TOWN OF THURMONT ZONING ORDINANCE

Thurmont, Maryland

ORIGINAL ADOPTION

December 8, 1965

REVISIONS ADOPTED

October 12, 1970
April 6, 1977
April, 1980
May,1981
February, 1986
June, 1992
March, 2000
September, 2003
February, 2004
November,2004
May, 2005

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ARTICLE I

TITLE AND PURPOSE

SECTION 1.0 TITLE

An Ordinance passed under and by virtue of the power and authority of Article 66B, Annotated Code of Maryland, as amended, to be known as the Thurmont Zoning Ordinance.

SECTION 2.0 PURPOSE

The purpose of this Ordinance is to promote the health, safety, morals and general welfare of the community, by regulating and restricting the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of lots, yards, courts and other open spaces, and the location and use of buildings, structures and land for residence, trade, industry and other purposes; to provide for adequate light and air; to prevent congestion and undue crowding of land; to secure safety from fire, panic, and other dangers; to conserve the value of property; and to provide adequately for schools, parks, and other public requirements.

ARTICLE II

GENERAL REGULATIONS

SECTION 1.0 ESTABLISHMENT OF DISTRICTS

For the purpose of this Ordinance, all land within the Town of Thurmont is hereby designated on the Zoning Map as being in one of the following districts:

R-1 Low Density Residential	
R-2 Medium Density Residential	TB Town Business
R-3 Medium Density Residential	GB General Business
R-4 High Density Residential	I-1 Industrial
R-5 High Density Residential	OC Office Commercial
A-1 Agriculture	OS Open Space

SECTION 2.0 BOUNDARIES OF DISTRICTS

The location and boundaries of zones established in the community shall be as shown on the Zoning Map of Thurmont and all notations, references, and other matters thereon shall be and are hereby made a part of this Ordinance. Said Zoning Map with any amendments that may be made subsequent to the adoption hereof shall be and remain on file in the Office of the Clerk of the Circuit Court of Frederick County, Maryland, and in the office of the Zoning Administrator of Thurmont.

2.1 Boundary Lines

Except where referenced on said map to a road line or other designated line by dimension shown on said map, the district boundary lines are intended to follow property lines, lot lines, or the center lines of road or alleys as they existed at the time of the adoption of this Ordinance or the boundaries of designated flood plains; but where a district line obviously does not coincide with said property lines or center lines or where it is not designated by dimensions, it shall be deemed to be two hundred (200) feet back from the nearest road line in case it is drawn parallel with a road line, or its location shall be determined by the use of the map scale shown thereon, and scaled to the nearest foot.

Questions concerning the exact location of district boundary lines shall be determined by the Board as provided in Article XI, Section 5.0, and in accordance with rules and regulations which it may adopt.

2.2 Public Land Into Private Ownership

If all or any portion of any public street, alley, right-of-way, easement, or land which is not included in any zone shall ever revert to or come into private ownership or shall ever be used for any purpose other than a public purpose, at such time the land and any buildings or other structures which are included within such public street, alley, right-of-way, easement or land or portion thereof, shall be subject to all of these regulations which apply within the zone immediately adjacent thereto, or within the most restricted of the immediately adjacent zones, if there be more than one.

SECTION 3.0 PROHIBITED USES IN ALL DISTRICTS

A) Private or public firearms shooting ranges.
B) Junk yards including those for storage of wrecked, dismantled, and abandonment of motor vehicles and parts thereof, and for storage and sale of other similar scrap materials.
C) Salvage yards of any waste materials.

SECTION 4.0 INTERPRETATION OF STANDARDS

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements. Where this ordinance imposes a greater restriction regulations, or ordinances, or by private restrictions, the provisions of this ordinance shall control.

SECTION 5.0 CONFORMANCE REQUIRED

Except as hereinafter specified, no land, building, structure or premises, thereof or other structure shall be located, erected, reconstructed, extended, enlarged, converted or altered except in conformity with the regulations herein specified for the district in which it is located.

SECTION 6.0 ARICULTURE

Except for compliance with setback lines required herein, and Article X, Sections 2.1 and 2.4, nothing in this ordinance shall prohibit the use of any land for agricultural purposes or the construction or use of buildings or structures are incident to the use for agricultural purposes of the land on which such buildings or structures are located, and a zoning certificate shall be issued.

SECTION 7.0 UNSAFE BUILDINGS

Nothing in this ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.

ARTICLE III

PROVISIONS GOVERNING THE OPEN SPACE DISTRICT

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

SECTION 1.0 USES PERMITTED IN THE OPEN SPACE DISTRICT

1.1 Farms, tree and plant nurseries.

1.2 Parks, playgrounds, golf course, public and private recreational uses, and cemeteries.

1.3 Game, wildlife, and nature study preserves and reservations.

1.4 Schools and other public buildings, and those accessory uses commonly associated with them when not located in a floodplain.

1.5 Flood control, water protection works, sewage treatment plants, and other municipal public works.

1.6 Wireless telecommunication facilities utilizing alternative antenna support structures, the construction of a new tower, or co-location on existing towers.* (Amended 9/03)

SECTION 2.0 USES PERMITTED AS A SPECIAL EXCEPTION (Board of Appeals Approval)

2.1 Those uses considered by the Board to be the same character as those listed in Section 1.0 above.

SECTION 3.0 AREA AND YARD REQUIREMENTS

Min. Lot Area per Unit	Min. Lot Width at Road	Front Yard Depth	Side Yard Setback	Rear Yard Depth
Not Specified	Not Specified	50	15	50

3.1 For structures higher than 25 feet, the yard requirements shall be as follows: All Yards: Between the foundation and the nearest lot line a distance of 2.5 times the height of the structure shall be maintained.

SECTION 4.0 ACCESSORY USES

4.1 Club House and restaurant uses associated with a golf course.

4.2 Storage and maintenance building.

ARTICLE IV

PROVISIONS GOVERNING THE AGRICULTURAL DISTRICT

The Agricultural District is intended to provide for the preservation of productive farming lands and operations.

SECTION 1.0 USES PERMITTED IN THE A-1 DISTRICT

1.1 Agricultural and the usual agricultural buildings farm offices, commercial nurseries and greenhouses; but not buildings and structures used for the processing of agricultural products.
1.2 Single Family Dwellings
1.3 Churches and civic meeting places but not clubs or lodges.
1.4 Circus, carnivals, and similar temporary amusement activities.
1.5 Day Care Centers*
1.6 Sewage Treatment Plant
1.7 Cemeteries
1.8 Schools and other public buildings.
1.9 Co-location of wireless telecommunication facilities on existing towers.* (Amended 9/03)

* See Article IX, Section 6.16 for specifications.

