756 B. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

757 C. Whenever a provision or regulation applies to a "building" or "structure," it shall be deemed to
758 apply to any part or portion of such building or structure.

759 D. The word "city" means the city of Salisbury, Maryland.

760 E. The word "board" means the board of ~~zoning~~ appeals for the city of Salisbury, Maryland.

761 F. The word(s) "commission" or "planning commission" shall mean the Salisbury-Wicomico County
762 Planning and Zoning Commission.

763 G. The word "council" shall mean the Salisbury city council.

764 H. The word "person" includes individuals, firms, corporations, partnerships, associations and all other
765 legal entities.

766 I. The word "used" and "occupied" shall be considered as though followed by the words "or changed,
767 intended or designed to be occupied or used."

768 J. Unless otherwise specified, all distances shall be measured horizontally, and setbacks shall be
769 measured from the curblin.

770 **17.04.120 Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

891 "Community impact statement" includes the following:

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

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

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

912 "Community shopping center" means a shopping center containing between one hundred thousand one
913 (100,001) and three hundred thousand (300,000) square feet in gross floor area.

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

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

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

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

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

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

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

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

931 "Comprehensive site plan" means a plan, drawn to scale, which shows the proposed location and
932 dimensions of all roads, vehicular and pedestrian accessways, buildings, building footprints, parking areas,
933 including the type and size of all spaces, open spaces, landscaping, recreation facilities, natural features,
934 drainage ways, fire-fighting facilities, existing zoning, abutting property owners, stormwater management
935 areas, setbacks from all property lines, on-site loading and unloading spaces and recreational facilities, as
936 well as any on-site refuse disposal or recycling areas and facilities or both as may be required by the city
937 together with measures necessary to provide screening in accordance with the requirements of chapter
938 17.220.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 995 C. Obsolete building types (i.e., large residential buildings or other buildings which, through lack of
996 maintenance, have a blighting influence);
- 997 D. Detrimental land use or conditions such as incompatible uses, structures in mixed use not permitted
998 by this chapter or adverse influence from noise, smoke, fumes or traffic;
- 999 E. Unsafe, congested, poorly designed or otherwise deficient streets (i.e., streets not in conformance
1000 with current city standards);
- 1001 F. Inadequate public utilities or community facilities contributing to unsafe living conditions or
1002 economic decline.

1003 "Family" means and includes, subject to the exceptions stated below:

1004 I. A core consisting of one person living alone or one of the following groups living as a single
1005 housekeeping unit:

1006 A. Two or more persons who are related by blood, marriage, adoption, guardianship or other
1007 duly authorized custodial relationship, such as foster children, placed by an agency licensed
1008 to operate in Maryland;

1009 B. Up to a maximum of four persons who are not so related, hereinafter referred to as
1010 "unrelated persons" provided, however, that:

1011 1. a. Any existing lawful occupancy, in any dwelling or dwelling unit, including an
1012 apartment, in an R-5, R-8 or R-10 district or in Spring Chase PRD No. 1, the maximum
1013 shall be two unrelated persons, not including the children of either of them, after December
1014 16, 2002, subject to the occupancy permitted by subsections (I)(B)(1)(b) and (c) of this
1015 section.

1016 b. Any existing lawful occupancy, in any dwelling or dwelling unit, including an
1017 apartment in an R-5, R-8 or R-10 district, or Spring Chase PRD No. 1, the maximum shall
1018 be three unrelated persons, not including the children of either of them, if the dwelling or
1019 dwelling unit was occupied by three unrelated persons, during the one year period prior to
1020 December 16, 2002. The occupancy may continue as a nonconforming use. In an
1021 apartment, the maximum occupancy shall not exceed the number of unrelated persons set
1022 forth in subsection (I)(B)(1)(c) of this section.

1023 c. Any existing lawful occupancy, in any dwelling or dwelling unit, including an
1024 apartment in an R-5, R-8 or R-10 district, or Spring Chase PRD No. 1, the maximum shall
1025 be four unrelated persons, not including the children of either of them, if the dwelling or
1026 dwelling unit was occupied by four unrelated persons, during the one year period prior to
1027 December 16, 2002, and meets the requirements of section 15.24.1600. The occupancy
1028 may continue as a nonconforming use. In an apartment, the maximum occupancy shall not
1029 exceed the number of unrelated persons set forth in subsection (I)(B)(2) of this section.

1030 d. The following lots are exempt from the occupancy restriction set forth in
1031 subsection (I)(B)(1)(a) of this section: all dwelling units shown on an approved final
1032 comprehensive development plan; and where the total land area shown thereon is subject
1033 to a special exception granted by the board of zoning appeals prior to December 23, 2002;
1034 and for which the director of building, housing and zoning has determined that the units
1035 were proposed and constructed primarily for student housing.

1036 2. In any district other than an R-5, R-8 or R-10 district, in an apartment or any
1037 attached dwelling unit, except a townhouse or duplex dwelling, the maximum shall be the
1038 following number of unrelated persons not including the children of any of them:

1039 Two - in an efficiency or one bedroom unit;

1040 Three - in a unit having two or more bedrooms; or
1041 Four - in any unit constructed after November 25, 2002 (effective date of
1042 Ordinance No. 1864) having two or more bedrooms, if the entire parcel or tract of
1043 land on which it is located complies with the off-street parking requirement in
1044 effect when it was completed.

1045 All dwelling units shall comply with parking code requirements.

1046 C. 1. A group of not more than four persons who are approved by the Department of
1047 Neighborhood Services and Code Compliance pursuant to section 15.24.1620(1) as a
1048 "functional family," and

1049 2. A group of four or more disabled persons (as defined by the Americans with Disability
1050 Act), who are approved by the Department of Neighborhood Services and Code
1051 Compliance pursuant to section 15.24.1620(2).

1052 II. In addition to its core member(s) a family may include:

1053 A. One or more persons who provide health care or assisted living services to any core
1054 member of the family that are essential to the health, safety or general well-being of such
1055 core member, by performing such services at least eight hours each day.

1056 B. One or more domestic servants who perform personal or household services at the dwelling
1057 or dwelling unit at least eight hours each day.

1058 C. In the case of an owner-occupied dwelling unit in an R-5, R-8 or R-10 district, one person
1059 who is not a core member of the family, provided that no more than two unrelated persons, not
1060 including any permitted provider of health care or assisted living services, may reside in the
1061 dwelling.

1062 III. A "family" may not include or consist in whole or in part of:

1063 A. Any society, club, fraternity, sorority, association, lodge, federation, or like organization.

1064 B. Occupants of a rooming house or boarding house.

1065 C. Persons whose association as a group is temporary or seasonal in nature.

1066 D. Persons living in a group arrangement as a result of criminal conduct.

1067 IV. The "family" definition shall be applied to occupancy in accordance with the requirements of state
1068 and federal law.

1069 "Family day-care home" means any dwelling unit either licensed or registered by the appropriate state
1070 and/or county health or welfare agency to provide care for no more than eight children separated from their
1071 parents or guardians during any part of the day and occupied by the family of the licensee, provided that
1072 written consent is obtained from the owner(s) of the unit and owner(s) of any attached dwelling units. Any
1073 such consent may be withdrawn after thirty (30) days' written notice by the owner of said unit to the day-
1074 care home operator.

1075 "Floodplain" means a relatively flat or low land area adjoining a river, stream or watercourse, which is
1076 subject to partial or complete inundation, or any area subject to the unusual and rapid accumulation of
1077 runoff of surface waters or from tidal action or from any source, and specifically including those areas
1078 subject to the United States Department of Housing and Urban Development, Federal Insurance
1079 Administration, Flood Hazard Rate Maps (Flood Hazard Boundary Maps) for the city of Salisbury.

1080 "Floor area, gross" means the floor area within the perimeter of the outside walls of the building under
1081 consideration, without deduction for hallways, stairs, closets, thickness of walls, columns or other features.

1082 "Fraternity" or "sorority" means a private club maintained exclusively for members affiliated with an
1083 academic or professional college or university or other recognized institution of higher learning, wherein
1084 members may reside and conduct social activities.

1085 "Gross leasable area" means the total floor area of a building designed for tenant occupancy and exclusive
1086 use, including basements, mezzanines and upper floors, expressed in square feet and measured from the
1087 center line of joining partitions and from outside wall faces. It is all that area on which tenants pay rent.

1088 "Gross tract area" means the area of land within the boundaries or property lines of a proposed development.

1089 "Group domiciliary care facility" means a facility which does not constitute a group home and which
1090 provides lodging and residence services in a single dwelling which is occupied by ten or fewer unrelated
1091 persons, including support personnel and that provides service and supervision by licensed operators in
1092 accordance with federal, state and local laws, regulations and requirements. Residents shall be the elderly
1093 or persons protected by reason of handicap or familial status under the Federal Fair Housing Act, as
1094 amended, or Maryland housing discrimination statutes. As permitted by 32 U.S.G.S. section 3604(f)(9), the
1095 residents of a group domiciliary care facility shall not include any person who, during his term of residence
1096 at such facility, commits a violent act or causes substantial physical damage to the property of others, and
1097 any such person must be removed from such facility.

1098 "Group home" means a facility providing housing facilities and/or rehabilitation in a single dwelling for
1099 not more than ten persons, including support personnel, for persons who need specialized housing,
1100 treatment and/or counseling service because of delinquency or criminal rehabilitation, such as a criminal
1101 half-way house, current addiction to or illegal use of a controlled substance, or a type of mental illness that
1102 involves or has involved behavior related to violent felony crime. Residents are provided service and
1103 supervision by licensed operators in accordance with federal, state and local laws, regulations and
1104 requirements. Treatment and counseling shall be limited to the residents of the dwelling. The residents of a
1105 group home shall not include any person who, during his term of residence at such facility, commits a
1106 violent act or causes substantial physical damage to the property of others, and any such person must be
1107 removed from such home.

1108 "Hairdresser shop" means a barbershop or beauty shop, or combination thereof.

1109 "Home occupation" means an accessory use conducted entirely within a detached single-family dwelling
1110 or its residential accessory building, which is clearly incidental and secondary to the use of the property for
1111 residential purposes and which does not change the character thereof, and provided that:

1112 A. No person other than members of the family residing on the premises shall be engaged in such
1113 occupation;

1114 B. There shall be no change in the outside residential appearance of the building or premises or other
1115 visible evidence of the conduct of such home occupation other than one sign, not exceeding one
1116 square foot in area, nonilluminated and mounted flat against the exterior of the building;

1117 C. Electrical or mechanical equipment which creates visible or audible interference in radio or
1118 television receivers or causes fluctuation in line voltage outside the dwelling or which creates noise
1119 not normally associated with residential uses shall be prohibited;

1120 D. No vehicle or pedestrian traffic shall be generated by the home occupation greater than normal for
1121 the district in which it is located;

1122 E. To the extent that there is any sale of any item related to a home occupation, no delivery of that
1123 item to the buyer shall occur on or adjacent to the premises;

1124 F. No storage or display of materials, goods, supplies or equipment related to the operation of a home
1125 occupation shall be visible from the outside of any structure located on the premises.

- 1126 "Home office" means an accessory use conducted entirely within a room(s) located in a detached single-
1127 family dwelling, provided that:
- 1128 A. The dwelling is the bona fide residence of the principal practitioner;
 - 1129 B. There is no more than one employee or person engaged in or serving the business other than the
1130 principal practitioner;
 - 1131 C. There shall be no change in the outside residential appearance of the dwelling or premises or other
1132 visible conduct of such office other than one sign, not exceeding one square foot in area,
1133 nonilluminated and mounted flat against the exterior of the dwelling;
 - 1134 D. There shall be no mechanical or electrical equipment used that will interfere with use of adjoining
1135 properties;
 - 1136 E. There is no outside storage or display of any material visible outside the dwelling;
 - 1137 F. Parking is provided only between the front building line and the rear lot line;
 - 1138 G. There is no outside storage of trucks or vans used in conduct of the business.
- 1139 "Hotel," "motel" or "motor hotel" means an establishment where sleeping accommodations for transient
1140 customers are provided.
- 1141 "Housing for the elderly and handicapped" means a dwelling specifically designed for the needs of the
1142 elderly and/or handicapped person or persons and conforming to the requirements of state and/or federal
1143 programs providing for housing for the elderly and/or handicapped.
- 1144 "Housing inspector" means the department of neighborhood services and code compliance and the duly
1145 designated housing official.
- 1146 "Industrial auction" means the sale of animals, farm produce or any article or property by auction, conducted
1147 on a lot without regard to whether there may be outside storage of inventory or property to be sold or
1148 whether the auction is conducted within a building or in the open.
- 1149 "Industrial vocational training school" means a public or private school which trains students in industrial
1150 skills.
- 1151 "Junkyard" means any area, lot, land, parcel, building or structure or part thereof used for the storage,
1152 collection, processing, purchase, sale or abandonment of wastepaper, rags, scrap metal or other scrap or
1153 discarded goods, materials, machinery or unregistered, inoperable motor vehicles, marine equipment and/or
1154 vessels or other type of junk.
- 1155 "Kennel" means any place in or at which any number of dogs or cats are kept for the purpose of sale or in
1156 connection with the boarding, care or breeding, for which any fee is charged.
- 1157 "Landscaping" means a combination of grass and shrubs and/or trees and other decorative plantings,
1158 materials, statues, fountains and other special features as may be approved by the planning commission.
- 1159 "Liquor store" or "liquor dispensary" means any establishment or business which keeps for sale or sells
1160 liquor in any quantity and delivers the same in a sealed package or container which is not to be opened nor
1161 its content consumed on the premises where sold.
- 1162 "Lot" means land occupied or to be occupied by a building and any building accessory thereto or by a
1163 building group and any buildings accessory thereto, with open space and land area required by this chapter,
1164 and having its principal frontage on a public street or public way or on a private right-of-way or easement
1165 as approved by the planning commission and/or council.
- 1166 "Lot area" means the total horizontal area included within lot lines.
- 1167 "Lot, corner" means a lot at the junction of and abutting on two or more intersecting streets.

1168 "Lot coverage" means the percentage of land permitted by this chapter to be covered by a building or
1169 buildings.

1170 "Lot depth" means the average horizontal distance between the front lot line and rear lot line for an interior
1171 lot. In the case of a corner lot, the lot depth is the greater of the average horizontal distances between the
1172 front lot lines and the respective side lot line opposite each.

1173 "Lot frontage" means the side(s) of a lot abutting a street(s); on a corner lot, the shortest side that abuts a
1174 street; where sides are of equal length, the side fronting on the street having the longest frontages within
1175 the same block.

1176 "Lot, interior" means any lot other than a corner lot.

1177 "Lot lines" means lines bounding a lot as hereinafter described:

1178 A. "Front" means the line running along the front of a lot and separating it from the street. In a through
1179 lot, both lines abutting streets are deemed front lot lines.

1180 B. "Rear" means the line generally opposite or parallel to the front lot line, except in a through lot. If
1181 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
1182 be deemed to be a line at least ten feet long, lying wholly within the lot parallel to the front lot line,
1183 or if the front lot line is curved, parallel to the chord of the arc of said front lot line.

1184 C. "Side" means any lot line other than a front or a rear lot line.

1185 "Lot of record" means land designated as a separate and distinct parcel of land on a legally recorded
1186 subdivision plat or in a legally recorded deed filed in the land records of Wicomico County.

1187 "Lot, through" means an interior lot fronting on two streets.

1188 "Lot width" means the mean horizontal distance between the side lot lines of a lot measured at the
1189 setback/building line.

1190 "Marina" means a facility for the docking, storage, servicing and sale of recreational boats.

1191 "Medical-care facility" means a facility, however designated, providing medical treatment and short-term
1192 inpatient care, other than a hospital or medical clinic.

1193 "Mixed-use building" means a building or structure of less than fifteen thousand (15,000) square feet
1194 containing two or more different uses.