SECTION 2.0 ACCESSORY USES

2.1 Living quarters of persons employed on the premises.
2.2 Private garage storage shed, stable, barn and other similar structures normally accessory to the permitted or conditional use.
2.3 Customary, incidental home occupations and professional offices as defined and limited in Article XIV.
2.4 Seasonal produce stands when incidental to farm operations.
2.5 Temporary buildings, structures and trailers incidental to construction work, complying with Health Department requirements and removed upon the completion of the construction work.
2.6 The storage of not more than one boat and unoccupied recreational vehicle.

2.7 The storage of inflammable liquids intended for use on the premises not to exceed three hundred (300) gallons when stored above ground or within a structure; or not to exceed eight thousand (8,000) galons when stored underground and at least fifteen 15) feet from any building or property line.

2.8 Private, detached garages.

SECTION 3.0 USES PERMITTED AS A SPECIAL EXCEPTION (Board of Appeals Approval)

3.1 Boarding or Tourist Homes
3.2 Public Utility Structures
3.3 Heliport or Airstrip

SECTION 4.0 AREA AND YARD REQUIREMENTS

	Min. Lot Area per Unit	Min. Lot Width at Road	Min. Lot Width at Bldg. Line
Dwelling	*40,000 sq. ft.	25 ft.	140 ft.
Church	4 acres	25 ft.	140 ft.
Public Util.	20,000 sq. ft.	25 ft.	140 ft.
Other Uses	40,000 sq. ft.	25 ft.	140 ft.
	Front Yard Depth	Side Yard Setback	Rear Yard Depth
Dwelling	40 ft.	20 ft.	60 ft.
Church	40 ft.	20 ft.	60 ft.
Public Util.	40 ft.	20 ft.	60 ft.
Other Uses	40 ft.	20 ft.	60 ft.

*30,000 sq. ft. with public water and/or sewer

SECTION 5.0 BUILDING HEIGHT REQUIREMENTS

5.1 Two and one half (2 1/2) stories or 30 feet except as modified in Article VIII, Section 3.0.

SECTION 6.0 FLOOR AREA REQUIREMENTS

6.1 No new building shall be constructed or used nor shall any existing building be altered or converted for residential purposes when the resulting floor area per family will be less than eight hundred (800) square feet, excluding basements.

ARTICLE V
PROVISIONS GOVERNING THE R-1, R-2, R-3, R-4, R-5 (RESIDENTIAL) DISTRICTS

The R-1 (low density) District is intended to encourage and promote the development of large lot, single family residential neighborhoods free from congestion and conflicting land uses.

The R-2 (medium density #1) District is intended to provide for single family residential development on small lots where community sewer and water facilities are constructed or programmed.

The R-3 (medium density #2) District is intended to provide for a greater mix of residential dwelling types on small lots.

The R-4 (high density #1) District is intended to provide for detached and attached single family dwellings on small lots.

The R-5 (high density #2) District is intended to provide for traditional multi-family dwelling structures.

SECTION 1.0 USES PERMITTED IN THE R-1 (LOW DENSITY) DISTRICT

1.1 Agricultural activities as permitted in the A-1 district.
1.2 Single Family detached dwellings
1.3 Churches
1.4 Circus, Carnival and other temporary amusement facilities.
1.5 Day Care Centers
1.6 Cemeteries

SECTION 2.0 USES PERMITTED IN THE R-2 (MEDIUM DENSITY #1) DISTRICT

2.1 Agricultural Activities
2.2 Single Family detached dwellings.
2.3 Two Family dwelling units*(conversions)
2.4 Churches
2.5 Day Care Centers

SECTION 3.0 USES PERMITTED IN THE R-3 (MEDIUM DENSITY #2) DISTRICT

3.1 Agricultural activities
3.2 Single family detached dwellings
3.3 Two family dwelling units (as permitted under Article V, Sec. 1-3)
3.4 Two family dwelling units* (conversions)
3.5 Duplex dwellings (as permitted under Art.V, Sec.1-3)
3.6 Townhouses (as permitted under Art.V, Sec. 1-3)
3.7 Churches
3.8 Day Care Centers

- On single homes converted to two-family units, the owner of the dwellings must occupy one of the units.

SECTION 4.0 USES PERMITTED IN THE R-4 (HIGH DENSITY #1) DISTRICT

4.1 Any use permitted in the R-3 District
4.2 Townhouses
4.3 Recreational clubs and facilities

SECTION 5.0 USES PERMITTED IN THE R-5 (HIGH DENSITY #2) DISTRICT

5.1 Any use permitted in the R-4 District
5.2 Multi-family dwellings such as rental apartments, condominiums
5.3 Civic meeting rooms
5.4 Nursing Homes

SECTION 6.0 ACCESSORY USES

6.1 Private, detached garages (R-1, R-2, R-3, R-4, R-5 districts)
6.2 Storage sheds (all districts)
6.3 Home occupations, as defined in Article XIV (all districts)
6.4 Coin operated laundry facilities (R-5 district)

SECTION 7.0 USES PERMITTED AS A SPECIAL EXCEPTION (BOARD OF APPEALS APPROVAL) IN RESIDENTIAL DISTRICTS

7.1 Public utility structures (all "R" districts)
7.2 Boarding or tourist homes (R-1 district only)
7.3 Recreational clubs and facilities (R-1, R-2, R-3 districts)
7.4 Schools and other public buildings (all "R" Districts)
7.5 Nursing Homes (R-1, R-2, R-3 and R-4 districts)
7.6 Bed and Breakfast (All `R' Districts)*
7.7 Professional Office**
7.8 Antique and/or Craft Shop**

** Only permitted as uses in a single family detached dwelling and/or an accessory structure*** in the R-5 District existing as of the effective date of this text amendment.