1195 "Mobile home" means a detached residential unit containing not less than five hundred (500) square feet of
1196 gross livable floor area in the original manufactured unit, designed and intended for repeated or periodic
1197 transportation in one or more sections on the highway, on a chassis which is permanent or designed to be
1198 permanent, and arriving at the site where it is to be occupied, complete and ready for occupancy except for
1199 minor and incidental unpacking and assembly of sections, location of jacks or other foundations, connection
1200 to utilities and the like. Units commonly known as "double-wides" and any unit classified by an applicable
1201 financing or construction standard, including without limitation, the United States Department of Housing
1202 and Urban Development Regulations, State of Maryland Department of Economic and Community
1203 Development Regulations or state or federal law, as such laws or regulations are in effect as of the date of
1204 passage hereof, as a mobile home shall be considered mobile homes. The placing of a mobile home on a
1205 permanent foundation or the construction of additions, porches and the like shall not change the
1206 classification of such mobile home. Recreational trailers and vehicles and modular homes are not
1207 considered as mobile homes.

1208 "Mobile home park" means any lot, parcel or tract of land planned, developed and improved for the
1209 placement of three or more mobile homes on a permanent or semi-permanent basis.

1210 "Modular home" means a detached residential unit built to a recognized building code, containing not less
1211 than five hundred (500) square feet of gross livable floor area in the original manufactured unit, designed
1212 and intended for delivery by transportation on the highway for permanent assembly on a permanent and
1213 separately constructed foundation. A modular home may be considered a single-family dwelling. A modular
1214 home must meet the requirements and definitions of the Maryland Industrialized Buildings and Mobile
1215 Homes Act as in effect as of the date of passage hereof.

1216 "Multi-use facility" means two or more similar or different uses on a lot or parcel that are conducted in
1217 physically separate areas and permitted inherently or otherwise in the district in which located, provided
1218 that the lot or parcel and improvements thereon satisfy the total parking, lot area and other requirements of
1219 the uses; the facility shall not be deemed to be a shopping center if the total floor area of the uses in which
1220 the principal activity is on-site retail sales does not exceed one-third of the gross floor area of the entire
1221 facility.

1222 "Neighborhood shopping center" means a shopping center not exceeding one hundred thousand (100,000)
1223 square feet in gross floor area.

1224 "Net tract area" means the gross project area less the area of land devoted to streets.

1225 "Nonconforming use, structure, lot and dwelling." See chapter 17.16.

1226 "Nudity" or "state of nudity" means the visibility or exposure of a human bare buttock, anus, anal cleft or
1227 cleavage, pubic area, male genitals, female genitals, or vulva, with less than a fully opaque covering; or a
1228 female breast with less than a fully opaque covering of any part of the areola; or human male genitals in a
1229 discernibly turgid state even if completely and opaquely covered.

1230 "Nursery school" means a licensed establishment providing care and an educational program under the
1231 jurisdiction of and accredited by the state Board of Education to up through second grade aged children.

1232 "Open space" means the portion of a tract of land within the boundaries of a development not covered by
1233 principal and accessory buildings, parking lots, streets and utility structures, except buildings and structures
1234 for recreational use.

1235 "Outdoor advertising structure" means any structure which contains a sign, poster, panel, billboard, painted
1236 bulletin or any other structure, device, surface or display which advertises or displays any other message
1237 related to a business, profession, commodity, service or entertainment or event conducted, sold or offered
1238 elsewhere than on the premises where the advertising structure is located.

1239 "Outdoor storage yard" means the keeping or storing, other than in a wholly enclosed building, of goods,
1240 items, materials or merchandise, except for scrap materials, debris, or a junkyard.

1241 "Parks" and "playgrounds, public and private" means recreation facilities, such as picnic areas, ballfields,
1242 basketball and tennis courts, etc., not operated for profit.

1243 "Pet-grooming shop" means an establishment wherein pets may be bathed, clipped or otherwise groomed,
1244 but not to include facilities for overnight care, boarding, breeding or medical treatment.

1245 "Plat" means a sketch, map or survey of a lot(s), tract or parcel of land, indicating lot lines, street rights-of-
1246 way and easements, with the dimensions of these features inscribed thereon.

1247 "Principal use" means the principal purpose for which a lot or the main building or structure thereon is used,
1248 occupied or maintained.

1249 "Private club" means an association for civic, social, cultural, religious, literary, fraternal, political,
1250 recreational, or like activities, which is operated for the benefit of its members and not open to the general
1251 public.

1252 "Private performance" means the modeling, posing, or display or exposure of any specified anatomical area
1253 by an employee of an adult entertainment business to a person other than another employee, while the

1254 person is in an area not accessible during such display to all other persons in the establishment, or while the
1255 person is in an area in which the person is totally or partially screened or partitioned during such display
1256 from the view of persons outside the area.

1257 "Public" or "private utility buildings and uses" means facilities and structures owned or maintained by a
1258 government, a public or private agency or a public or private utility company for the purpose of and directly
1259 necessary for rendering or providing communication, electric, gas, sewer, water or comparable service of a
1260 public utility nature, and in fact used in the rendition of such service. Nothing in this title or amendment
1261 thereto is intended to limit or restrict the use of property in any zone for poles, mains, pipes, conduits or
1262 wires erected and maintained for the transmission and distribution of electric energy over wires for any
1263 lawful purpose or gas to customers for such energy or municipal water or sewer services or any equipment
1264 or device necessary or incident to such use or uses.

1265 "Public utility operation center" means facilities, structures and any or all uses directly relating to the
1266 operation and maintenance of a public utility:

1267 A. Including, but not limited to:

- 1268 1. Operating utility system controls;
- 1269 2. Business offices and associated accessory uses;
- 1270 3. Indoor and outdoor repair, maintenance and/or storage of motor vehicles and utility
1271 construction and maintenance equipment; and associated storage of fuels, lubricants,
1272 coolants and fluids and substances, not for sale to the public;
- 1273 4. Indoor and outdoor assembly, repair, maintenance, testing and storage of utility system
1274 components, equipment, tools and supplies; and;
- 1275 5. Staging area for contractors constructing, repairing, and/or maintaining the utility system;
- 1276 6. And may include a solar farm.

1277 "Recreational establishment, indoor" means billiard parlor, bowling alley, skating rink, tennis or racquetball
1278 center, automatic amusement device center, swimming pool, convention hall and other similar indoor
1279 recreational uses.

1280 "Recreational establishment, outdoor" means miniature golf course, amusement park, private zoo,
1281 kiddieland ride, driving range, sports stadium, arena and other similar outdoor recreational uses.

1282 "Recreational vehicle" means any type of vehicle, whether self-propelled, vehicle-mounted or vehicle-
1283 pulled, used for camping or recreational purposes, including but not limited to pickup campers, motor
1284 homes, tent campers and travel trailers.

1285 "Regional shopping center" means a shopping center containing more than three hundred thousand
1286 (300,000) square feet in gross floor area.

1287 "Restaurant" means any establishment of which the principal business is the sale of food and of which the
1288 principal method of operation is to serve food ordered from a menu to seated customers at a table, booth or
1289 counter inside the establishment. However a snack bar or refreshment stand at a public or nonprofit
1290 community swimming pool, playground or park, operated solely for the convenience of patrons of the
1291 facility, shall not be deemed to be a restaurant.

1292 "Restaurant, fast-food" means any establishment where ready-to-eat food primarily intended for immediate
1293 consumption is available upon a short waiting time and packaged or presented so that it can readily be eaten
1294 outside the premises where it is sold and where facilities for on-premises consumption of food are
1295 insufficient for the volume of food sold.

1296 "Restaurant, fast-food cafeteria" means any establishment where ready-to-eat food is available upon a short
1297 waiting time and served to customers on a tray through a cafeteria line for consumption at a table, booth or
1298 counter inside the establishment.

1299 "Restaurant, fast-food carry-out" means any establishment where ready-to-eat food primarily intended for
1300 immediate consumption is available upon a short waiting time and packaged or presented so that it can
1301 readily be eaten away from the premises where it is sold and where there are no facilities for on-premises
1302 consumption of food.

1303 "Restaurant, fast-food drive-in" means any establishment where ready-to-eat food primarily intended for
1304 immediate consumption is available upon a short waiting time and packaged or presented so that it can
1305 readily be eaten outside the premises and whose principal method of operation is to serve food to customers
1306 in motor vehicles.

1307 "Resubdivision" means a subdivision which has been altered by changing of a line, bearing or other
1308 measurement and which is subsequently platted and recorded in a legal manner.

1309 "Retail establishment" means a structure containing one retail use or several uses under one ownership in
1310 one structure or within one unit of a structure from which merchandise is sold to the general public including
1311 the rendering of services incidental to the sale of such merchandise.

1312 "Satellite simulcast betting facility" includes any place where pari-mutuel betting occurs on any race that
1313 is simulcast from any type of sending track by either thoroughbred or harness racing or any other type of
1314 human, animal or vehicle racing; or on any other type of sporting event. This definition also includes any
1315 place known as an off-track betting (OTB) facility. No such facility shall be allowed in any city zoning
1316 district.

1317 "School of general instruction" means a public, parochial or private school or college providing regular
1318 instruction at least five days a week (except for holidays) for a normal school year, but not including a
1319 school of special instruction, a nursery school, unless conducted as part of a school of general instruction,
1320 or a riding school.

1321 "School of special instruction" means a school primarily devoted to giving instruction in vocational,
1322 professional, commercial, musical, dramatic, artistic, linguistic, scientific, religious or other special
1323 subjects, but not including a nursery school, or a riding school.

1324 "Screening" means landscaping, berms or fencing, or any combination thereof, designed to obstruct view
1325 of a particular use.

1326 "Self storage" means a facility used for the purpose of renting or leasing secure, interior, individual storage
1327 space. This may include rooms, compartments, and lockers in which individuals store and remove their
1328 own goods, records, and personal property on a self-service basis. This definition does not preclude such
1329 self storage from inclusion within other use categories (i.e. warehousing).

1330 "Setback/building line" means a line parallel to the front lot line beyond which no principal building or
1331 structure is permitted to extend.

1332 "Sexual conduct" means any and all acts or conduct which include, involve, or which display, exhibit, or
1333 simulate the following:

- 1334 1. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual
1335 acts which are prohibited by law;
- 1336 2. The touching, caressing, and/or fondling of the breast, buttocks, anus, or genitals; or
- 1337 3. The displaying of the breasts, buttocks, pubic hair, anus, vulva or genitals.

1338 "Sexual encounter center" means a commercial enterprise that, as one of its principal business purposes,
1339 offers for any form of consideration:

- 1340 1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
1341 2. Activities between persons of the opposite sex and/or persons of the same sex when one or more
1342 of the persons is in a state of nudity.
- 1343 "Shopping center" means two or more commercial establishments either in one structure or in two or more
1344 separate structures built on one parcel of land that is planned and developed as an operating unit related in
1345 location, size and type of shops to the trade area that the center is designed to serve; it provides common
1346 on-site parking access and other amenities in definite relationship to the type and total size of the center.
- 1347 A. "Neighborhood" means a shopping center not exceeding thirty thousand (30,000) square feet in
1348 gross floor area.
- 1349 B. "Community" or "Regional" means a shopping center exceeding thirty thousand (30,000) square
1350 feet in gross floor area.
- 1351 Sign. See chapter 17.216.
- 1352 "Significant amount" means the following:
- 1353 1. At least fifteen (15) percent of the stock in the establishment or on display consists of adult
1354 entertainment or material;
- 1355 2. At least fifteen (15) percent of the area used for the display or storage of merchandise on the floor,
1356 walls, or vertical display area of the cabinets, shelves or racks which rise from the floor (or any
1357 combination thereof which is at least fifteen (15) percent of the area used for display or storage) is
1358 used for the display or storage of adult entertainment or material or houses or contains devices
1359 depicting, describing, or relating to adult entertainment or material; or
- 1360 3. At least fifteen (15) percent of the gross revenue is, or may reasonably be expected to be, derived
1361 from the provision of adult entertainment or material.
- 1362 "Site plan" means a detailed plan of development showing the arrangement of any building(s) in relation to
1363 parking, streets, entrances, exits, open space and adjoining properties, with all information relevant to size
1364 of area, number of parking spaces and square footage of buildings, etc., inscribed thereon in addition to any
1365 other pertinent information as may be required by a specific section of this code.
- 1366 "Solar farm" means a utility-scale energy generation facility, principally used to convert solar energy to
1367 electricity for the primary purpose of use by the owner and/or wholesale and/or retail sales of said
1368 electricity.
- 1369 "Special exception" means a land use authorized by the board of ~~zoning~~ appeals pursuant to the provisions
1370 of this title and subject to standards and conditions set forth for such use. It is a use which has been
1371 legislatively predetermined to be conditionally compatible with uses permitted as of right in a particular
1372 zoning district, the conditions being that the board of ~~zoning~~ appeals must, in each case, decide under the
1373 standards set forth in chapter 17.232 whether the presumptive compatibility in fact exists.
- 1374 "Specialty shop" means a shop for the sale of antiques/collectibles or handicraft and supplies, including
1375 artwork, leatherwork, pottery, needlework or similar items which may be made on the premises.
- 1376 "Specified anatomical areas" means the following:
- 1377 1. Less than completely or opaquely covered:
- 1378 a. Human genitals or pubic region;
- 1379 b. Entire cleft of the male or female buttocks. Attire which is insufficient to comply with this
1380 requirement includes, but is not limited to, G-strings, T-backs, and thongs;

1381 c. That portion of the human female breast below a point immediately above the top of the
1382 areola; this definition shall include the entire lower portion of the human female breast, but
1383 shall not include any portion of the cleavage of the human female breast exhibited by a
1384 dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is
1385 not so exposed.

1386 2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

1387 "Specified sexual activities" means the following:

1388 1. Human genitals in a state of sexual stimulation or arousal or tumescence;

1389 2. Acts of anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellation, flagellation,
1390 masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sapphism,
1391 sexual intercourse, sodomy, urolagnia or zoerasty;

1392 3. Fondling or other erotic touching of human genitals, pubic region, buttock, anus or female breast;
1393 or

1394 4. Excretory functions as part of, or in connection with, any of the activities set forth in subsections
1395 (1) through (3) of this definition.

1396 "Straddle dance" means the following:

1397 1. The use by an employee of an adult entertainment business of any part of his or her body to directly
1398 or indirectly touch the genital or pubic area of a person, excluding another employee, while at the
1399 adult entertainment business, in exchange for a tip, donation, gratuity, or other thing of value,
1400 regardless of whether the employee is displaying or exposing any specified anatomical area; or

1401 2. The straddling of the legs of an employee of an adult entertainment business over any part of the
1402 body of a person, excluding another employee, regardless of whether there is any touching.

1403 A straddle dance is also known as a "lap dance," "table dance," or "face dance."

1404 "Street" means a public thoroughfare, however designated, maintained by the city of Salisbury, state of
1405 Maryland or Wicomico County, which affords the principal means of access to abutting property and which
1406 is hereafter developed according to the regulations for the city of Salisbury, or a public way, private right-
1407 of-way or easement as approved by either the planning commission or city council.

1408 "Structure" means that which is built or constructed.

1409 "Studio" means an establishment wherein music, photography, dancing, sculpting or other artistic
1410 instructions may be given.

1411 "Subdivision" means a lot, parcel or tract of land which has been legally subdivided, platted and recorded
1412 in the land records of Wicomico County.

1413 "Townhouse" means a single-family dwelling forming one of no fewer than three attached single-family
1414 dwellings with property lines and party walls separating such units and which are separated from any other
1415 building or structure by space on all other sides.

1416 "Transient" means on a one-day or a day-to-day basis.

1417 "Travel trailer" means a portable vehicular structure not over eight feet wide or thirty-five (35) feet in
1418 length, designed as a temporary living unit for travel, recreational and vacation uses. It is designed solely
1419 for short-term occupancy and for travel purposes.

1420 "Truck terminal" means a building or area where trucks, including tractors or trailer units, are parked, stored
1421 or serviced, which may also include areas, buildings or structures for the transfer, loading or unloading or
1422 storage of a wide array of goods and materials of various types and sizes.