* Amended 6/92
** Amended 12/95
** Amended 9/97

SECTION 8.0 AREA AND YARD REQUIREMENTS

	MIN. LOT AREA PER UNIT (SQ. FT.)	MIN. LOT WIDTH FRONT BLDG. LINE (feet)	MIN. LOT WIDTH AT ROAD (feet)	FRONT YARD DEPTH (feet)	EACH 3/SIDE YARD (feet)	REAR YARD (feet)
R-1						
Single family	12,000 1/	80 1/	25	25	10	40
R-2						
Single family	8,000	70	25	20	10	30
R-3						
Single family	8,000	70	25	20	10	30
Two family (new)	6,000	60	25	20	10	30
duplex	6,000	40 E.A. Lot	40 (EA. LOT)	20	12	30
townhouse	See Article V, Section 14	16	-----	20	10 3/	20
R-4						
Single family	8,000	70	25	20	10	30
Two family	5,000	60	25	20	10	30
duplex	5,000	40 (EA. LOT)	25	30	12	30
townhouse	See Article V, Section 14	16	----	20	10 3/	20
R-5						
Single family	8,000	70	25	20	10	30
duplex	5,000	40	25	20	10	30
townhouse	See Article V, Section 14	16	----	20	10	20
Multi-family	4,000	100	----	30	20	30
Other uses						
churches	1 ACRE	----	100	0	20	30
Public buildings	1 ACRE	150	50	0	20	30
Nursing homes	1 ACRE	150	50	0	20	30
Day care centers	12,000	100	25	0	10	30

1/ 30,000 square foot minimum lot area per unit and 100 foot minimum lot width at front building line if on individual sewer (septic) system.
2/ Except as modified in Article VIII, Section 2.2 (B).
3/ For end units only. When an end unit abuts a street, the side yard shall have a minimum of 25 feet.

SECTION 9.0 BUILDING HEIGHT REQUIREMENTS

9.1 Two and one half (2 1/2) stories (30 feet) in the R-1, R-2 and R-3 District.

9.2 Three and one half (3 1/2) stories (40 feet) in the R-4 and R-5 District.

SECTION 10.0 FLOOR AREA REQUIREMENTS

10.1 Same as specified in Article IV, Section 6.1, except in the R-5 District where the minimum floor area shall be six hundred (600) square feet per multi-family dwelling unit.

SECTION 11.0 PARKING AND LOADING REQUIREMENTS

11.1 See Article IX, Section 1.0-3.0

SECTION 12.0 SITE PLAN REQUIREMENTS

12.1 Site plans, in accordance with Article X, Section 7.0 are required for townhouse and multi-family projects and for all Special Exception uses permitted under Section 7.0 of this Article V.

SECTION 13.0 DEVELOPMENT REQUIREMENTS FOR THE R-3 DISTRICT

A) At least 50% of the gross land area of a subdivision in an R-3 District must be developed in single family dwellings.

B) No more than 25% of the gross land area of a subdivision in an R-3 District shall be developed in two-family or duplex dwellings.

C) No more than 25% of the gross land area of a subdivision in an R-3 District shall be developed in townhouses.

D) New duplex units, two-family lots or townhouses in new subdivisions shall not abutt single family lots of pre-existing subdivisions.

SECTION 14.0 TOWNHOUSE DEVELOPMENT

14.1 Density: The gross density shall be based on allowing one unit per 4,000 square feet of gross land area. When recorded as individual lots,each townhouse lot shall have a minimum of 1,800 square feet. The lots shall not include any part of the parking area or driveways.

14.2 Width: Minimum width for a townhouse shall be sixteen feet.

14.3 Length of Row: There shall be no less than three and no more than six (6) townhouses in an attached row.

14.4 Maintenance: If the townhouse development provides for common area, property, or facilities, they shall be conveyed to an incorporated, non-profit Home Association created under recorded land agreements through which each lot owner is automatically a member and through which each lot is automatically subject to a charge for a proportionate share of common property maintenance or may be in the form of easements.

14.4 Open Space: There shall be 750 square feet of open space within the development for each dwelling unit.

ARTICLE VI

PROVISIONS GOVERNING THE BUSINESS DISTRICTS

The TB (Town Business) District is intended to serve residential neighborhoods with necessary retail facilities as well as service establishments, professional offices, social, and religious properties. It is also intended for the central business area of the town. Stores and other facilities should be grouped together in small areas and in an attractive, convenient manner with particular attention paid to the safety of pedestrian travel.

The GB (General Business) District is intended to provide the retail, service, and professional activities covered in the TB zone as well as other, more intensive commercial uses.

SECTION 1.0 USES PERMITTED IN THE TB (TOWN BUSINESS DISTRICT)

1.1 Residential and Related Uses: Single Family Dwelling; Two Family Dwelling; Apartment units when attached to a Commercial Structure**; Hotels/Motels; and Boarding House.

1.2 Commercial Uses - Retail*: Food Store; Antique Shop; Furniture Store; Department Store/Variety Store; Clothing Store; Appliance Sales and Service*; Paint Store; Hardware; Gift/Souvenir; Jewelry; Book and Magazine; Hobby/Craft Shop/Gallery*; Sporting Goods; Camera; Florist; Stationery; Produce Stand; Drug Store*; Convenience Store*; Shoe Store*; Music and Records*; Liquor/Beer Store*; Shopping Center*; and Pet Store*.

1.3 Commercial Business and Personal Service*: Dry-cleaning and Laundromats; Barber and Beauty Shops; Tailor; Shoe Repair; Restaurant; Bar/Tavern; Nightclub***; Funeral Home; Medical Clinic; Professional Office; Bank or Savings and Loan; Business Office; Laboratory Research, Experimental or Testing*;and Animal Hospital.

1.4 Commercial Amusements*: Theater; Bowling Alley; and Arcade.

1.5 Automobile and Related Services*: Auto Service Station; and Auto Parts Sales.

* Amended 6/92

** Dwelling units may be located above commercial activities (in the same structure). One dwelling/500 sq. ft. of commercial floor area is permitted.

*** Amended 2/28/94

1.6 Institutional and Public Governmental*: Churches; Private Clubs and Lodges; Nursing Homes; Fire and Rescue Service*; Public Buildings and Properties*; Public Utility*; and Day Care Centers*.

1.7 Wireless Telecommunication Facilities: Co-location on existing towers or utilizing alternative antenna support structures.*(Amended 9/03)

SECTION 2.0 USES PERMITTED IN THE GB (GENERAL BUSINESS DISTRICT)

2.1 Residential and Related Uses: Existing Residential dwellings only (must comply with R-5 requirements). Apartment units would be permitted only on the upper floors of commercial buildings; hotels/motels; boarding house.