1423 "Utility substation" means a station subordinate to a public or private utility building or use for the provision
1424 of services through areas which cannot be serviced by the facilities of the main building or use.

1425 "Variance" means a modification only of the required density, bulk or area requirements set forth in this
1426 title where such modification will not be contrary to the public interest and where, owing to conditions
1427 peculiar to the property and not the results of any action taken by the applicant, a literal enforcement of the
1428 title would result in unnecessary hardship.

1429 "Warehouse" means a building or structure used for the inside storage of goods and materials.

1430 "Warehousing" means facilities or structures operated for the storage of prefinished goods and materials,
1431 with not more than two bays to be used for maintenance within the same building where goods or materials
1432 are stored.

1433 "Width of street" means the mean of the distance between the right-of-way lines of a street between two
1434 intersecting streets.

1435 "Yard" means an open space on the same lot with a building or building group lying between the front, rear
1436 or side wall of a building and the nearest lot line, unoccupied except for projections and specific minor uses
1437 or structures allowed in such open space under the provisions of the zoning ordinance.

1438 "Yard, front" means a yard extending the full width of the lot on which a building is located and situated
1439 between the front lot line and a line parallel thereto and passing through the nearest point of the building.

1440 "Yard, interior side" means a side yard located immediately adjacent to another lot or to an alley separating
1441 such side from another lot.

1442 "Yard, rear" means a yard extending the full width of the lot on which a building is located and situated
1443 between the rear lot line and a line parallel thereto and passing through the nearest point of the building.

1444 "Yard, side" means a yard on the same lot as a building situated between the side lot line and a line parallel
1445 thereto and passing through the nearest point of a building and extending from the front yard to the rear.

1446 **17.04.140 Interpretation.**

1447 A. In the event that there is a question as to interpretation of any part of this title, a written request for
1448 interpretation shall be submitted to the planning commission.

1449 B. The planning commission shall review that part of this title requested for interpretation and
1450 determine its original purpose and intent at the time of the writing and adoption of this title.

1451 C. The planning commission shall forward its interpretation to the applicant in writing within forty-
1452 five (45) days from receipt of the request. All such interpretations shall serve as the commission's
1453 policy until such time as the code is amended to include the interpretation as a part of the zoning
1454 code.

1455 D. The city of Salisbury recognizes that the Federal Fair Housing Act imposes upon it a duty to make
1456 "reasonable accommodations," as such term may be defined under the Fair Housing Act from time-
1457 to-time, in its land use and zoning policies and procedures where such accommodations may be
1458 necessary to afford persons or groups of persons with disabilities an equal opportunity to use and
1459 enjoy housing. The planning commission and board of ~~zoning~~ appeals shall interpret this title so as
1460 to comply with the Fair Housing Act and other applicable law.

1461 **17.12.010 Administrative agencies.**

1462 The administration of this title is vested in the following offices of the government of the city of Salisbury:

1463 A. Housing and Community Development Department;

1464 B. Department of infrastructure and development;

- 1465 C. The planning commission;
- 1466 D. The Salisbury city council;
- 1467 E. The board of zoning appeals.

1468 **17.12.030 Duties.**

1469 Duties of the Housing and Community Development Department shall be as follows:

- 1470 A. To issue zoning authorizations and make and maintain records thereof;
- 1471 ~~B. To receive applications for variances, special exceptions or any other matter to be considered by~~
- 1472 ~~the board of zoning appeals;~~
- 1473 **CB.** To initiate and request inspections of structures and use of land to determine compliance with the
- 1474 terms of this title or actions of the planning commission, city council or board of zoning appeals
- 1475 and, where there are violations, to initiate action to secure compliance therewith.

1476 **17.12.040 Zoning authorizations.**

- 1477 A. Authorization Required. No land or building may be used, or any building constructed, extended,
- 1478 altered, changed or converted, without written authorization from the building inspector that the
- 1479 proposed structure, alteration, change, conversion or use complies with the provisions of this title.
- 1480 Where no other permit is required for the use of land, this zoning authorization shall be construed
- 1481 as the permit to so use the land. A building permit or occupancy certificate issued in conflict with
- 1482 the provisions of this title shall be null and void.
- 1483 B. Zoning Authorizations.
- 1484 1. Application for Zoning Authorization. The application for a zoning authorization shall be
- 1485 accompanied by a plot plan, indicating the parcel of land, lot or lots, block or blocks or
- 1486 portions thereof, drawn, to scale and fully dimensioned, showing the ground area, height
- 1487 and bulk of the structure or land and such other information as may be required by the
- 1488 building inspector for the proper administration and enforcement of this title. Whenever a
- 1489 structure or use is of the type requiring off-street parking on a ratio to the number of
- 1490 employees, the number of employees on which the parking is based shall be shown on the
- 1491 application.
- 1492 2. Critical Area Program. The requirements of this title are modified to the extent necessary
- 1493 in order that all land within the critical area as established by the Chesapeake Bay critical
- 1494 area commission, the critical area program and chapter 12.20 of the city code shall also
- 1495 comply with the provisions of the city of Salisbury Chesapeake Bay critical area program,
- 1496 where applicable.
- 1497 C. Disapproval. If the application and the accompanying papers do not comply in all respects with the
- 1498 regulations of this title, it shall be disapproved by the building inspector, and the applicant shall be
- 1499 notified in writing. The building inspector may, in his discretion, before disapproving any
- 1500 application, return such application to the applicant, who may amend said application, plans or
- 1501 specifications in order to make the proposal comply with the regulations of this title. In such event,
- 1502 the building inspector shall proceed to pass upon the application as if it were an original one.
- 1503 D. Issuance. If the application, filed together with the plans and specifications, conform in all respects
- 1504 with the requirements of this title, the building inspector shall issue written zoning authorization
- 1505 and any necessary permits.
- 1506 E. Appeal. If an application is disapproved, the applicant shall be notified in writing, with the reasons
- 1507 for disapproval. If the applicant wishes to pursue the request, an application for an appeal before
- 1508 the board of zoning appeals shall be filed with the building inspector. Such application shall be

1509 transmitted forthwith to the planning director who, in turn, shall forward such application to the
1510 board for its action. The planning director shall return the board's action to the building inspector
1511 in writing. If the appeal application is approved, the building inspector shall issue written zoning
1512 authorization and any necessary permits.

1513 F. Plan Applications.

1514 1. Applications requiring review and approval by the planning commission, board of zoning
1515 appeals and downtown/riverfront development review committee shall be forwarded to the
1516 City Planner ~~planning director~~ for scheduling before the appropriate commission,
1517 committee or board.

1518 2. No such application shall be accepted by the director of infrastructure and development or
1519 scheduled by the City Planner ~~planning director~~ until all plans and documentation required
1520 by and in compliance with this title have been received; except that,

1521 a. An application for official action by the planning commission or board of zoning
1522 appeals may be scheduled for review with only a site plan showing all required
1523 elements of the proposed development;

1524 b. An application for review by the downtown/riverfront development review
1525 committee may be scheduled for review with only a site plan showing all required
1526 elements of the proposed development and exterior elevations showing the design
1527 of the proposed development;

1528 c. Any commission, committee or board may render its decision if it determines that
1529 the information on the site plan or exterior elevations is sufficient; provided, that
1530 such approval is conditioned upon an applicant completing all other plans and
1531 documentation as may be required by this title.

1532 3. The City Planner ~~planning director~~ shall advise, in writing, the director of infrastructure
1533 and development of all action taken on the application.

1534 4. If the application is approved, the director of infrastructure and development may issue
1535 written zoning authorization or conditional zoning authorization, subject to compliance
1536 with all other requirements of this title and all other applicable city regulations.

1537 **17.12.050 Jurisdiction and authority.**

1538 The department of infrastructure and development shall have the following jurisdiction and authority
1539 wherever required by this title:

1540 A. To review and make recommendations on street width and layout of streets serving a development;

1541 B. To review and make recommendations on access from a development onto public streets and
1542 highways;

1543 C. To review and approve any plan relative to public utilities as requested by the planning commission,
1544 board of zoning appeals or city council.

1545 **17.12.060 Jurisdiction and authority.**

1546 The planning commission shall have the following jurisdiction and authority:

1547 A. To initiate, to receive and to review applications for and to make recommendations to the city
1548 council on all text amendments and zoning reclassifications;

1549 B. To review and approve all development where required by this title and to review development for
1550 recommendation to the board of zoning appeals or the city council, as required;

- 1551 C. To receive, review and recommend all requests for determination of unclassified uses and to
1552 interpret any part of this title where there is question as to the purpose and intent of its originality;
- 1553 D. To review certain uses in the industrial park and paleochannel districts and make recommendations
1554 to the city council;
- 1555 E. To review ordinance permit requests and make recommendations to the city council;
- 1556 F. To review and approve landscaping plans in accordance with chapter 17.220;
- 1557 G. In reviewing and approving any plan for development or landscaping as enumerated in subsections
1558 (A) thorough (F) of this section, the commission may establish those conditions it deems necessary
1559 to accomplish the purpose and intent of this title.

1560 **Article VI Board of Zoning Appeals**

1561 **17.12.090 Composition—Employees—Meetings.**

- 1562 A. The **Board of Appeals** ~~board of zoning appeals~~ shall consist of five members and ~~one~~ **two**
1563 alternates appointed by the mayor **and confirmed by** ~~with the advice and consent of the city~~
1564 council. **When possible, preference shall be given in order to ensure that the Board of Appeals**
1565 **includes at least one building professional/architect/engineer, tenant, property owner and**
1566 **attorney, as well as potential members who have a demonstrated special interest, specific**
1567 **knowledge, or professional or academic training in public health.** The alternates shall attend
1568 the **Board of Appeals** ~~board of zoning appeals~~ meetings and shall sit for an absent member, when
1569 appropriate. The members and alternate members of the **Board of Appeals** ~~board of zoning appeals~~
1570 shall be appointed for terms of three years. One member shall be named by the board as chairman.
1571 ~~The An~~ alternate member may complete the unexpired term of any member, who, for whatever
1572 reason, vacates his seat on the board. The members of the **Board of Appeals** ~~board of zoning~~
1573 ~~appeals~~ may be removed for cause by the appointing authority upon written charges and after a
1574 public hearing.
- 1575 B. The **Board of Appeals** ~~board of zoning appeals~~, hereinafter referred to as "the board," shall appoint
1576 such employees as may be authorized from time to time by the city council; ~~however, the~~
1577 ~~employees of the planning commission shall also serve as employees to the board.~~
- 1578 C. The board shall adopt rules necessary for carrying out the provisions of this chapter. The rules shall
1579 be approved by the city council. Meetings of the board shall be held at the call of the chairman and
1580 at such other times as the board may determine by general rule. Three members shall constitute a
1581 quorum. **A member of a board of appeals shall recuse himself or herself from participating in**
1582 **a matter in which the member may have a conflict of interest or an appearance of a conflict**
1583 **of interest.** If a majority of the board does not approve the application or find in the favor of the
1584 appellant, the board's inability to reach a decision by majority vote shall result in denial of the
1585 application or appeal. The chairman or, in his absence, the acting chairman may administer oaths
1586 and compel the attendance of witnesses. All meetings of the board shall be open to the public. The
1587 board shall record and keep minutes of its proceedings, which show the vote of each member upon
1588 each question, or, if a member is absent or fails to vote, the minutes shall indicate such fact. The
1589 board shall keep **recordings of all proceedings**, records of its examinations and other official
1590 actions, all of which shall be filed immediately in the office of the board and shall be a public record
1591 open to inspection during the hours of normal operation of the office. Copies of the minutes shall
1592 be made available to interested parties. A party who requests a copy of the recording or its transcript
1593 shall pay the cost of the recording or transcript.

1594 **17.12.100 Jurisdiction and authority.**

1595 Jurisdiction and authority of the board shall be as follows:

- 1596 A. To hear and decide applications for special exceptions in the manner prescribed by and subject to
1597 the standards established herein;
- 1598 B. To hear and decide applications for variances from the terms provided in this title in the manner
1599 prescribed by and subject to the standards established herein;
- 1600 C. To hear and decide appeals where it is alleged that there is an error in any order, requirement,
1601 decision or determination made by the director of the department of infrastructure and development
1602 or the Housing and Community Development Department under this title;
- 1603 D. To hear and decide applications for the change, alteration or enlargement of nonconforming uses
1604 and enlargement of nonconforming dwellings, in accordance with Sections 17.16.040 and
1605 17.16.050;
- 1606 E. To hear and decide all matters referred to it or upon which it is required to act under **the Salisbury**
1607 **Municipal Code** ~~this title~~;
- 1608 F. To adopt and establish general rules for the conduct of its proceedings.

1609 **17.12.110 Appeals.**

- 1610 A. Appeals to the board may be taken by any person aggrieved or by any officer, department, board
1611 or bureau of the municipality affected by any decision of **an administrative officer or unit**
1612 **pursuant to the Salisbury Municipal Code** ~~the building inspector~~. Such appeal shall be taken
1613 within a reasonable time, as approved by the rules of the board, by filing with the **administrative**
1614 **officer or unit from whose action the appeal is taken** ~~building inspector~~ and with the board a
1615 notice of appeal, specifying the grounds thereof. The **administrative officer or unit from whose**
1616 **action the appeal is taken** ~~building inspector~~ shall forthwith transmit to the board all of the papers
1617 constituting the record upon which the action appealed from was taken.
- 1618 B. An appeal stays all proceedings in furtherance of the action appealed from, unless the
1619 **administrative officer or unit from whose action the appeal is taken** ~~building inspector~~ certifies
1620 to the board after the notice of appeal shall have been filed with him that, by reason of facts stated
1621 in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case,
1622 proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the
1623 board or by a court of record, on application, on notice to the **administrative officer or unit from**
1624 **whose action the appeal is taken** ~~building inspector~~ and on **good** ~~due~~ cause shown.
- 1625 **C. On appeal, the Board of Appeals may:**
- 1626 **1. Wholly or partly reverse the order, requirement, or decision that is the subject of the**
1627 **appeal;**
- 1628 **2. Wholly or partly affirm the order, requirement, or decision that is the subject of the**
1629 **appeal;**
- 1630 **3. Modify the order, requirement, or decision that is the subject of the appeal; or**
- 1631 **4. Issue a new order, requirement, or decision.**
- 1632 **D. The Board of Appeals shall have all the powers of the administrative officer or unit from**
1633 **whose action the appeal is taken.**

1634 **~~17.12.111 Pre-hearing procedure.~~**

- 1635 A. ~~The applicant/appellant shall file two copies of a pre-hearing statement no later than twenty (20)~~
1636 ~~days prior to the public hearing. The statement shall include the following information:~~
- 1637 ~~1. Citation to the city code authorizing the board of zoning appeals to appear and decide the~~
1638 ~~application.~~

- 1639 2. ~~Citations to all ordinances, rules, regulations and cases upon which the applicant relies.~~
1640 3. ~~All facts upon which the application/appeal is based.~~
1641 4. ~~All documentary evidence upon which the applicant/appellant relies.~~
1642 5. ~~The identity of any expert who will testify and a summary of all expert opinion to be offered.~~
1643 6. ~~The area of expertise and qualifications of all expert witnesses.~~
1644 7. ~~Identity of all other witnesses who will testify.~~
1645 8. ~~Copies of all written affidavits upon which the applicant/appellant relies.~~
1646 B. ~~Response. City departments or personnel intending to appear in opposition to an application/appeal~~
1647 ~~shall file a similar pre hearing statement no later than ten days prior to the date of the hearing.~~
1648 C. ~~Public Participation. The public may present testimony during the hearing but written documents~~
1649 ~~or affidavits must be submitted no later than ten days prior to the date of the hearing.~~
1650 D. ~~Non binding. The information submitted in compliance with this article shall be construed only as~~
1651 ~~a statement of the party's intent to submit such information or to provide testimony from witnesses, but no~~
1652 ~~parties are bound to introduce the same at a hearing.~~
1653 E. ~~Non compliance. The rebuttal evidence is not required to be submitted in advance. No evidence~~
1654 ~~which is required to be submitted in advance under this article will be admitted as evidence unless the~~
1655 ~~offering party has complied with this article. Failure to comply with the requirements of this article may~~
1656 ~~result in a postponement, continuance or dismissal of an application at the discretion of the board.~~