2.2 Commercial Uses - Retail*: All uses permitted in the TB zone (Section 1.2) plus the following: Boat Sales and Service*; Farm Equipment Sales and Service; and Lumber Yard*.

2.3 Commercial Business and Personal Service*: All uses permitted in the TB zone (Section 1.3) plus the following: Carpentry, Electrical, Plumbing, Welding, Painting*; Upholstering*; Commercial Greenhouses and Nurseries*; Contractors*; Furniture Repair*; Laboratory Research, Experimental or Testing*; and Carpet Cleaning.

2.4 Wholesaling and Processing*: Agricultural Products Processing*; Stone Monument Processing*; Recycling Pickup and Distribution Center*; and Wholesaling.

2.5 Automobile and Related Service*: Auto Service Station; Carwash; Auto Body Repair Shop; Auto Sales and Service Center; and Auto Parts Sales;and existing trucks stops only.

2.6 Commercial Amusements*: Arcade*; Health Club*; Tennis/Racquet Club*; Skating Rink*; Theater; and Bowling Alley.

2.7 Institutional and Public Governmental*: Churches; Private Clubs and Lodges; Fire and Rescue Service*; Public Buildings and Properties*; Public Utility*; and Day Care Centers*.

2.8 Wirless Telecommunication Facilities: Co-location on existing towers or utilizing alternative antenna support structures.*(Amended 9/03)

* Amended 6/92

SECTION 3.0 USES PERMITTED AS A SPECIAL EXCEPTION (BOARD OF APPEALS APPROVAL.)

3.1 TB District: Food, retail, specialty, service, and business-professional and auto service when authorized by the Board of Appeals to be similar in nature to those listed in the GB District as a permitted use, but not warehousing or bulk storage.

3.2 GB District: Food, retail, specialty, service, and business-professional and auto service when authorized by the Board of Appeals to be similar in nature to those listed in the GB District as a permitted use, but not warehousing or bulk storage.

SECTION 4.0 AREA AND YARD REQUIREMENTS

District	Min. Lot Area (sq. ft.)	Min. Lot Width (feet)	Front Yard Depth (feet)	Side Yard Setback (feet)	Rear Yard (ft.)
TB Town Business					
Commercial Uses	None	None	None	None**	None
Hotels/Motels	1 acre*	200	30	20	40
Single-Family	8,000	60	15	10	30
Two-Family	6,000	60	15	10	30
GB General Business					
Commercial Uses	20,000	60	0***	10	40

* Must have 1,000 sq. ft. of lot area per unit and 10 feet of open space around entire perimeter of lot.

** Except when adjoining a lot in an "R" District then the side yard shall be the same as required in the "R" District.

*** The Planning Commission shall have the discretion to increase the front yard setback at the time of subdivision or site plan review.

*** Amended 4/97

4.1 Free-Standing Fast Food Restaurants in all Commercial Districts shall have a minimum lot size of one and a half (1.5) acres.*

There shall be a minimum Open Space Area of 15% of the Total Lot Area.*

SECTION 5.0 BUILDING HEIGHT REQUIREMENTS

5.1 GB District: No building or structure shall exceed 2-1/2 stories or 30 feet in height except as modified in Article VIII, Section 3.0.

5.2 TB District: No building or structure shall exceed 3-1/2 stories or 45 feet in height except as modified in Article VIII, Section 3.0.

5.3 Hotels and Motels shall have a maximum height of two stories or 30 feet.*

SECTION 6.0 PARKING AND LOADING REQUIREMENTS

6.1 There shall be provided adequate off street parking and loading in accordance with the specifications in Article IX, Sections 1.0 - 3.0.

SECTION 7.0 SITE PLAN REQUIREMENTS

7.1 Site Plans shall be submitted in accordance with Article X, Section 7.0 to the Planning Commission for development review and approval before construction or grading is commenced.

* Amended 6/92

ARTICLE VII

PROVISIONS GOVERNING THE INDUSTRIAL DISTRICT

The I-1 (Industrial) District is intended for the location of commercial and industrial uses of a warehousing, research, and manufacturing nature. The appropriateness of an industry to be located in the town in this district is to be governed by performance standards to maintain high standards of water, air, noise, odor, and aesthetic quality.

The OC (Office/Commercial) district is intended for the development of office and research uses with the ability to have some commercial uses that would primarily serve the employees of the office developments.

SECTION 1.0 USES PERMITTED IN THE I-1 INDUSTRIAL DISTRICT

1.1 Warehousing and Storage: Self storage warehousing including outdoor storage of vehicles, boats, and RV's; indoor and outdoor storage of materials and products.

1.2 Manufacturing uses of a light nature and research and development or science oriented industries.

1.3 Uses permitted in the GB district, but not residential, religious or cultural activities.

1.4 Accessory buildings or uses.

1.5 Motor Freight Terminal.

1.6 Wireless Telecommunication Facilities: Co-location on existing towers, utilization of alternative antenna support structures, or construction of a new tower.* (Amended 9/23/03)

SECTION 2.0 USES PERMITTED IN THE OC OFFICE/COMMERCIAL DISTRICT

2.1 Business and professional offices.

2.2 Research and development, including labs for experimenting and testing.

2.3 Limited manufacturing and assembly.

2.4 Hotels and motels.

2.5 Restaurants, Café, Deli.

2.6 Banks.

2.7 Dry cleaning.

2.8 Barber shop and beauty salon.

2.9 Day care center.

2.10 Accessory structures.

2.11 Wireless telecommunication Facilities: Co-Location on existing towers, utilization of alternative antenna support structures, or construction of a new tower.* (Amended 9/23/03)

3.0 PERFORMANCE STANDARDS FOR USES IN THE INDUSTRIAL DISTRICT

All uses shall operate in conformance with the limitations set forth in each subsection below:

3.1 Areas of Measurement

A) Vibration: No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or any point beyond the lot line; nor shall any vibration produced exceed 0.002g peak measured at or beyond the lot line using either seismic or electronic vibration measuring equipment.

B) Noise: All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness. In no event shall the sound pressure level of noise radiated continuously from a facility at any time exceed at the lot line the values given in Table I (set out hereafter) in any octave band of frequency. The sound-pressure level shall be measured with a sound level meter and an octave band analyzer that conform to specifications published by the American Standards Association (American Standard Sound Level Meters for Measurements of Noise and Other Sounds, Z24.3-1944, American Standards Association, Inc. New York, N.Y., and American Standard Specifications for an Octave Band Filter Set for the Analysis of noise and Other Sounds, Z24.10-1953, American Standards, Inc., New York, N.Y. shall be used).