1657 **17.12.130 Appeals to courts.**

- 1658 A. Any person or persons jointly or severally aggrieved by any decision of the **Board of Appeals**
1659 ~~board of zoning appeals~~ or of final decision of the planning commission or any taxpayer or office,
1660 department, board or bureau of the municipality may **file a request for judicial review** ~~appeal such~~
1661 ~~decision~~ to the Wicomico County Circuit Court setting forth that such decision is unlawful, in
1662 whole or in part, and specifying the unlawful grounds thereof.
- 1663 B. Such appeals shall follow the procedures established by the Maryland Rules, as promulgated from
1664 time to time by the Court of Appeals of Maryland. The appeal shall not stay proceedings upon the
1665 decision appealed from, but upon notice to the board or commission and to the applicant and on
1666 **good due** cause shown, the court may grant a restraining order to stay all current and further
1667 proceedings in the matter.
- 1668 C. The board or commission shall not be required to forward to the court the original papers acted
1669 upon by it, but it shall be sufficient to forward certified or sworn copies thereof or such portions
1670 thereof as may be called for by such appeal.
- 1671 D. When **an** ~~the~~ applicant files an appeal with the Wicomico County Circuit Court, a copy thereof
1672 shall be filed with the board or commission. It shall be the duty of the board or commission to
1673 notify the city solicitor and all interested parties promptly of the filing of every petition of appeal.
1674 The clerk of the Wicomico County Circuit Court shall notify the board of the final action of the
1675 court on each appeal.
- 1676 E. ~~When applicant files an appeal with the Wicomico County Circuit Court, a copy thereof shall be~~
1677 ~~filed with the board. It shall be the duty of the board to notify the city solicitor and all interested~~
1678 ~~parties promptly of the filing of every petition of appeal. The clerk of the Wicomico County Circuit~~
1679 ~~Court shall notify the board of the final action of the court on each appeal.~~

1680 **17.16.030 Nonconforming structures.**

- 1681 A. A "nonconforming structure" is a structure lawfully existing at the effective date of adoption or
 1682 amendment of this title that could not be built under the terms of this title by reason of restrictions
 1683 on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot.
- 1684 B. A nonconforming structure may continue so long as it remains lawful and such structures may be
 1685 maintained to assure compliance with other applicable city codes.
- 1686 C. A nonconforming structure shall not be structurally changed or enlarged without approval of the
 1687 **Board of Appeals** ~~board of zoning appeals~~ in accordance with Article II of this section.
- 1688 D. A nonconforming structure that is wholly or partially destroyed by fire, act of God or other casualty
 1689 beyond the control of the owner may be reconstructed within one year afterward, as follows:
- 1690 1. More than fifty (50) percent destroyed—all such nonconforming structures may be
 1691 reconstructed, provided that all provisions of this chapter are met for the zoning district in
 1692 which the structure is located; or
- 1693 2. Less than fifty (50) percent destroyed—may be reconstructed exactly as existed prior to
 1694 the structure being damaged.
- 1695 E. The **Board of Appeals** ~~board of zoning appeals~~ may grant an extension to the one year time
 1696 limitation upon application to the board showing that strict compliance with this one year period
 1697 will result in either an unwarranted hardship or injustice to the owner, provided that such extension
 1698 will not be contrary to the public interest.

1699 **17.16.040 Nonconforming uses.**

- 1700 A. A "nonconforming use" is a use which legally exists at the effective date of adoption or amendment
 1701 of this title but that does not comply with the use regulations of the district in which it is located.
 1702 Such nonconforming use may consist of a nonconforming use of land, a nonconforming use of a
 1703 structure or a nonconforming use of land and a structure.
- 1704 B. A nonconforming use may continue so long as it otherwise remains lawful.
- 1705 C. A nonconforming use may not be changed to another nonconforming use, extended or enlarged
 1706 without approval of the **Board of Appeals** ~~board of zoning appeals~~ in accordance with Article II
 1707 of this chapter.
- 1708 D. No building, structure or lot where a nonconforming use has substantially ceased for a continuous
 1709 period of one year, whether or not fixtures or equipment are removed, shall again be put to a
 1710 nonconforming use.
- 1711 E. The casual, temporary or illegal use of land or structure does not establish the existence of a
 1712 nonconforming use.
- 1713 F. A nonconforming use or structure housing a nonconforming use that is wholly or partially
 1714 destroyed by fire, act of God or other casualty beyond the control of the owner may be reconstructed
 1715 within one year afterward, as follows:
- 1716 1. More than fifty (50) percent destroyed—all such nonconforming uses or structures may be
 1717 reconstructed only in conformance with all provisions of this chapter for the zoning
 1718 districts in which the structure or use is located; or
- 1719 2. Less than fifty (50) percent destroyed—may be reconstructed and sued exactly as existed
 1720 prior to the structure being damaged.
- 1721 G. The **Board of Appeals** ~~board of zoning appeals~~ may grant an extension to the one year time
 1722 limitation upon application to the board showing that strict compliance with this one year period

1723 will result in either an unwarranted hardship or injustice to the owner, provided that such extension
1724 will not be contrary to the public interest.

1725 **17.16.050 Nonconforming single-family dwellings.**

1726 A. A single-family dwelling lawfully existing on the effective date of this title but which could no
1727 longer be constructed in the district in which it is located because of a restriction of use may be
1728 enlarged or altered without permission of the **Board of Appeals** ~~board of zoning appeals~~.

1729 B. A single-family dwelling lawfully existing on the effective date of this title but nonconforming in
1730 setback with the regulations for the district in which it is located may be enlarged in line with the
1731 existing nonconforming setback without permission of the **Board of Appeals** ~~board of zoning~~
1732 ~~appeals~~; except, that on a corner lot no enlargement shall be made extending toward the intersecting
1733 street corner without permission of the **Board of Appeals** ~~board of zoning appeals~~ upon a finding
1734 that the enlargement will not be detrimental to the use or further development of the intersecting
1735 streets or create a safety hazard to motorists thereon.

1736 **17.16.070 Purpose.**

1737 Although there are uses which do not fit into the desired pattern of a zoning district and become
1738 nonconforming, it is the policy of the city of Salisbury to provide for the continuation of certain
1739 nonconformities which do not endanger the public health, safety and welfare and to recognize that certain
1740 uses, although nonconforming in their location, are needed and useful to the area they serve without great
1741 detriment to their surrounding neighbors. To provide for change, alteration or enlargement of these uses,
1742 the following criteria are established, and approval by the **Board of Appeals** ~~board of zoning appeals~~ is
1743 required, after public notice and hearing.

1744 **17.16.080 Criteria for approval—Conditions.**

1745 A. The **Board of Appeals** ~~board of zoning appeals~~ may approve change, alteration or enlargement of
1746 a nonconforming use or structure after consideration of the following:

1747 1. The intensity of the existing use relative to the district in which it is located, the scale of
1748 the change or enlargement in relation to the intensity of the use and whether it will have
1749 serious negative effects on the surrounding area, depreciating property values;

1750 2. Whether the change, alteration or enlargement is of benefit to or in the best interest of the
1751 community or surrounding area, such as providing additional employment or housing for
1752 the community or services to a neighborhood;

1753 3. Existing or possible traffic and parking problems and how they can be reduced or
1754 minimized;

1755 4. Screening, buffering or architectural improvements which may make the use more
1756 compatible with the surrounding area;

1757 5. Whether the change, alteration or enlargement will upgrade or improve the existing
1758 nonconforming use, such as change to a less-intensive use, change in operation, structural
1759 changes or redesign of the site relative to parking areas, entrances, exits, loading or
1760 unloading and traffic flow.

1761 B. Upon approval of a change, alteration or enlargement of a nonconforming use, the **Board of**
1762 **Appeals** ~~board of zoning appeals~~ may impose such conditions or restrictions on the proposal as
1763 deemed necessary to reduce or minimize any effect upon other properties in the neighborhood and
1764 to secure compliance with the intent of the criteria for approval of such change, alteration or
1765 enlargement.

1766 **17.16.090 Nonconforming Use Zoning Exemption Program.**

- 1767 A. Purpose. To assist in the reduction of vacant properties and provide for increased available housing
1768 within the City of Salisbury.
- 1769 B. Definitions.
- 1770 1. "Applicant" means the owner of a property who submits an application to participate in the
1771 Nonconforming Use Zoning Exemption Program.
- 1772 2. "Program" means the Nonconforming Use Zoning Exemption Program identified in this
1773 chapter.
- 1774 3. "Property" means a residential property subject to the Nonconforming Use Zoning
1775 Exemption Program.
- 1776 C. Criteria for approval—Conditions.
- 1777 1. The Property must have lost its nonconforming use within sixty (60) months prior to
1778 submitting an application under the Program; or
- 1779 2. The Property must be vacant and the Property's nonconforming use must have substantially
1780 ceased for a continuous period of one year.
- 1781 D. Application Requirements.
- 1782 1. All applications to participate in the Program must be submitted on or before November
1783 30, 2022.
- 1784 2. Applicant shall be in good standing with the City of Salisbury. "Good standing" shall be
1785 defined as:
- 1786 a. Applicant shall not owe delinquent taxes to the City of Salisbury.
- 1787 b. Applicant shall not have outstanding code violations on any property owned by
1788 Applicant within the City of Salisbury.
- 1789 c. Applicant shall not own a condemned property within the City of Salisbury, unless
1790 Applicant has an approved rehabilitation plan for the condemned property.
- 1791 3. Applicant shall submit an application and rehabilitation plan for approval by the Housing
1792 and Community Development and Infrastructure and Development Departments. The
1793 rehabilitation plan shall include architectural renderings of the exterior and interior of the
1794 Property, and shall certify that the Property contains off-street and/or on-street parking of
1795 at least one space per unit.
- 1796 4. Applicant shall agree to adhere to Federal/State/Local Fair Housing Guidelines/Practices.
- 1797 5. Applicant shall obtain all permits required to execute the rehabilitation plan and shall
1798 comply with all applicable building codes.
- 1799 E. Program Requirements.
- 1800 1. Within twelve (12) months from application approval by the Housing and Community
1801 Development and Infrastructure and Development Departments, the Applicant shall:
- 1802 a. Complete all terms and conditions of Applicant's rehabilitation plan;
- 1803 b. Obtain a Certificate of Occupancy; and
- 1804 c. The Property must be inspected by the Housing and Community Development
1805 Department.

- 1806 2. The Property must be made available for rent within twelve (12) months following
1807 application approval by the Housing and Community Development and Infrastructure and
1808 Development Departments.
- 1809 3. The Property shall be subject to a three-year probationary period. During the probationary
1810 period, the following additional conditions and requirements apply:
- 1811 a. All units within the Property shall be subject to yearly inspection by the Housing
1812 and Community Development Department;
- 1813 b. The Property owner shall maintain Code and Standards of Livability requirements;
- 1814 c. There shall be no more than three code violations per Property, per year; and
- 1815 d. There shall be no more than three calls for service per unit located on the Property,
1816 per year.
- 1817 4. No Property shall be vacant for more than a twelve-month period following the completion
1818 of rehabilitation plan.
- 1819 F. Costs.
- 1820 1. There shall be a five hundred dollar (\$500.00) non-refundable application fee per Property.
- 1821 2. During the three-year probationary period, Applicant shall pay the following licensing
1822 costs:
- 1823 a. Two hundred forty dollars (\$240.00) per landlord license, per year.
- 1824 b. Two hundred forty dollars (\$240.00) per rental unit, per year.
- 1825 3. At the end of the three-year probationary period, all costs shall return to those then in effect.
- 1826 G. Violations.
- 1827 1. Failure to complete the probationary period shall result in the Property's loss of its legal
1828 nonconforming use status pursuant to the Program.
- 1829 2. Violation of any Program Requirement shall result in the Property's loss of its legal
1830 nonconforming use status pursuant to the Program.
- 1831 H. Appeals. The denial of any application under this chapter may be appealed to the Board of ~~Zoning~~
1832 Appeals. The appeal shall be filed in writing within ~~thirty (30)~~ **twenty-one (21)** days of the date of
1833 the final decision or denial to the Applicant, state clearly the grounds on which the appeal is based,
1834 and be processed in the manner prescribed for hearing administrative appeals under Board of
1835 ~~Zoning~~ Appeals rules of procedure.

1836 **17.24.040 Development standards.**

1837 Minimum development standards for the central business district shall be as follows:

- 1838 A. Minimum Lot Requirements. All lots hereafter established shall meet the following requirements:
- 1839 1. Lot area: five thousand (5,000) square feet;
- 1840 2. Lot width: fifty (50) feet.
- 1841 B. Setback, Height and Density. The following minimum standards are established as guides for
1842 design of development. These standards may be increased or decreased by the planning commission
1843 upon review of individual site design in relation to the surrounding properties and development of
1844 the CBD as a whole.
- 1845 1. Setbacks.

- 1846 a. Setbacks shall be as follows:
- 1847 i. Setbacks shall be the same as the established setbacks for existing
1848 buildings within the same block.
- 1849 ii. Where there are minor irregularities in existing setbacks for the same
1850 block, any one of the existing setbacks which the planning commission
1851 considers most applicable may be used.
- 1852 iii. Where there are major irregularities in existing setbacks for the same
1853 block, the setback shall be no less than the average of setbacks for existing
1854 buildings on either side of the proposed development.
- 1855 iv. Where no established building setbacks exist, the setback shall be a
1856 minimum of five feet from the back of the sidewalk.
- 1857 v. Setbacks from the Wicomico River shall be a minimum of ten feet from
1858 the back of the existing or proposed bulkheading line.
- 1859 vi. Setbacks from interior lot lines shall be a minimum of ten feet.
- 1860 b. Modifications to Setbacks.
- 1861 i. During its review of any development requiring a modification to setbacks,
1862 the planning commission shall consider the location of buildings on the
1863 site relative to safe vehicular movement on existing or proposed streets,
1864 light, air and ability of fire or emergency equipment and vehicles to
1865 adequately serve the development.
- 1866 ii. Special consideration shall be given to the location of landscaped areas
1867 and areas of pedestrian movement to assure coordination of landscaping
1868 and freedom and safety of pedestrian movement.
- 1869 iii. The planning commission may increase or decrease setbacks wherever a
1870 rearrangement of buildings on the site will aid in achieving a continuous
1871 link of development with freedom and encouragement of pedestrian
1872 movement from one development to another.
- 1873 2. Density.
- 1874 a. Floor area for commercial or other uses shall not be used when computing density
1875 for dwelling units.
- 1876 b. Inherent density shall not exceed forty (40) units per acre.
- 1877 c. Increased density shall require a special exception from the **Board of Appeals**
1878 ~~board of zoning appeals~~. In addition to consideration of the criteria required by
1879 section 17.232.020, the board shall consider the criteria set forth in subsection
1880 (B)(4) of this section.
- 1881 3. Height.
- 1882 a. The height of all buildings or structures shall not exceed seventy-five (75) feet.
- 1883 b. Increased height shall require a special exception from the **Board of Appeals**
1884 ~~board of zoning appeals~~. In addition to consideration of the criteria required by
1885 section 17.232.020, the board shall consider the criteria set forth in subsection
1886 (B)(4) of this section.
- 1887 4. Criteria for Increased Height and/or Density.

- 1888 a. When acting upon a request for either increased height or density, the **Board of**
1889 **Appeals** ~~board of zoning appeals~~ shall consider any or all of the following criteria
1890 as may apply to the type of development proposed:
- 1891 i. Recommendation from the planning commission;
 - 1892 ii. The type of residential development proposed relative to the ability of the
1893 site to accommodate the density proposed;
 - 1894 iii. The availability of city services to the site, such as water, sewer, streets
1895 and parking lots or structures; and whether the site can accommodate a
1896 higher density and/or height without an undue burden of expense to the
1897 city;
 - 1898 iv. The functional, visual and spatial relationship of the proposed height
1899 relative to surrounding development and the CBD as a whole;
 - 1900 v. Whether the proposed height will create an intrusion or conflict with the
1901 spatial arrangement of existing or proposed buildings;
 - 1902 vi. Shadows which may interfere with solar panels or other solar equipment
1903 already in existence or under contract to be installed on existing buildings
1904 or buildings approved for construction in the immediate vicinity;
 - 1905 vii. Water pressure and capability of community firefighting equipment, in
1906 addition to any required construction of fire safety devices, to assure safety
1907 of occupants;
 - 1908 viii. The merits of the design and whether the treatment of setbacks,
1909 landscaping or other amenities, in addition to architectural treatment of the
1910 building, provide an excellence of design which contributes to the
1911 furtherance of the purpose of the CBD.
- 1912 b. The board may solicit any expert review and advice to assist it in making a decision
1913 on the request for increased height and/or density.
- 1914 C. Open Space and Landscaping.
- 1915 1. Landscaped open space shall be provided wherever possible to attract development and
1916 provide a pleasing environment to conduct business, trade, civic and cultural affairs and
1917 improve the appearance of downtown.
 - 1918 2. Wherever possible, landscaped open space areas shall be provided adjoining the
1919 landscaped open space area on an adjoining parcel. Landscaping for both areas shall be
1920 coordinated so as to give the appearance of one continuous landscaped area.
 - 1921 3. Development adjoining the Wicomico River shall provide public open space easements as
1922 required in the urban river plan or other adopted plans and shall provide open space and
1923 landscaped areas coordinated with existing open space and landscaped areas developed by
1924 the city.
- 1925 D. Parking. Parking shall be provided in accordance with chapter 17.196, except where governed by
1926 established parking tax district regulations.
- 1927 E. Building and Development Restrictions.
- 1928 1. Drive-in window service uses shall provide a reservoir of five spaces on site for each drive-
1929 in window or stall.

- 1930 2. Access driveways crossing sidewalks to private parking areas shall be reduced or
- 1931 eliminated where it is determined that alternative or unified points of access are available
- 1932 resulting in less traffic congestion and pedestrian interference.
- 1933 3. Common loading and unloading areas serving more than one business shall be encouraged
- 1934 where possible.
- 1935 4. Entrance to loading and unloading areas shall be located at the rear of the building where
- 1936 possible. Where a business abuts more than one street, this entrance shall be on the street
- 1937 with the least amount of traffic.
- 1938 5. Outside storage of materials or parts shall be prohibited, except that outside storage of
- 1939 service and delivery vehicles used in operation of a business within the CBD shall be
- 1940 permitted.
- 1941 E. Signs. Signs shall be in accordance with chapter 17.216.

1942 **17.72.010 Purpose.**

1943 The purpose of the industrial district is to recognize those areas of industrial development which have

1944 developed historically along the rivers and portions of rail lines in or close to the central part of the city and

1945 to provide additional areas along the river and rail lines for location of industries dependent, to a great

1946 extent, upon these facilities for transport of materials used in their operation. These uses also require large

1947 sites and good access to major highways. To protect surrounding areas and assure compatibility of

1948 development within the district, those uses which may create excessive external noise, vibration, smoke,

1949 dust, lint, odor, heat, glare or which use explosive, toxic or otherwise hazardous materials are permitted

1950 only by special exception upon approval of the **Board of Appeals** ~~board of zoning appeals~~. The following

1951 uses, standards and area regulations have been developed in accordance with this purpose, which is in

1952 accord with findings and recommendations of the city's adopted land use element of the metro core

1953 comprehensive plan.

1954 **17.104.040 Development standards.**

1955 Minimum standards for development in the riverfront redevelopment multiuse district No. 1 shall be as

1956 follows:

- 1957 A. Minimum Lot Requirements. All lots hereafter established shall meet the following minimum
- 1958 requirements:
 - 1959 1. Lot area: five thousand (5,000) square feet;
 - 1960 2. Lot width: fifty (50) feet.
- 1961 B. Setback, Height and Density. The following minimum standards are established as guides for
- 1962 design of development. These standards may be increased or decreased by the planning commission
- 1963 upon review of individual site design in relation to surrounding properties and development of the
- 1964 riverfront redevelopment multiuse district No. 1 as a whole.
 - 1965 1. Setbacks.
 - 1966 a. Setbacks shall be as follows:
 - 1967 i. Setbacks shall be the same as the established setbacks for existing
 - 1968 buildings within the same block.
 - 1969 ii. Where there are minor irregularities in existing setbacks for the same
 - 1970 block, any one of the existing setbacks which the planning commission
 - 1971 considers most applicable may be used.

- 1972
1973
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- 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 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 residential 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 section 17.232.020 of this title, the board shall consider the criteria set forth in subsection (B)(4) of this section.
4. Criteria for Increased Height and/or Density.
- 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:
 - i. Recommendation from the planning commission;
 - ii. The type of residential development proposed relative to the ability of the site to accommodate the density proposed;

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- 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;
 - iv. The functional, visual and spatial relationship of the proposed height relative to surrounding development and the CBD as a whole;
 - v. Whether the proposed height will create an intrusion or conflict with the spatial arrangement of existing or proposed buildings;
 - 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;
 - vii. Water pressure and capability of community fire-fighting equipment, in addition to any required construction or fire safety devices, to assure safety of occupants;
 - 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.
- b. The board may require a party to provide any expert review and advice, on the record, to assist it in making a decision on the request for increased height and/or density.

2035 C. Open Space and Landscaping.

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- 1. Landscaped open space shall be provided to attract development, provide a pleasing environment and improve the appearance of the entire area.
 - 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.
 - 3. Parking lots shall be landscaped in accordance with chapter 17.220 of this title.
 - 4. Landscaped screening areas may be required along any property line where the planning commission finds that such landscaped screening area is necessary to further the purpose of the riverfront district and provide separation to minimize any possible adverse effect from adjoining uses.

2046 D. Parking. Parking shall be provided in accordance with chapter 17.196 of this title.

2047 E. Signs. Signs shall be in accordance with section 17.216.160 of this title.

2048 **17.105.040 Development standards.**

2049 Minimum standards for development in the riverfront redevelopment multiuse district shall be as follows:

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

2056 committee upon review of individual site design in relation to surrounding properties and
2057 development of the riverfront redevelopment multiuse district as a whole.

2058 1. Setbacks.

2059 a. Setbacks shall be as follows:

2060 i. Setbacks shall be the same as the established setbacks for existing
2061 buildings within the same block.

2062 ii. Where there are minor irregularities in existing setbacks for the same
2063 block, any one of the existing setbacks which the planning commission
2064 considers most applicable may be used.

2065 iii. Where there are major irregularities in existing setbacks for the same
2066 block, the setback shall be no less than the average of setbacks for existing
2067 buildings on either side of the proposed development.

2068 iv. Where no established building setbacks exist, the setback shall be a
2069 minimum of five feet from the back of the sidewalk.

2070 v. Setbacks from the Wicomico River shall be a minimum of ten feet from
2071 the back of the existing or proposed bulkheading line.

2072 vi. Setbacks from interior lot lines shall be a minimum of ten feet.

2073 b. Modifications to Setbacks.

2074 i. During its review of any development requiring a modification to setbacks,
2075 the planning commission shall consider the location of buildings on the
2076 site relative to safe vehicular movement on existing or proposed streets,
2077 light, air and ability of fire or emergency equipment and vehicles to
2078 adequately serve the development.

2079 ii. Special consideration shall be given to the location of landscaped areas
2080 and areas of pedestrian movement to assure coordination of landscaping
2081 and freedom and safety of pedestrian movement.

2082 iii. The planning commission may consider an increase or decrease in
2083 setbacks wherever a rearrangement of buildings on the site will aid in
2084 achieving a continuous link of development with freedom and
2085 encouragement of pedestrian movement from one development to another.

2086 2. Density.

2087 a. Floor area for commercial or other uses shall not be used when computing density
2088 for dwelling units.

2089 b. Inherent density shall not exceed forty (40) units per acre.

2090 c. Increased density shall require a special exception from the b **Board of Appeals**
2091 ~~board of zoning appeals~~. In addition to consideration of the criteria required by
2092 section 17.232.020 of this title, the board shall consider the criteria set forth in
2093 subsection (B)(4) of this section.

2094 3. Height.

2095 a. Inherent height shall not exceed seventy-five (75) feet.

2096 b. Increased height shall require a special exception from the **Board of Appeals**
2097 ~~board of zoning appeals~~. In addition to consideration of the criteria required by

2098 section 17.232.020 of this title, the board shall consider the criteria set forth in
2099 subsection (B)(4) of this section.

2100 4. Criteria for Increased Height and/or Density.

2101 a. When acting upon a request for either increased height or density, the **Board of**
2102 **Appeals** ~~board of zoning appeals~~ shall consider any or all of the following criteria
2103 as may apply to the type of development proposed:

2104 i. Recommendation from the planning commission;

2105 ii. The type of residential development proposed relative to the ability of the
2106 site to accommodate the density proposed;

2107 iii. The availability of city services to the site, such as water, sewer, streets
2108 and parking lots or structures; and whether the site can accommodate a
2109 higher density and/or height without an undue burden of expense to the
2110 city;

2111 iv. The functional, visual and spatial relationship of the proposed height
2112 relative to surrounding development and the CBD as a whole;

2113 v. Whether the proposed height will create an intrusion or conflict with the
2114 spatial arrangement of existing or proposed buildings;

2115 vi. Shadows which may interfere with solar panels or other solar equipment
2116 already in existence or under contract to be installed on existing buildings
2117 or buildings approved for construction in the immediate vicinity;

2118 vii. Water pressure and capability of community fire-fighting equipment, in
2119 addition to any required construction or fire safety devices, to assure safety
2120 of occupants;

2121 viii. The merits of the design and whether the treatment of setbacks,
2122 landscaping or other amenities, in addition to architectural treatment of the
2123 building, provide an excellence of design which contributes to the
2124 furtherance of the purpose of the CBD.

2125 b. The board may solicit any expert review and advice to assist it in making a decision
2126 on the request for increased height and/or density.

2127 C. Open Space and Landscaping.

2128 1. Landscaped open space shall be provided to attract development, provide a pleasing
2129 environment and improve the appearance of the entire area.

2130 2. Wherever possible, landscaped open space areas shall be provided adjoining the
2131 landscaped open space area on an adjoining parcel. Landscaping for both areas shall be
2132 coordinated so as to give the appearance of one continuous landscaped area.

2133 3. Parking lots shall be landscaped in accordance with chapter 17.220 of this title.

2134 4. Landscaped screening areas shall be provided along side and/or rear property lines of
2135 industrially used property except where adjoining the Wicomico River. All areas not used
2136 for loading and unloading along the riverfront shall be landscaped.

2137 5. Landscaped screening areas may be required along any property line where the
2138 development review committee and planning commission find that such landscaped
2139 screening area is necessary to further the purpose of the riverfront district and provide
2140 separation to minimize any possible adverse effect from adjoining uses.

2141 D. Parking. Parking shall be provided in accordance with chapter 17.196, except where governed by
2142 the established parking tax district regulations.

2143 E. Signs. Signs shall be in accordance with chapter 17.216 of this title.

2144 **17.166.020 Permit required.**

2145 A. No adult entertainment business may operate within the city of Salisbury unless and until said
2146 business has obtained an adult entertainment permit from the city in accordance with this chapter.
2147 Permits shall be renewed on an annual basis on or before March 1st of each year.

2148 B. Permit applications shall be provided by the director of the department of infrastructure and
2149 development. The permit application shall include the street address of the proposed adult
2150 entertainment business, the names and addresses of all owners, as hereinafter described, and any
2151 other information deemed necessary by the director.

2152 1. If the owner is a corporation, the permit application shall provide the names and residence
2153 addresses of all officers of the corporation, and names and residence addresses of all
2154 shareholders or members with an interest of ten percent or greater;

2155 2. If the owner is a partnership, the permit application shall provide the names and residence
2156 addresses of all partners with an interest of ten percent or greater;

2157 3. If the owner is any other form of unincorporated association, the permit application shall
2158 provide the names and residence addresses of all principals with an interest of ten percent
2159 or greater;

2160 4. If the owner is an individual person, the permit application shall provide the name and
2161 address of that individual person;

2162 5. If none of the persons listed in subsections (B)(1) through (B)(4) hereinabove has an
2163 address in this state, the permit application also shall provide the name and address of a
2164 person who resides within the state and who is authorized to accept service of process on
2165 behalf of the owner(s) and who shall be designated as a responsible, local party or agent,
2166 both for purposes of notification in the event of an emergency affecting the public health,
2167 safety or welfare and as herein authorized and in connection herewith.

2168 C. Each application for an adult entertainment permit shall also include the following:

2169 1. A certification by a licensed surveyor or licensed engineer showing distances from the
2170 nearest portion of the structure to be used for an adult entertainment business to the nearest
2171 property line of the premises of a church, school, park, day care center, residential zoning
2172 district or other residential use, or another adult entertainment business, as those terms are
2173 defined in Title 17 of this code.

2174 D. Permit Fees. The application fee for an adult entertainment permit shall be one hundred dollars
2175 (\$100.00).

2176 E. Processing a Permit Application for an Adult Entertainment Business.

2177 1. The adult entertainment permit shall be approved or denied in writing within ten working
2178 days after the application is filed and determined to be complete, unless additional time is
2179 needed to review structural issues unrelated to the use of the adult entertainment business,
2180 in which case the generally applicable time period relating to issuance of a building permit
2181 shall apply.

2182 2. If the adult entertainment permit is not approved or denied within the time period
2183 established in this section, the application shall be deemed approved.

- 2184 3. In order to guarantee prompt judicial review of any adult entertainment application, and in
2185 recognition of the restrictions on the city of Salisbury's authority to require courts in
2186 Maryland or the federal circuits to take action within any given time period, a temporary
2187 zoning certificate shall be issued if:
- 2188 a. The adult entertainment permit is denied,
- 2189 b. The applicant brings a timely action for administrative review by the **Board of**
2190 **Appeals** ~~board of zoning appeals~~ and/or judicial review, as defined in the rules of
2191 procedure for the court in which the application is brought, and
- 2192 c. The proposed adult entertainment business is not located in a residential zoning
2193 district.
- 2194 4. A temporary adult entertainment permit issued pursuant to this section expires when a final
2195 judicial determination is made relating to the application. If the applicant prevails, and the
2196 city does not seek additional review, then a permanent adult entertainment permit shall be
2197 issued within five working days after the applicant notifies the director of the department
2198 of infrastructure and development of the reviewing body's decision; if the applicant does
2199 not prevail, the temporary adult entertainment permit becomes null and void, and the
2200 applicant shall bring the premises into compliance with this code within ten working days
2201 after the final judicial decision is rendered.

2202 **17.166.050 Variance.**

- 2203 A. Applicability. The **Board of Appeals** ~~board of zoning appeals~~ may authorize variances to the
2204 provisions of section 17.166.030 of this chapter in accordance with the criteria set forth in
2205 subsection B of this section. The granting of a variance does not exempt the applicant from any
2206 provisions of this section other than modifying the locational restrictions set forth in section
2207 17.166.030.
- 2208 B. Decision making Criteria, Variances for Adult Entertainment Businesses. The board may authorize
2209 a variance only upon specific findings that:
- 2210 1. A sufficient physical barrier separates the adult entertainment business from any of the
2211 protected uses set forth in section 17.166.030, so as to substantially fulfill the purpose of
2212 the distance requirement. Such physical barriers may include, but are not limited to, limited
2213 access streets or highways, walls, and natural or man-made waterways;
- 2214 2. The strict application of the provisions of these regulations will create an undue hardship
2215 unique to the applicant for a particular location; and
- 2216 3. All other applicable provisions of this chapter will be observed.