C) Air Pollution, Smoke, Dust, Fumes, Particulate Matter:

1. No smoke, dust, fumes or particulate matter shall be perceptible at the lot line. (Not to include water vapor.)

2. Further, the regulations and standards governing the control of air pollution shall be the same as those adopted for Area II, by the Maryland State Department of Health on March 29, 1968, and any subsequent amendments as long as such amendments are not less severe than those in force in the control of air pollution.

3. In the event that the paragraph 2 shall be of a lower standard than that of paragraph 1 the more severe standard shall apply.

D) Odors: Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interferes unreasonably with the comfort of the public shall be remedied so as to remove the odor.

E) Water Pollution: Regulations of the Maryland State Water Resources Board, Department of Natural Resources shall apply to new industries in the Town of Thurmont.

3.2 Method of Measurement

For the purpose of determining the level of radiated electro-magnetic interference, standard field strength measuring techniques shall be employed. The maximum value of the tabulation shall be conconsidered as having been exceeded if at any frequency in the section of the spectrum being measured, the measured peak voltage exceeds the maximum value tabulated for this spectrum section.

For purposes of determining the level of electromagnetic interference transmitted or conducted by power or telephone lines, a suitable, tunable peak reading, radio frequency voltmeter shall be used. This instrument shall by means of appropriate isolation coupling, be alternately connected from line to

line and from line to ground during the measurement. The maximum value of the tabulation shall be considered as having been exceeded if at any frequency in the section of the spectrum being measured, the measured peak voltage exceeds the maximum value tabulated for this spectrum section.

A) **Fire and Explosions:** All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety and fire fighting devices.

B) **Radioactive Materials:** The handling of radioactive materials, the discharge of such materials into the air and water and the disposal of radioactive wastes, shall be in conformance with the regulations of the Nuclear Regulatory Commission as set forth in Title 10, Chapter 1, Part 20 - Standards for Protection Against Radiation, as amended; and all applicable regulations of the State.

C) **Glare and Heat:** No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding or otherwise, so as to be visible at the lot line, shall be permitted. These regulations shall not apply to signs or floodlighting of parking areas otherwise permitted by this chapter. There shall be no emission or transmission of heat or heated air so as to be discernible at the lot line.

D) **Nonradioactive Liquid or Solid Wastes:** There shall be no discharge at any point into any public or private sewage disposal system or stream, or into the ground, of any liquid or or solid materials, except in accordance with the regulations of the County Health Department, the Metropolitan Commission, and the Department of Water Resources and the Department of Health of the State as applicable.

E) Tables for Noise Measurement

TABLE I

Maximum permissible sound-pressure levels at a lot line for noise radiated continuously from a facility where the lot line adjoins or lies within twenty-five feet of the boundary of a residence district.

Frequency Band Cycles Per Second	Sound Pressure Level Decibels re 0.0002 dyne/cm
20 - 75	65
75 - 150	50
150 - 300	43
300 - 600	38
600 - 1,200	33
1,200 - 2,400	30
2,400 - 4,800	28
4,800 - 10,000	26

If the noise is not smooth and continuous, one or more of the corrections in Table II below shall be subtracted from each of the decibel levels given above in Table I.

TABLE II

Character of Noise	Correction in Decibels
Noise of impulsive character (hum, speech, etc.)	Minus 5
Noise of periodic character (hum, speech, etc.)	Minus 5

SECTION 4.0 AREA AND YARD REQUIREMENTS

	Min. Lot Area	Min. Lot Width (ft.)	Front Yard Depth	Side Yard Depth	Rear Yard Depth
I-1	20,000 sq.ft.	60	25	10	50
OC	20,000 sq. ft.	60	25	10	50

SECTION 5.0 BUILDING HEIGHT REQUIREMENTS

No structure shall exceed three (3) stories or 50 feet in height on the highest side except as modified in Article VIII, Section 3.0.

SECTION 6.0 There shall be provided adequate off street parking and loading in accordance with the specifications in Article IX, Sections 1.0, 2.0, and 3.0.

SECTION 7.0 SITE PLAN REQUIREMENTS

7.1 Site development plans shall be submitted in accordance with Article X, Section 7.0 to the Planning Commission for review and approval before construction or grading is commenced.

7.2 When a property is adjacent to a residential district a buffer with a minimum width of thirty-five (35) feet shall be required along the property line that adjoins the residential district. No structures,parking,driveways, or storage areas shall be permitted within the buffer.

7.3 The screening material within the buffer shall be composed of landscaping and/or fencing. The minimum height of any mature landscaping and fencing shall be six (6) feet.

7.4 In the OC district commercial development may be included within an office building or may be in a free standing building on a separate lot.

ARTICLE VIII

EXCEPTIONS AND MODIFICATIONS

The regulations specified in this Ordinance shall be subject to the following exceptions, modifications, and interpretations:

SECTION 1.0 LOT OF RECORD

In any district where dwellings are permitted, a single-family dwelling may be located on any lot of official record which existed as of the effective date of this Ordinance, December 8, 1965 irrespective of its area or width, or the width of the road on which it fronts. All such dwellings shall conform to existing setback requirements.

SECTION 2.0 EXCEPTIONS TO YARD REQUIREMENTS

2.1 Front Yards

A) In any district, on any lot which fronts on a road having a right-of-way of less than fifty (50) feet, a building shall be located at a distance from the center line such road not less than the depth of the required front yard in the district plus twenty-five (25) feet.

2.2 Side Yards

A) Side yard width may be varied where the side wall of a building is not parallel with the side lot line or is broken or otherwise irregular. In such case, the average width of the side yard shall not be less than the required side yard; provided, however, that such side yard shall not be narrower at any point than one-half (1/2) the required side yard width.

B) Side yard setbacks for unattached, non-enclosed carports and accessory structures in all zoning districts (except TB) shall be a minimum of five (5) feet from side property lines*. Large accessory structures exceeding 15 feet in height shall be subject to the setback requirements for the zoning districts in which they are located. (5/24/05)

* Amended 6/92

2.3 Rear Yards

A) In any zoning district, except TB, accessory structures where permitted may be erected in a rear yard provided such accessory structures shall be:*

1) At least ten (10) feet from alley lines or a street right-of-way line for a double frontage lot.*

2) At least ten (10) feet from any other accessory or principal structure on the same lot.*

3) At least five (5) feet from any rear lot line or to Town utility easement lines.