2217 **17.168.010 Purpose.**

2218 To avoid excessive concentration of population, prevent overcrowding of land and congestion in streets,
2219 minimize adverse effects on surrounding development, assure the safety of inhabitants and residents in the
2220 vicinity and to provide the amenities essential to a residential environment, the following minimum
2221 standards for apartment development are established. Recognizing that there may be certain locations where
2222 services, access, topography, amenities and design of the site can accommodate higher densities than
2223 permitted, inherently special standards and requirement of **Board of Appeals** ~~board of zoning appeals~~
2224 approval for higher densities are also established in addition to minimum standards.

2225 **17.168.040 Density or height increases permitted by special exception.**

- 2226 A. In all districts where apartment development is permitted, the **Board of Appeals** ~~board of zoning~~
2227 ~~appeals~~ may approve an increase in height or density up to a maximum of thirty (30) units per acre

2228 after consideration of the following criteria in addition to satisfying the requirements of chapter
2229 17.232 pertaining to special exceptions:

- 2230 1. The additional ten-foot setback required for each story above three is provided in any
2231 combination to provide distance and separation from lower profile residential
2232 development.
- 2233 2. Open space is increased to forty (40) percent of the net project area.
- 2234 3. Arrangement of buildings on the site can be designed to minimize the effect of shadows,
2235 interference with light and air and intrusion on privacy of adjoining residential yards.
- 2236 4. Additional landscaping and screening is provided around parking areas, where the board
2237 deems necessary, and adjoining residential development.

2238 B. In determining whether an increase in height or density should be approved, the board shall
2239 consider such factors as:

- 2240 1. The topography of the site and whether it can be used to soften the impact of any increased
2241 building height in relation to the surrounding area;
- 2242 2. Existing and proposed streets and traffic patterns relative to the amount of traffic to be
2243 generated by the increased density and whether it can easily be accommodated without
2244 being detrimental to surrounding residential area;
- 2245 3. Whether the site is further separated from residential areas by streets or nonresidential uses
2246 or the site adjoins or is immediately across the street from a public pond, lake or park;
- 2247 4. Provision of recreational facilities in relation to maximum density of people to be served;
- 2248 5. How the criteria have been used in designing the site to achieve maximum results in
2249 integration of greater building height and density without harsh contrast in relation to
2250 surrounding development.

2251 C. After consideration of the criteria and factors for review, the board shall approve such increase in
2252 building height and density as it considers will have the least impact on and be the least detrimental
2253 to the surrounding area.

2254 **17.180.050 Special exceptions.**

2255 For all developments requiring a special exception, the planning commission shall, after reviewing
2256 **applicant's preliminary comprehensive development plan, all plans and comments**, submit its review
2257 findings, together with all plans and comments and any suggested conditions or changes, to the board of
2258 zoning appeals for ~~final~~ consideration at a formal public hearing. **A final comprehensive development**
2259 **plan shall not be approved by the planning commission until the Board of Appeals has rendered a**
2260 **decision on the special exception.**

2261 **17.180.060 Waiver.**

2262 The planning commission and/or the **Board of Appeals** ~~board of zoning appeals~~ may waive any or all of
2263 the statements or studies required as part of the comprehensive development plan set forth in the definition
2264 in section 17.04.120, after consideration of the extent and impact of the development proposed, whether
2265 the requirement is necessary and in the best interest of the city, and the hardship imposed by the requirement
2266 upon the applicant.

2267 **17.196.020 General standards.**

2268 No land shall be used or occupied, no structure shall be designed, erected or expanded, used or occupied,
2269 and no establishment shall be operated, unless sufficient off-street parking and loading spaces are provided

2270 in accordance with this chapter. However, the provisions of this chapter shall not apply to established
2271 parking districts or uses for which a valid permit has been issued.

2272 A. Uses Not Listed. For any use, the wording of which is not specifically listed, the housing official
2273 shall determine if any other use is similar in nature, and the parking provisions for such a use shall
2274 prevail. Where the director of the department of infrastructure and development cannot make a
2275 determination of similar use, the planning commission, in accordance with the provisions of chapter
2276 17.04, Article II, shall review the proposal and make a written determination of similar use upon
2277 which the parking provisions for such use shall prevail.

2278 B. Encroachment. An off-street parking area shall not be encroached upon by buildings, storage,
2279 loading or unloading or any other use where such reduction or encroachment will reduce the area
2280 below that required by this article, nor shall the number of parking spaces be reduced except upon
2281 the granting of a variance by the **Board of Appeals** ~~board of zoning appeals~~. However, the
2282 placement of construction above such parking area shall not be deemed an encroachment if it is
2283 part of a building on the site and at least eight feet above the surface of the parking area.

2284 C. Prohibited Uses.

2285 1. No parking area shall be used for the sale, repair, dismantling or servicing of any vehicle
2286 or equipment or for the storage of materials or supplies, excluding emergency service and
2287 repair of vehicles.

2288 2. No motor vehicle, whether operable or inoperable, shall be parked in the front yard of any
2289 residence unless the same shall be positioned in a driveway or designated parking area with
2290 continuous access to a public street.

2291 In the event of a violation, the following procedures will be followed:

2292 a. A parking violation citation will be issued and placed on the windshield of the
2293 vehicle. A separate parking violation may be issued after each twenty-four-hour
2294 time period.

2295 b. A person who receives a citation under subsection (C)(2)(a) of this section may:

2296 i. Pay the penalty, in accordance with instructions on the citation, directly to
2297 the city; or

2298 ii. Elect to stand trial for the alleged violation pursuant to section 10.24.050
2299 of this code.

2300 D. Location.

2301 1. All required parking spaces shall be located on the same lot as the use they serve, except
2302 that:

2303 a. The owner of two or more abutting lots may locate the use on one lot and the
2304 parking spaces required for the use on another of his abutting lots; or

2305 b. Two or more abutting property owners may locate the parking spaces required for
2306 their uses on any of their lots if:

2307 i. The lot(s) providing the parking space abuts the lot(s) containing the use(s)
2308 it serves;

2309 ii. All of the affected lots are in the same zoning district;

2310 iii. The total number of spaces provided is not less than the sum of spaces
2311 required for all the uses;

- 2312 iv. Means of pedestrian access is provided from the parking space to the uses
2313 so that pedestrians are not required to traverse property owned by other
2314 than said property owners, except where public sidewalks may provide the
2315 access;
- 2316 v. That a recorded lease, easement or other form of agreement be executed
2317 among said property owners assuring perpetual use of the required parking
2318 spaces until or unless the required parking spaces are located on the same
2319 lot as the use they serve. In all cases above, both lots shall be included in
2320 the application for a building permit or certificate of occupancy.
- 2321 c. Where buildings existing on the date of enactment of this chapter cover a lot or
2322 parcel of land to the extent that required parking cannot be accommodated on the
2323 site, required parking may be provided on another lot in the same or adjoining
2324 district by special exception of the **Board of Appeals** ~~board of zoning appeals~~ in
2325 accordance with chapter 17.232.
- 2326 2. All parking spaces and lots open to the sky (i.e., not in garages or carports) shall be located
2327 no closer than three feet from the interior property line or back of the sidewalk or eight feet
2328 from the curblin where no sidewalk exists, except for abutting property lines of two or
2329 more lots exercising the options for common parking stipulated above.
- 2330 3. All covered parking spaces and lots, including garages and carports, shall not be located
2331 within any yard setback area, except when permitted as an accessory building.
- 2332 E. Existing Facilities. Parking spaces and lots serving structures and uses in existence on the initial
2333 date of adoption of this chapter and any amendments thereto shall not be subject to the changed
2334 requirements of this chapter so long as the kind or extent of use was legal when the structure or use
2335 began and has not changed; any requirement for parking spaces, lots, or facility now serving such
2336 structures or uses shall not in the future be increased or otherwise changed in kind or extent.
- 2337 F. Change in Requirements. Whenever there is an alteration or extension of a use or structure which
2338 increases the parking requirements according to subsection H of this section, the total additional
2339 parking required for the alteration or extension shall be provided in accordance with the
2340 requirements of that subsection.
- 2341 G. Construction. All required off-street parking spaces and aisles shall be paved with an all-weather
2342 material. For spaces and aisles which are not part of a parking lot as herein defined, this may include
2343 gravel or other dust-free material to provide a surface resistant to erosion. However, for parking
2344 lots, the paving material shall be limited to asphalt, concrete or similar hard surface material with
2345 all parking spaces designated with a four-inch white or yellow stripe painted the entire length of
2346 each space in accordance with the dimensional requirements stipulated in subsection H of this
2347 section. All parking areas shall be drained to prevent flooding or damage on adjoining properties
2348 or city streets.
- 2349 H. Required Off-Street Parking Spaces.
- 2350 1. All uses and structures shall provide off-street parking spaces in an amount equal to, and
2351 not to exceed the number required in section 17.196.030, parking space requirements,
2352 except by an approved request made to the planning commission, as described herein.
- 2353 Property owners may request up to twenty percent (20%) more parking spaces than allowed
2354 by section 17.196.30. The request may be granted upon a finding that the use of the
2355 property will require more spaces than are available within nine hundred (900) feet of the
2356 property, either on area streets or in public parking facilities, or that the use requires that
2357 additional parking be located on-site.

2358 The planning commission may grant a request to allow additional parking spaces and
2359 impose additional requirements to address the impact of the additional spaces. Additional
2360 requirements may include:

- 2361 a. The use of pervious pavers;
- 2362 b. The installation of vegetative planting or structural screening beyond that
2363 otherwise required in this chapter and in chapter 17.220; and
- 2364 c. The installation of sidewalks, walkways, pedestrian lighting, landscaping, and
2365 other site improvements beyond that required in this chapter and chapter 17.220.

2366 2. Dimensions.

2367 a. Parking spaces other than those parallel to a curb, aisle or accessway required for
2368 off-street parking space shall be at least nine feet wide and twenty (20) feet long.
2369 For parallel parking spaces abutting a curb, aisle or accessway, each space shall be
2370 eight feet wide and twenty-four (24) feet long.

2371 b. The Director of the Department of Infrastructure and Development, at the request
2372 of an applicant, may approve alternative parking space dimensions of not less than
2373 nine feet wide and eighteen (18) feet in length, provided that:

2374 i. A comprehensive site plan is submitted to the director showing alternative
2375 parking space dimensions;

2376 ii. No compact vehicle spaces shall be approved to meet the minimum
2377 parking requirements of this chapter, but said spaces may be used to
2378 provide parking above the required minimum.

2379 iii. These provisions shall not apply to parallel parking.

2380 c. When approving a comprehensive development plan for a shopping center, the
2381 planning commission, at the request of the applicant, may approve a parking space
2382 dimension of not less than nine feet in width and eighteen (18) feet in length,
2383 provided that no compact vehicle spaces shall be approved to meet the minimum
2384 parking requirements of this chapter. Compact spaces may be used to provide
2385 parking above the required minimum parking.

2386 d. Compact Vehicle Spaces Required. No more than fifty (50) percent of parking lots
2387 for ten or more vehicles shall be reserved for compact vehicles. Parking spaces for
2388 compact vehicles shall be at least eight feet in width by seventeen (17) feet in
2389 length. Such spaces shall be designated by signs measuring at least ten by sixteen
2390 (16) inches, with letters at least three inches high stating "COMPACT VEHICLES
2391 ONLY." Where spaces are grouped together, signs may be placed at each end of
2392 the group; otherwise, spaces shall be individually signed.

2393 e. Number and Computation. In computing the required number of spaces, all
2394 fractional numbers shall be increased to the next highest integer. When
2395 computation is based on the number of employees, the number employed during
2396 the largest work shift shall be used.

2397 3. Parking and loading requirements shall be determined on the basis of the total amount of
2398 gross square feet of building area.

2399 I. Parking Lots. For the purpose of this title, "parking lots" are defined as facilities providing off-
2400 street parking space for five or more vehicles. All parking lots shall meet the design and
2401 maintenance standards specified below. All applications for a building or occupancy permit to use

2402 land, in whole or in part, as a parking lot as herein defined shall be accompanied by a landscaping
2403 plan as stipulated in chapter 17.220.

2404 1. Dimensions.

2405 a. All parking spaces shall comply with the dimensions specified in subsection
2406 (H)(1)(a). The minimum dimensions of all aisles providing access to parking lot
2407 spaces shall be as follows:

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

2408
2409 b. No portion of any parking space shall intrude into the required aisle width. For
2410 aisles providing access to parking spaces set at angles other than those specified
2411 above, the required aisle width shall be that of the nearest specified angle of
2412 parking. If equidistant from specified angles, the greatest aisle width of the two
2413 nearest angles shall apply.

2414 c. Handicapped spaces and dimensions shall be provided in accordance with state
2415 law.

2416 2. Obstructions. Parking lots shall be designed to permit each motor vehicle to proceed to and
2417 from all unoccupied parking spaces without requiring the moving of any other parked
2418 vehicle.

2419 3. Ingress and Egress. Entrance and exit driveways and aisles linking parking lots to public
2420 streets shall comply with the requirements for motor vehicle access stipulated by the city
2421 department of infrastructure and development. Parking spaces, other than residential, shall
2422 be designed to prevent motor vehicles from backing onto a public street in order to leave
2423 the lot.

2424 4. Location and Yard Requirements.

2425 a. All parking lots shall meet the location requirements stipulated in section
2426 17.196.020(D).

2427 b. All yards surrounding the parking lot, exclusive of driveways providing ingress
2428 and egress to the lot, shall be bordered by a curb six inches high along the sides of
2429 the yard area abutting the parking lot, including spaces and aisles. Concrete curb
2430 or bumpers shall be required in areas where, in the opinion of the director of
2431 department of infrastructure and development, a curb constructed of asphalt or
2432 similar material would be vulnerable to vehicular damage. If bumpers are provided
2433 at the end of each parking space, a curb is not required. Setback areas shall be
2434 planted with grass or similar vegetative material and may include shrubs, fences
2435 or walls, provided that they are not placed closer than three feet from any parking
2436 space.

2437 5. Structures. Utility poles, light standards and similar structures shall not be permitted within
2438 any aisle or parking space. Any structure located elsewhere within a parking lot shall be

2439 surrounded on all sides abutting the spaces or aisles by a curb six inches high, separated
2440 from the structure by at least three feet, the distance to be measured from the broadest point
2441 on each side, exclusive of any portion greater than ten feet from the ground.

2442 6. Raised Islands. Raised islands shall be installed at the ends of all parking bays abutting an
2443 aisle or driveway. The raised island shall be bordered by an asphalt or concrete curb six
2444 inches high wherever it abuts a space or aisle and shall each be an average of at least eight
2445 feet wide and extend the length of the parking space and/or bay. The islands shall be planted
2446 with trees, grass, shrubs and similar vegetative materials (see chapter 17.220) and may be
2447 combined with crushed stone. Utility poles and light standards may be installed within the
2448 raised islands, provided that they are separated from the spaces and aisles as required in
2449 subsection (I)(5) above.

2450 7. Maintenance. All parking lots shall be kept free from litter and trash. Any vegetative
2451 material required herein which dies shall be replaced as soon as recommended seasonal
2452 conditions occur for the replacement of the species.

2453 8. Reduction of Paved Areas. The **Board of Appeals** ~~board of zoning appeals~~ may reduce the
2454 required number of paved parking spaces for a proposed retail sales use, provided that the
2455 board determines the proposed paved areas will adequately serve the proposed use and
2456 provided that land to accommodate the required number of paved parking spaces is set
2457 aside and maintained in grass area, and further provided that should the retail sales use be
2458 changed, the required paved parking spaces shall be provided.

2459 9. Up to fifty (50) percent of the parking spaces required for theaters, public auditoriums,
2460 bowling alleys, dance halls and nightclubs, and up to one hundred (100) percent of the
2461 parking spaces required for a church auditorium, may be provided and used jointly by
2462 banks, offices, retail stores, repair shops, service establishments and similar uses not
2463 normally open, used or operated during the same hours as those uses listed above; provided,
2464 however, that such joint use is approved by the **Board of Appeals** ~~board of zoning appeals~~
2465 and written agreement thereto is properly executed and recorded in the land records of
2466 Wicomico County, except that such joint use in a planned development district shall be
2467 approved by the city council as part of the development plan.