Large accessory structures exceeding 15 feet in height shall be subject to the setback requirements for the zoning districts in which they are located. (5/24/05)

B) The modifications in Section 2.3 (A) above shall not permit the location of any building or structure closer to any road line than the least depth of the front yard required along such road.

2.4 Other Exceptions to Yard Requirements:

A) The following architectural features may project into required yards or courts as hereinafter set forth.

1) Cornices, canopies, eaves or other architectural features may project not more than two (2) feet.

2) Fire escape may project not more than four (4) feet, six (6) inches.

3) An uncovered stair or landing may project a distance not more than three (3) feet.

4) Bay windows, balconies and chimneys may project not more than three (3) feet.

* Amended 6/92

B) Fences, and walls, may be located in required yards or courts, subject to the limitation in Article IX, Section 3.10, and the following:* (Amended 9/23/03)

1) Fences and walls not exceeding four (4) feet in height may be located in any front yard or court.

2) Fences and walls not exceeding six (6) feet in height may be located in any side or rear yard.

3) Fences or walls greater than four (4) feet and up to six (6) feet in height shall be permitted in the front yards of corner lots only, with the following conditions:

A. A Fence or wall may extend into only one of the two front yards as illustrated in figures 1 through 4.
B. Fences or walls shall be set back a minimum of nine (9) feet from the back of the curb.

4) Fences and walls in business and industrial districts may be up to ten (10) feet high. These fences or walls may only be located in side or rear yards.

SECTION 3.0 <u>MODIFICATIONS TO HEIGHT REQUIREMENTS</u>
The building height requirements of this Ordinance shall not apply to:

3.1 Penthouses or roof structures for housing stairways, tanks, ventilating fans or similar equipment required to operate and maintain the buildings; fire or parapet walls, towers, steeples, flag poles, silos, smoke stacks, masts, tanks, monuments, or other structures that project into the air.

3.2 Bulkheads, elevator penthouses, tanks, towers and monuments, fire towers, hose towers, cooling towers, grain elevators, gas holders, or other structures where the manufacturing process requires a greater height; or minor utility structures, above the height otherwise permitted in the district shall not occupy more than twenty-five (25) per cent of the lot area and shall be distant not less than fifty (50) feet from all lot and road lines.

FIG. 1

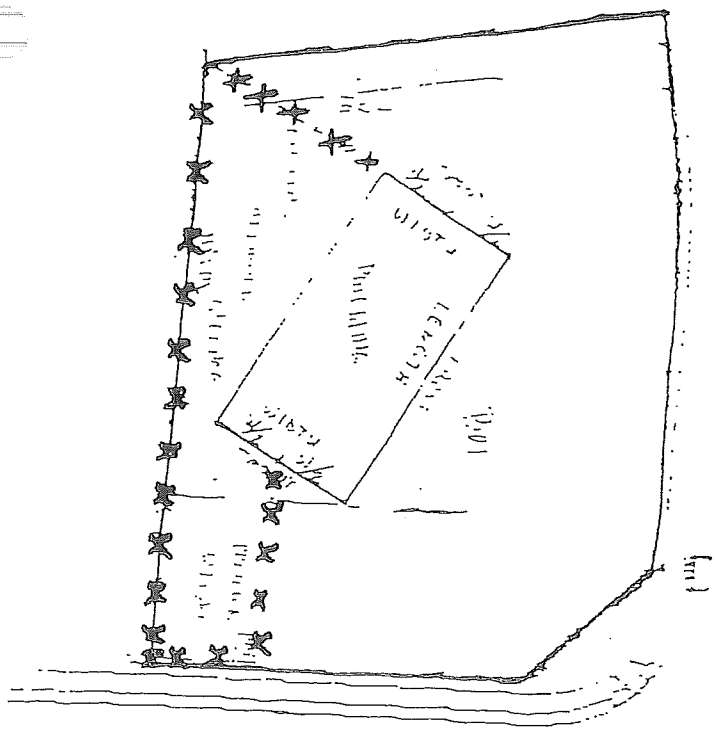
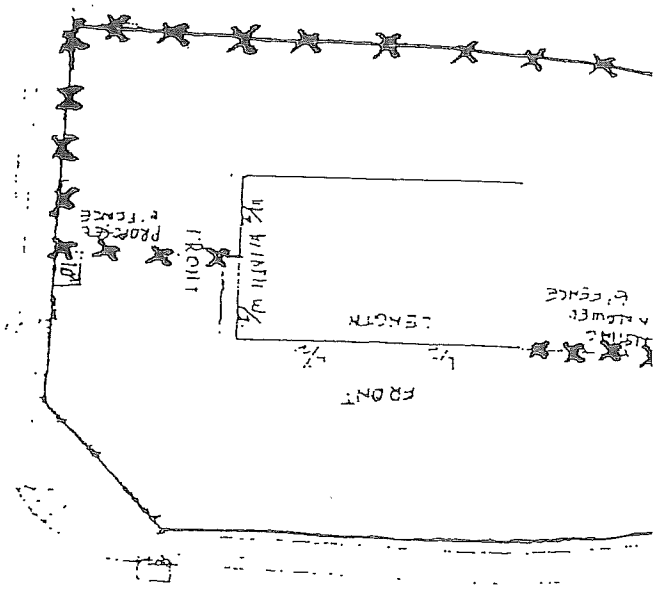