2468 **17.212.020 Development standards.**

2469 A. A shopping center shall be developed in accordance with a comprehensive development plan as
2470 defined in section 17.04.120, which shall be submitted and reviewed in accordance with chapter
2471 17.180.

2472 B. The site shall be designed so that buildings, parking areas and landscaping are harmonious and
2473 attractively arranged and in a manner which will not adversely affect existing or future development
2474 in the area.

2475 C. Buildings shall be designed so that facades, signs and other appurtenances have an integrated and
2476 harmonious appearance.

2477 D. Access to and from the site shall be provided so as not to create a traffic hazard on boundary streets
2478 or interrupt traffic flow near an intersection. Entrance and exit drives shall be designed so that
2479 traffic will flow smoothly into and out of the parking lot without stacking of cars in entrance ways,
2480 onto boundary streets, in front of building entrances or blocking interior access drives to parking
2481 areas and shall be delineated from interior parking areas by permanent curbing or similar barriers
2482 to effectively channel traffic within the parking lot.

2483 E. Parking shall be arranged to avoid excessive walking and minimize conflict between pedestrian
2484 and interior traffic movements. Loading and unloading areas shall be separated from customer

2485 parking areas, and safety provisions shall be made for protection of pedestrians through adequate
2486 location of sidewalks and crossovers which are provided with drainage, lighting, directional signs
2487 and supervision as may be necessary.

2488 F. Shopping centers shall be served by common sewers, gas, water, lighting, power and services where
2489 feasible.

2490 G. A minimum of ten percent of the total construction must be initiated within two years of
2491 comprehensive development plan approval.

2492 H. Needs Analysis.

2493 1. A needs analysis shall be prepared and submitted with the application for a comprehensive
2494 development plan for:

2495 a. Any proposed shopping center greater than one hundred thousand (100,000) gross
2496 square feet of floor area approved after July 1, 1989;

2497 b. The expansion of any existing or previously approved shopping center greater than
2498 one hundred thousand (100,000) gross square feet of floor area where such
2499 expansion exceeds fifty (50) percent of the approved gross floor area;

2500 c. The requirement for a needs analysis shall not be waived by the planning
2501 commission.

2502 2. The needs analysis shall be prepared to demonstrate that the amount of proposed building
2503 area can be properly absorbed by the local or regional market it is planned to serve.

2504 3. The needs analysis shall include an assessment of the existing amount of retail floor space
2505 in the community and the amount approved in the past but currently unbuilt in order to
2506 assure that premature development or a surplus of new commercial floor space does not
2507 occur which will oversaturate the city with commercial floor space resulting in the potential
2508 deterioration and blight of existing approved commercial areas in the city.

2509 4. If the planning commission finds, during its review of the comprehensive development
2510 plan, that the proposed shopping center will result in the creation of surplus retail square
2511 footage in the city which may result in the blight or deterioration of existing commercial
2512 areas or that the proposed shopping center may be premature or that the needs analysis is
2513 inadequate in content to provide the required information, then it shall recommend denial
2514 of the special exception to the **Board of Appeals** ~~board of zoning appeals~~.

2515 5. If the commission finds that the proposed development will add to the economic viability
2516 of the city and will not create the adverse conditions stated in subsection (H)(4) of this
2517 section, a recommendation for approval of the proposed development shall be forwarded
2518 to the **Board of Appeals** ~~board of zoning appeals~~.

2519 6. The **Board of Appeals** ~~board of zoning appeals~~ shall consider the results of the needs
2520 analysis and the planning commission's recommendation in making its decision on any
2521 request for a special exception for a shopping center. **A final comprehensive development
2522 plan shall not be approved by the planning commission until the Board of Appeals
2523 has rendered a decision on the special exception.**

2524 **17.216.070 Signs which may be erected in R-5A, RR-5A and R-8A residential districts.**

2525 Signs which may be erected in residential R-5A, RR-5A and R-8A districts are as follows:

2526 A. Signs as listed in section 17.216.050;

- 2527 B. One temporary sign not exceeding thirty-two (32) square feet in area, nonilluminated, identifying
2528 a model unit in a townhouse or apartment project;
- 2529 C. One nonilluminated or indirectly illuminated sign not exceeding two square feet in area identifying
2530 an ongoing management or rental office in an apartment or townhouse project or for a temporary
2531 sales office until all units have been sold;
- 2532 D. One identification sign for a townhouse or apartment project not to exceed fifty (50) square feet in
2533 surface area, which may be reduced by the **Board of Appeals** ~~board of zoning appeals~~ upon review
2534 of the site and size of projects. Such sign may be ground-mounted not to exceed five feet above
2535 grade and set back fifteen (15) feet from the curblineline or may be a flat wall sign.

2536 **17.216.200 General provisions.**

- 2537 A.
- 2538 1. No sign, unless excepted by these regulations, shall be erected, constructed, posted,
2539 painted, altered, maintained or relocated until a permit has been issued by the director of
2540 the department of infrastructure and development. Before any permit is issued, an
2541 application provided by the director shall be filed with three sets of drawings and/or
2542 specifications as may be necessary to fully advise and acquaint the director with the
2543 location, construction, materials, manner of illumination and/or securing or fastening and
2544 the number of signs applied for. All signs shall be erected on or before the expiration of six
2545 months from the date of issuance of the permit; otherwise a new permit shall be required.
2546 Fees for sign permits shall be in accordance with the fee schedule adopted by ordinance, a
2547 copy of which is maintained in the office of the department of infrastructure and
2548 development. Each sign requiring a permit shall be clearly marked with the permit number
2549 and name of the person or firm placing the sign on the premises.
- 2550 2. Where the director of the department of infrastructure and development determines that an
2551 application for a sign is either prohibited under section 17.216.030 or is not permitted to
2552 be erected in its applicable district, the director shall deny the permit.
- 2553 3. Any interested party may submit within ~~thirty (30)~~ **twenty-one (21)** days from the issuance
2554 or denial of the permit a written appeal to the **Board of Appeals** ~~board of zoning appeals~~,
2555 which shall promptly hear that appeal at a public meeting. ~~A majority vote of the board~~
2556 ~~shall either affirm the decision of the director or shall reverse the decision.~~
- 2557 B. The following signs do not require a permit as required in subsection (A) of this section; provided,
2558 they are in compliance with section 17.216.030:
- 2559 1. Public Signs. Signs erected by or required to be erected by any government agency;
- 2560 2. Changing of copy on a bulletin board, poster board, display easement, outdoor advertising
2561 structure or marquee;
- 2562 3. Temporary (as defined in section 17.216.020) instructional signs not exceeding two square
2563 feet in area or three feet in height;
- 2564 4. Signs on trucks, buses or other vehicles while in use in the normal course of business;
- 2565 5. Nonilluminated signs, not exceeding six square feet in area, with letters not exceeding one
2566 foot in height, painted, stamped, perforated or stitched on the surface area of an awning,
2567 canopy, roller curtain or umbrella;
- 2568 6. Memorial tablets or signs and historic markers;
- 2569 7. Flags and insignias of bona fide civic, charitable, fraternal and welfare or religious
2570 organizations and national flags and flags of political subdivisions of the United States;

- 2571 provided, there are no more than three flags, any one of which may not exceed twenty (20)
2572 square feet on any single lot;
- 2573 8. Banners. One banner of no more than thirty-two (32) square feet in area for no more than
2574 fourteen (14) consecutive days in any year;
- 2575 9. Permanent signs on vending machines and dispensers such as gasoline pumps;
- 2576 10. Signs not exceeding two square feet locating utility facilities;
- 2577 11. One or more political campaign signs which, in aggregate, do not exceed a total of thirty-
2578 two (32) square feet in area, set back at least fifteen (15) feet from the curblin, on any
2579 privately owned lot, except where a building is located less than fifteen (15) feet from the
2580 curblin and, in that event, the setback is the lesser of fifteen (15) feet or the distance
2581 between the building and the curblin;
- 2582 12. Nonbusiness signs (which are not outdoor advertising structures as defined in section
2583 17.216.020) may be erected for a period not to exceed ninety (90) days in any calendar
2584 year by or for the owner or lawful occupant of any lot or structure which signs, in aggregate,
2585 do not exceed a total of six square feet in area, nonilluminated. Such signs must be set back
2586 at least fifteen (15) feet from the curblin on any lot or affixed to an occupied dwelling,
2587 structure or building, except where such dwelling, structure or building is located less than
2588 fifteen (15) feet from the curblin and, in that event, the setback is the lesser of fifteen (15)
2589 feet or the distance between the dwelling structure or building and the curblin;
- 2590 13. Temporary (as defined in section 17.216.020) real estate signs as specified in section
2591 17.216.050(E), which have a maximum area of eight square feet, nonilluminated;
- 2592 14. Temporary (as defined in section 17.216.020) construction signs as specified in section
2593 17.216.050(G);
- 2594 15. Name and address signs not exceeding one for each principal business or use on a premises
2595 and not exceeding two square feet in area;
- 2596 16. Temporary (as defined in section 17.216.020) directional signs as specified in section
2597 17.216.050(K).
- 2598 C. The following temporary signs or displays may be permitted upon written approval of the director
2599 of the department of infrastructure and development:
- 2600 1. Signs advertising a special civic or cultural event such as a fair or exposition, play, concert
2601 or meeting, sponsored by a governmental or charitable organization;
- 2602 2. Special decorative displays used for holidays, public demonstrations or promotion for
2603 nonpartisan civic purposes;
- 2604 3. Special sales promotion displays, in districts where sales are permitted, including displays
2605 incidental to the opening of a new business.
- 2606 D. Signs which are allowed to be lighted may be lighted; provided, that the light illuminating any sign
2607 shall be shaded, shielded or directed so that it shall not adversely affect surrounding properties or
2608 the vision of drivers or pedestrians on public or private rights-of-way or parking areas.
- 2609 E. No business ground sign may be located closer than twenty-five (25) feet from a residentially zoned
2610 property, and no wall sign shall be placed on the side or rear of a building adjoining a residential
2611 district.

- 2612 F. Wherever a use for which a business ground sign is permitted has frontage on more than one street,
2613 one additional ground sign may be permitted with a total surface area not to exceed one-half that
2614 which is permitted for the first ground sign.
- 2615 G. Setbacks for signs shall be measured from the curblin where existing or proposed, except that
2616 wherever a city or state right-of-way fifteen (15) feet or more in width is maintained beyond the
2617 curblin, setbacks for all ground signs shall be no less than five feet from the right-of-way line.
- 2618 H. Heights of signs shall be measured from the ground to the top edge of the rectangle enclosing the
2619 sign surface area, except for roof signs. Wherever the ground on which the sign is to be located is
2620 below the grade of the roadway for which the sign is designated to be viewed, the height of the sign
2621 shall be measured from the grade level of the curblin along such roadway.
- 2622 I. No ground sign shall be located so as to substantially obstruct the view of a ground sign on
2623 adjoining property when viewed from a distance of two hundred (200) feet at any point four feet
2624 above the roadway grade of the traffic lane closest to the street property line.
- 2625 J. No sign may be arranged or located in any district so that it interferes with traffic through glare,
2626 through blocking of reasonable sight lines for streets, sidewalks or driveways or through confusion
2627 with a traffic control device.
- 2628 K. A sign advertising a nonconforming business or industrial use located in a residential district shall
2629 conform to the sign regulations set forth in section 17.216.080.
- 2630 L. In any district, the surface area of one ground sign may be increased by twenty-five (25) percent if
2631 the permitted wall sign surface area is reduced by fifty (50) percent.

2632 **17.216.210 Nonconforming signs.**

- 2633 A. A legally nonconforming sign, except outdoor advertising structures, shall be any sign which on
2634 the effective date of this title was lawfully existing, having been lawfully erected under any prior
2635 zoning or other ordinance pertaining to signs and having been lawfully maintained since that time,
2636 but which sign does not conform to the regulations for signs established by this chapter.
- 2637 B. A lawful nonconforming sign, except outdoor advertising structures, may continue, provided that
2638 the owner and/or user can provide a notarized statement that the sign was constructed in accordance
2639 with state and local regulations in effect at the time of construction. Such statement shall contain:
- 2640 1. The name and address of the owner of the sign and the owner of the property on which the
2641 sign is located;
- 2642 2. The location of the sign in relation to existing or proposed buildings;
- 2643 3. The size, height, setback and description of the sign;
- 2644 4. The date of erection of the sign and the permit number, if applicable.
- 2645 C. A nonconforming sign, except outdoor advertising structures, which is fifty (50) percent or more
2646 damaged or destroyed or becomes substandard under any applicable city code to the extent that the
2647 sign becomes a hazard or danger shall terminate and shall be removed within thirty (30) days from
2648 the date of notification for removal from the director of the department of infrastructure and
2649 development.
- 2650 D. All outdoor advertising structures of whatever value in the central business district are
2651 nonconforming as of the date of enactment of this title, May 23, 1983, and by May 23, 1991, shall
2652 be removed or conform to the standards set forth in subsection E of this section.
- 2653 E. All outdoor advertising structures of whatever number, size and value in the city of Salisbury, other
2654 than those in the central business district, are nonconforming as of August 13, 1990. By the later

2655 of January 1, 1994, or January 1st of the year following the tenth anniversary of the issuance of the
2656 last building permit for the outdoor advertising structure issued by the city prior to August 13, 1990,
2657 all outdoor advertising structures shall either be removed or conform to the following standards,
2658 which shall also apply to all existing outdoor advertising structures which, after August 13, 1990,
2659 are either replaced entirely or are reconstructed or repaired such that the cost of such reconstruction
2660 or repair exceeds fifty (50) percent of the replacement cost of the entire outdoor advertising
2661 structure at the time of such reconstruction or repair, as follows:

- 2662 1. The number of outdoor advertising structures on a lot and the number of faces on any
2663 outdoor advertising structure may not be increased from the number which exists on such
2664 lot as of the date of final passage of this chapter.
- 2665 2. Any outdoor advertising structure shall be set back twenty-five (25) feet from the curblines
2666 of all streets.
- 2667 3. No outdoor advertising structure shall be located closer than one hundred (100) feet to
2668 either a city or county residential zoning district.
- 2669 4. An outdoor advertising structure face shall be limited to one message per face and shall not
2670 exceed a total of one hundred (100) square feet in surface area, except for faces which, on
2671 August 13, 1990, exceeded three hundred sixty (360) square feet, exclusive of trim, which
2672 shall not exceed a total of three hundred (300) square feet in surface area.
- 2673 5. All faces on any outdoor advertising structure shall be placed back-to-back.
- 2674 6. Each outdoor advertising structure face shall be framed with trim work which shall be no
2675 smaller than six inches and no larger than one foot. The area of the trim shall not be
2676 considered in determining the total square footage of surface area.
- 2677 7. No outdoor advertising structure face shall exceed a vertical dimension of fourteen (14)
2678 feet nor a total horizontal dimension of twenty-five (25) feet.
- 2679 8. No outdoor advertising structure shall exceed twenty-five (25) feet in height.
- 2680 9. The base of each outdoor advertising structure at ground level shall be surrounded at each
2681 of its base supports by a five-foot landscaped area consisting of flowering trees and
2682 evergreen shrubs. Each support pole shall be landscaped. The five-foot landscaped area
2683 shall be measured from the outside of said support pole entirely around said pole.
- 2684 10. All outdoor advertising structures and faces shall be kept repaired and properly painted and
2685 maintained.
- 2686 11. Each outdoor advertising structure shall comply with the licensing provisions of section
2687 17.216.240.
- 2688 12. Any outdoor advertising structure existing outside the city limits which is annexed into the
2689 city limits after August 13, 1990, shall be considered to have existed on August 13, 1990.
- 2690 13. No existing outdoor advertising structure which exists on August 13, 1990, shall be
2691 increased in size or height from the size and height that existed on August 13, 1990.
- 2692 14. No illegal outdoor advertising structure may continue in existence, and the same shall be
2693 removed. This chapter does not make legal any illegal outdoor advertising structure.
- 2694 15. Any sign, display or device allowed under this chapter may contain, in lieu of any other
2695 copy, any otherwise lawful noncommercial message that does not direct attention to a
2696 business operated for profit or to a commodity or service for sale and that complies with
2697 all other requirements of this chapter.