FIG. 2



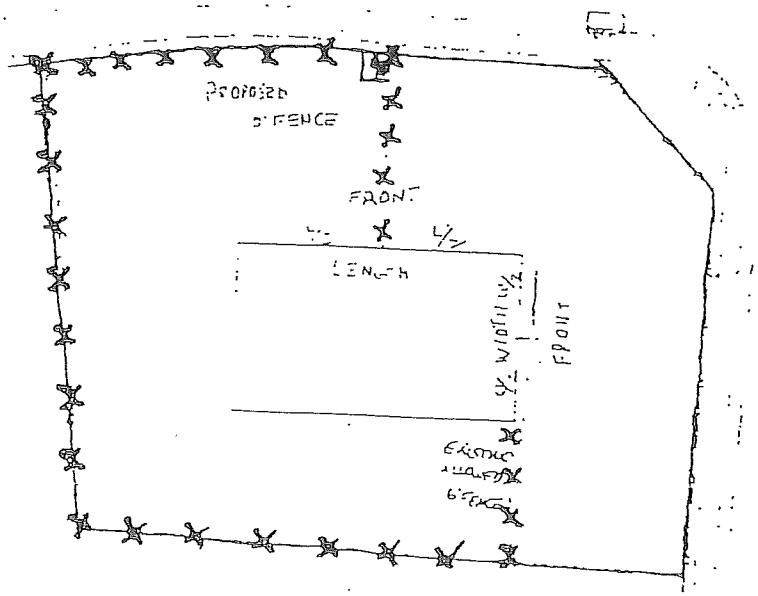


FIG. 3

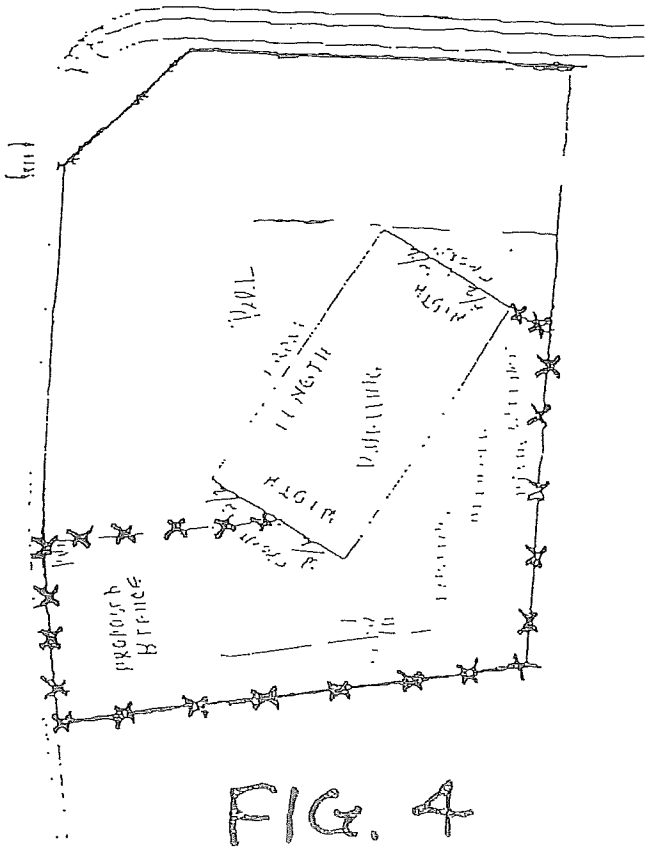


FIG. 4

3.3 Churches, schools, institutional and public utility buildings and structures and any building or structure in the "I-1" District if not less than six hundred (600) feet from an "R" District; provided that for each three (3) feet by which the height of such building or structure exceeds the maximum height otherwise permitted in the district, its yards shall be increased by an additional foot over the required yards otherwise permitted in the district.

SECTION 4.0 MODIFICATIONS FOR ACCESSORY STRUCTURES (5/24/05)

4.1 GENERAL

All accessory structures must be located behind the front building line in side and rear yards only. A maximum of 4 accessory structures may be located on a single lot.

4.2 SMALL ACCESSORY STRUCTURES

Accessory structures having not more than 149 square feet of covered area are considered small accessory structures. Small accessory structures having no utilities extended to the structure do not require a building permit.

4.3 LARGE ACCESSORY STRUCTURES

Accessory structures exceeding 149 square feet of covered area are considered large accessory structures, require a building permit, and must meet the following requirements:

A.) In those districts zoned residential, large accessory structures must be constructed of the same exterior building material as that of the dwelling on the lot or an acceptable substitute consistent with the character of the dwelling and neighborhood. Structures commonly used in Industrial applications are not permitted.

B.) In those districts zoned residential, large accessory structures may not exceed a height of twenty (25) feet and a size of 600 square feet of covered area or fifty percent (50%) of the dwelling unit footprint, which ever is larger.

ARTICLE IX

SPECIAL PROVISIONS

SECTION 1.0 OFF-STREET PARKING

1.1 Generally

a) No structure will be erected, substantially altered, or its use changed unless off-street parking and loading spaces have been provided in accordance with the provisions of this section.*

b) No part of any parking space shall be closer than five (5) feet to any public road right-of-way line or to any property line. Excluding driveways and aisles.

c) No parking for nonresidential uses will be permitted within the front yard of any residential district.

d) Off-street parking areas for more than five (5) vehicles shall be constructed and surfaced in accordance with Town specifications and shall be graded to dispose of all surface water.

e) Parking areas for more than five (5) vehicles shall be screened on each side which adjoins a residential use or a residential zone. Such screening may consist of an ornamental wall, fence, or evergreen plantings and shall be a minimum of four (4) feet in height.

f) Any lighting used to illuminate a parking area shall be so arranged as to direct light away from adjoining residential uses and public roads.

g) The minimum dimensions for a standard parking space shall be nine (9) feet wide by eighteen (18) feet long.

h) The required off-street parking for a use may be reduced if parking can be shared with a use on an adjoining property subject to agreement between the two property owners and approval by the Planning Commission. On-street parking may also be substituted for off-street parking at a ratio of one(1) off-street space for one(1) on-street space subject to approval by the Planning Commission.

* Amended 6/92

1.2 Downtown Parking

a) Those properties zoned TB Town Business and which lay within the area bounded by Altamont Avenue to the west, Boundary Avenue to the north, Carroll Street to the east and Park Avenue to the south shall not be required to meet the parking requirements as set forth in Article IX, Section 1.4. Any off-street parking that is provided, however, shall meet all requirements as set forth in Article IX, Section 1.1.