- 2698 16. Any variances from the operation of the foregoing standards shall be pursuant to the
2699 provisions of chapter 17.16, Article II, except that in addition to the criteria for approval
2700 contained in chapter 17.16, Article II, the **Board of Appeals** ~~board of zoning appeals~~ may
2701 also consider the following:
- 2702 a. Whether the strict application of the height and setback limitations will prevent the
2703 owner of the outdoor advertising structure from continuing the operation of the
2704 outdoor advertising structure;
 - 2705 b. Whether the obligation of the owner of the outdoor advertising structure under any
2706 lease or advertising obligation which existed on April 24, 1989, extends beyond
2707 the date upon which the outdoor advertising structure is required to conform to the
2708 standards contained in this subsection E of this section;
 - 2709 c. Whether for practical reasons it will be a hardship or unduly burdensome on the
2710 owner of the outdoor advertising structure to comply with the landscaping
2711 requirements contained in this subsection.

2712 **17.216.230 Unusual signs and displays.**

2713 Applications for unusual signs or displays which give rise to questions of interpretation of these regulations
2714 may be referred by the director of the department of building, permitting and inspections to the **Board of**
2715 **Appeals** ~~board of zoning appeals~~ for the purpose of interpretation by the board and recommendation for
2716 action on the application to the director.

2717 **17.220.020 Landscaping or screening requirements.**

2718 Wherever either landscaping or screening is required by this title, all such areas shall be provided in
2719 accordance with the requirements listed below and the requirements set forth in the special development
2720 standard chart in section 17.220.040.

2721 A. Screening.

- 2722 1. Building Permit Requirements. Wherever landscaping or screening is required by this title
2723 without the necessity of plan approval by the commission and in order to assure compliance
2724 with either the landscaping or screening requirements of this chapter, either landscaping or
2725 screening plans shall be submitted to the director of the department of infrastructure and
2726 development for review and approval as a part of the application for a building permit or
2727 prior to the issuance of any building permit. Said plan or plans may be submitted as separate
2728 documents or as a part of the required site plan and, if required by the director, shall be in
2729 sufficient detail to show:
 - 2730 a. The approximate location of neighboring homes or other buildings adjoining the
2731 proposed development site;
 - 2732 b. The approximate location of all wooded areas of branches or natural, intermittent
2733 drainage channels;
 - 2734 c. The approximate location of any outstanding individual trees or special features
2735 on the development site;
 - 2736 d. The location, name, height and diameter of trees and the size of shrubbery to be
2737 planted within landscaped or screened area;
 - 2738 e. The height, length, type and location of fencing to be used for screening purposes.
- 2739 2. Screening shall be required along the lot line abutting the street to create a visual barrier
2740 which shall consist of no less than section 17.220.050(K) or either of section 17.220.050(C)
2741 or (D), in combination with section 17.220.050(F), (G), (H), (I), (J) or (L):

- 2742 a. Where a district in an industrial category (listed in Chapters 17.72 and 17.76) is
2743 located across the street from a residential district within or adjoining the city of
2744 Salisbury;
- 2745 b. Where a district boundary line crosses a lot and an industrial use is extended over
2746 the entire lot in a residential district by special exception.
- 2747 3. A five-foot-wide screening area shall be required wherever a parking lot adjoins a
2748 residential property along all lot lines abutting the residential lot.
- 2749 4. Screening is required around three sides of all off-street loading and unloading
2750 areas and solid waste and refuse disposal areas and shall consist of whichever is
2751 not less than either section 17.220.050(A), (B) or (H), depending on the height of
2752 the facility to be screened.

2753 B. Landscaping.

- 2754 1. A twenty-five-foot-wide landscaped area shall be provided:
- 2755 a. Along the lot line abutting a street, where a district of a business category (listed
2756 in Chapters 17.28, 17.32, 17.36, 17.40, 17.44, 17.84, 17.88, 17.92 and 17.96) is
2757 located across the street from a residential district;
- 2758 b. Along the lot line abutting a residential street, where a district boundary line
2759 crosses a lot and a business use is extended over the entire lot in a residential
2760 district by special exception;
- 2761 c. Provided that all such areas along all lot lines abutting a street shall be compatible
2762 with the adjoining residential district and shall consist of no less than any
2763 combination of section 17.220.050(E), (F), (G), (H), (I), (J) and (L).
- 2764 2. Parking Lots. Landscaping requirements and screening requirements shall be as follows:
- 2765 a. All Parking Lots.
- 2766 i. Perimeter Requirements.
- 2767 (A) Setback Area. Three-foot-wide areas from interior property lines
2768 and back of sidewalks and eight-foot-wide areas from curblines where no
2769 sidewalk exists to the edge of a parking lot are required to be landscaped
2770 with any combination of grass, shrubs, trees and decorative plantings.
- 2771 (B) Screening Areas. A five-foot-wide screening area along all
2772 property lines is required where a parking lot adjoins a residential use, such
2773 area to be landscaped with any combination of section 17.220.050(E)
2774 through (L).
- 2775 ii. Interior Requirements for Islands.
- 2776 (A) Landscaped islands an average of eight feet wide, bordered by six-
2777 inch-high asphalt or concrete curbs shall be provided at the ends of all
2778 parking bays abutting an aisle or driveway and are required to be
2779 landscaped with trees, shrubs, grass and similar vegetation which may be
2780 combined with crushed stone or other decorative materials.
- 2781 (B) Apartment and townhouse parking lots. In addition to the above
2782 island requirement, no more than ten parking spaces may be located in a
2783 continuous arrangement without a landscaped divider at least nine feet in
2784 width separating groups of every ten spaces, provided that for groups of

2785 ten or more spaces but less than an even number, the nine-foot divider may
2786 be centered as evenly as possible.

2787 b. Parking Lots of Twenty (20) or More Spaces. For any parking lot of twenty (20)
2788 or more spaces, not less than ten percent of the interior shall be landscaped, in
2789 accordance with the following general guides:

2790 i. The primary landscaping material shall be trees capable of providing shade
2791 at maturity;

2792 ii. Shrubbery, hedges and other planting materials may be used as
2793 complements, and landscaping and planting areas must be reasonably
2794 dispersed throughout the parking lot;

2795 iii. The interior dimensions and height of any planting island or planting
2796 median must be sufficient to protect the landscaping materials planted
2797 therein and to ensure proper growth;

2798 iv. Interior landscaping of parking lots shall be in addition to peripheral
2799 landscaping required herein where applicable;

2800 v. All other provisions for the design and landscaping of parking lots as
2801 required by Chapters 17.96, 17.168 and 17.224 shall apply.

2802 c. Alternative Parking Lot Design. In lieu of the ten-percent interior landscaping
2803 requirements, an applicant has the option of designing a parking lot in accordance
2804 with the specific standards listed below; provided, that this provision shall apply
2805 only in those instances where a plan approval is not required by the planning
2806 commission.

2807 i. Perimeter Landscaping. A three-foot landscaped area adjacent to all
2808 driveways leading to the lot and around the outer edges of all parking lots.

2809 ii. Screening Areas. A five-foot screening area adjacent to all residential uses
2810 to be landscaped with any combination of section 17.220.050(E) through
2811 (L).

2812 iii. Islands. Landscaped islands, each an average of eight feet wide, bordered
2813 by six-inch-high asphalt or concrete curbs, shall be provided at the ends of
2814 all parking bays abutting an aisle or driveway which are required to be
2815 landscaped with trees, shrubs, grass and similar vegetation which may be
2816 combined with crushed stone or other decorative materials.

2817 iv. Dividers. No more than fifteen (15) parking spaces may be located in a
2818 continuous arrangement without a landscape divider at least nine feet in
2819 width separating groups of fifteen (15) spaces; provided, that for fifteen
2820 (15) or more spaces but less than an uneven number, the nine-foot divider
2821 may be centered as evenly as possible.

2822 3. Special Landscaping Guideline Areas. Where landscaping guidelines are established by the
2823 planning commission or city council for any specific street, highway, neighborhood, area
2824 or portion of a district, landscaping and screening shall be provided in accordance with
2825 such guidelines.

2826 C. Landscaping Plan or Screening Plan Requirements.

2827 1. Building Permit Requirements. Wherever landscaping or screening is required by this title
2828 without the necessity of plan approval by the commission and in order to assure compliance

2829 with either the landscaping or screening requirements of this chapter, either landscaping or
2830 screening plans shall be submitted to the Director of the Department of Infrastructure and
2831 Development for review and approval as a part of the application for a building permit or
2832 prior to the issuance of any building permit. Said plan or plans may be submitted as separate
2833 documents or as a part of the required site plan and, if required by the director, shall be in
2834 sufficient detail to show:

- 2835 a. The approximate location of neighboring homes or other buildings adjoining the
2836 proposed development site;
- 2837 b. The approximate location of all wooded areas of branches or natural, intermittent
2838 drainage channels;
- 2839 c. The approximate location of any outstanding individual trees or special features
2840 on the development site;
- 2841 d. The location, name, height and diameter of trees and the size of shrubbery to be
2842 planted within landscaped or screened area;
- 2843 e. The height, length, type and location of fencing to be used for screening purposes.

2844 2. Plan Approval Requirements. Wherever a landscaping plan or screening plan is required
2845 by this title as a part of a comprehensive development plan, certificate of design and site
2846 plan approval, a site plan or a planned development district or any project approval to be
2847 approved by the planning commission or **Board of Appeals** ~~board of zoning appeals~~, it
2848 shall:

- 2849 a. Be prepared by a registered landscape architect, architect, engineer, landscape
2850 designer or competent nurseryman;
- 2851 b. Consist of one or more sheets, drawn to scale, or included as a part of a site plan,
2852 including the following information:
 - 2853 i. The approximate location of neighboring homes or other buildings in the
2854 vicinity of the proposed development site,
 - 2855 ii. The location and footprint of all proposed buildings, structures and
2856 facilities on the site and proposed landscaping,
 - 2857 iii. The approximate location of branches or natural, intermittent drainage
2858 channels, ponds, wooded areas or other special features on the
2859 development site,
 - 2860 iv. A tabular summary of name, size and height or diameter and quantity of
2861 shrubbery and trees to be planted within landscaped or screened areas,
 - 2862 v. The height, length, type and location of fencing and related planting areas
2863 to be used for screening purposes;
- 2864 c. Show landscaping proposals for the following areas or facilities where applicable
2865 to the type of development proposed:
 - 2866 i. Foundation plantings,
 - 2867 ii. Dumpster or other solid waste collection area screening,
 - 2868 iii. Stormwater management retention or detention area landscaping,
 - 2869 iv. Aboveground utility box screening,
 - 2870 v. Parking lot plantings,

- 2871 vi. Perimeter plantings,
- 2872 vii. Recreation facilities landscaping,
- 2873 viii. Loading and unloading space screening;
- 2874 d. Be consistent with the provisions of this chapter;
- 2875 e. Be consistent with the specific requirements of a site plan or comprehensive
- 2876 development plan and the specific requirements of this title for either the type of
- 2877 development proposed or the planned development district being requested;
- 2878 f. Unless otherwise specified by this title, landscaping, as a minimum, shall consist
- 2879 of a combination of the following species at the sizes specified below, arranged in
- 2880 such a manner as to complement the proposed structure or project:
- 2881 i. Deciduous trees with a height of more than thirty (30) feet at maturity, two
- 2882 to two and one-half (2½) inches in caliper and six feet or more in height at
- 2883 planting,
- 2884 ii. Deciduous trees with a height of less than thirty (30) feet at maturity, one
- 2885 and one-half (1½) to two inches in caliper and four feet in height at
- 2886 planting,
- 2887 iii. Evergreen trees at a height of three and one-half (3½) to four feet or greater
- 2888 at planting,
- 2889 iv. Evergreen and deciduous shrubs at a height of eighteen (18) to twenty-
- 2890 four (24) inches or greater at the time of planting,
- 2891 v. As an alternative, an applicant may propose and the planning commission
- 2892 may approve:
- 2893 (A) The retention of natural growth on the site to meet the
- 2894 requirements of this subsection, depending on width, density and type of
- 2895 natural growth; provided, that the commission may require additional
- 2896 supplemental plantings to obtain the effect intended by the purpose and
- 2897 intent of these requirements;
- 2898 (B) Landscaping consisting of a combination of the plantings listed in
- 2899 section 17.220.050 and alternate plantings of various species and sizes;
- 2900 (C) Landscaping consisting of a combination of architectural
- 2901 materials, including fountains, special bricks, decorative features, statues
- 2902 and other combinations of landscaping features, materials and plantings;
- 2903 (D) Dwarf and other species may be used only for complementary
- 2904 plantings, and no minimum sizes shall be required.

2905 **17.220.110 More stringent requirements to govern.**

- 2906 A. Wherever screening and landscaping required by another chapter of this title which is more
- 2907 stringent than this chapter then that chapter shall govern.
- 2908 B. Wherever the planning commission, **Board of Appeals** ~~board of zoning appeals~~ or city council is
- 2909 required to review and approve either a landscaping or screening plan and its approval requires
- 2910 more stringent landscaping and screening than required by this chapter, the decision of the
- 2911 appropriate board, commission or council shall govern.

- 2912 C. Once a landscaping plan or screening and landscaping plan is approved by the council, commission
2913 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;

4. The proposal will not be detrimental to or endanger the public health, security, general welfare or morals;
5. The proposal will not impair an adequate supply of light and air to adjacent property or overcrowd the land or create any undue concentration of population or substantially increase the congestion of the streets or create hazardous traffic conditions or increase the danger of fire or otherwise endanger the public safety;
6. The proposal will not adversely affect transportation or unduly burden water, sewer, school, park, stormwater management or other public facilities;
7. The proposal will preserve or protect environmental or historical assets of particular interest to the community;
8. The applicant has a bona fide intent and capability to develop and use the land as proposed and has no inappropriate purpose for submitting the proposal, such as to artificially alter property value for speculative purposes.

C. Placing Conditions on a Special Exception.

1. In approving a special exception or alteration of an existing special exception, the board may impose, in addition to those standards and requirements expressly specified for a special exception, additional conditions which it finds necessary to avoid any possible detrimental impact on adjoining properties and to otherwise protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:

- a. Limiting the manner in which the use is conducted, including restricting the time a certain activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor;
- b. Establishing a special yard or other open space requirement or lot area or dimension;
- c. Limiting the height, size or location of a building or other structure;
- d. Designating the size, number, location and nature of vehicle access points;
- e. Increasing the amount of street dedication, roadway width or improvement of a parking area or truck loading area;
- f. Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or truck loading area;
- g. Limiting or otherwise designating the number, size, location, height and lighting of signs;
- h. Limiting the location and intensity of outdoor lighting and requiring its shielding;
- i. Requiring diking, screening, landscaping or fencing, in addition to the requirements of chapter 17.220, where applicable, to protect adjoining or nearby property and designating standards for its installation and maintenance;
- j. Designating the size, height, location and materials for a fence;
- k. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or another significant natural resource;
- l. Imposing any other condition to permit the development in conformity with 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.

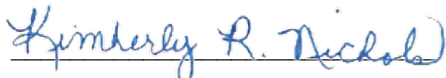
Section 3. It is further the intention of the Mayor and Council of the City of Salisbury that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged invalid, unconstitutional or otherwise unenforceable under applicable Maryland or federal law, such adjudication 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 9th day of January, 2023 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 13th day of February, 2023

ATTEST:

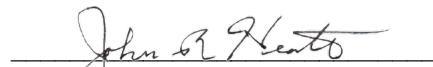


Kimberly R. Nichols, City Clerk




Muir W. Boda, City Council President

Approved by me, this 21st day of February, 2023.


John R. Heath, Acting Mayor



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.