1.3 Handicapped Parking Requirements *

a) The minimum dimensions for a handicapped space shall be nine (9) feet wide and eighteen (18) feet long, with an adjoining access aisle that is a minimum five (5) feet wide and eighteen (18) feet long. Two parking spaces may share a common access aisle.

b) Each handicapped space shall be marked with a painted symbol on the pavement in addition to a sign mounted a minimum seven (7) feet above grade reading "Handicapped Parking Only".

c) The number of handicapped spaces provided shall comply with the following requirements:

Total Number of Spaces	Required Minimum Handicapped Spaces
1 - 25	1
26 - 50	2
51 - 100	4
101 - 200	6
201 - 300	7
301 - 400	8
401 - 500	9
501 and over	2% of Total

* Amended 6/92

1.4 Parking Space Requirements *

Residential	Parking Spaces Required
Single-Family, duplex two-family dwelling	2 per dwelling unit
Townhouse, multi-family	2 per dwelling unit plus 1 per 5 dwelling units
Elderly	1 per dwelling unit
Boarding house	1 per sleeping room
Bed and Breakfast	1 per sleeping room

Institutional	Parking Spaces Required
Churches and other places of religious assembly	1 per 5 seats
Hospitals	1 per bed
Nursing Homes	1 per 2 beds
Medical and dental clinics and offices	1 per 150 sq. ft. of examination, office, treatment and waiting area
Daycare Centers and similar uses	1.5 per 10 Students
Elementary and Middle Schools	2 per Classroom
High Schools	1 per 10 students, plus 1 per each employee

Cultural and Recreational	Parking Spaces Required
Theaters, auditoriums and similar uses	1 per 4 seats
Private clubs and lodges	1 per 300 sq. ft. floor area
Libraries, museums, art galleries	1 per 400 sq. ft. floor area

Commercial	Parking Spaces Required
General retail	4 per 1,000 square feet of gross leasable area (Amended 11/04)
Banks, financial institutions and similar areas	1 per 300 sq. ft. floor area
Automobile repair or service shops	3 per bay
Automobile and other motor vehicle sales	1 per 600 sq. ft. floor area
Hotels, motels	1 per room, plus 5 spaces
Shopping centers	4 per 1,000 sq. ft. gross leasable area
Other commercial activities of personal or business service nature not specified elsewhere	1 per 300 sq. ft. floor area
Offices, general, business, and professional	1 per 400 sq. ft. floor area
Restaurants	1 per 50 sq. ft. floor area devoted to customer service, excluding preparation and storage, or 1 per 4 seats, whichever is greater.

Industrial	Parking Spaces Required
All industrial uses	1 per 2 employees for largest shift, with at least 1 per 600 sq. ft. of floor area

1.5 Modifications

The Board of Appeals may authorize, subject to the provisions of Article XI, Section 4.0, a modification, reduction or waiver of the requirements in this section. A finding of hardship must be made based on the peculiar nature of the proposed use or the exceptional shape or size of the property, or other exceptional situation or condition.

SECTION 2.0 OFF-STREET LOADING SPACES

2.1 In any district in connection with every building or part thereof, having a gross floor area of 10,000 square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display, or sales, hotel, hospital, mortuary, laundry, dry cleaning, or other similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building or use at least one off road loading space plus one additional such loading space for each twenty thousand square feet or major fraction thereof gross floor area so used in excess of twenty thousand square feet.

2.2 Each loading space shall be not less than ten feet in width, forty-five feet in length and fourteen feet in height. Such space may occupy all or any part of any required yard or court except a front yard.

2.3 No such space shall be located closer than fifty feet to any lot located in any "R" District, unless wholly within a completely enclosed building or unless enclosed on all sides by a wall or uniformly painted board fence, not less than six feet in height.

SECTION 3.3 MISCELLANEOUS ITEMS

3.4 Minor Utility Installations Exempted: Minor utility installations shall be permitted in any district as authorized and regulated by other County, State and Federal regulations and a Zoning Certificate will not be required for the installation, construction, extension, or maintenance of such public or private utilities and services, except that, without altering or affecting such exemption, the plans for any new

overhead electric transmission line or 35 K.V. or more, any cross-country telephone trunk line including microwave, any transmission pipe line, or any truck sewer line, proposed to be located in any "A" or "R" District shall be submitted to the Planning Commission in adequate time for its review and recommendation.

3.5 **Front Yard Depths, How Measured:** The minimum front yard depths as specified, shall be measured from the road line established in the following manner:

A) From the established right-of-way lines as determined by the Official Transportation Plan, except where these lines may be modified or supplemented by any officially adopted State or Local road widening or location plans, in which case the latter shall control.

B) Where the Official Transportation Plan or other officially adopted plans do not establish right-of-way lines, such shall be considered to be not less than fifty (50) feet.

C) In cases where a State or Local road is proposed for improvement, the State Roads Commission or Local Road Department may be allowed not over sixty (60) days from the date of the application for a Zoning Certificate within which to establish any proposed right-of-way plan.

3.6 **Front Yard On Lots Running Through The Block:** In any district where a lot runs through a block from street to street, and where a front yard is required, such front yard shall be provided along each street lot line other than a side street lot line.

3.7 **Separate Lot - Required Yard Cannot Be Reduced:**

A) No lot shall be reduced in area so as to make any yard or any other open space less than the minimum required by this Ordinance unless approved by the Planning Commission under the Cluster Development section. If already less than the minimum required, said yard and open space shall not be further reduced. No part of a yard or other open space provided about any building or structure, for the purpose of complying with the provisions of this Ordinance, shall be used for another structure.

B) All yards and courts required by this Ordinance shall be open and unobstructed to the sky, except as provided in Article VIII.

C) No building, structure or outside storage shall be located in any required yard except as provided in Article VIII.

3.8 Road Frontage Required: Except as permitted by Article VIII, Section 1.0 of this Ordinance, no lot shall be used for residence purposes unless such lot abutts for at least twenty-five (25) feet on a road as herein defined.

3.9 Corner Lots - Yard Requirements: In the case of corner lots, a full front yard setback shall be provided off both front lot lines. Distances to remaining lines shall be measured as side yard setbacks, except as modified for townhouse development.

3.10 Traffic Visibility Across Corner Lots: In any District on any corner lot, no fence, structure or planting that would interfere with traffic visibility across the corner shall be erected or maintained within twenty (20) feet of the intersection of the road right-of-way lines, so as not to interfere with traffic visibility across the corner.

3.11 Principal Structure: Unless otherwise permitted by this Ordinance.

A) Only one single family detached structure used in whole or part for dwelling purposes shall be erected on a single lot. More than one multifamily structure may be permitted on a single lot.

B) In Commercial or Industrial Districts more than one principal structure may be permitted on a single lot.

3.12 Entrances: On a corner lot, all vehicular entrances or driveways for commercial, industrial, or residential uses shall be a minimum of thirty (30) feet from the corner road lines extended. Such entrances and exits, whether in a corner lot or not, shall not exceed thirty-five (35) feet in width. Adjoining Commercial and Industrial entrances shall be a minimum of thirty (30) feet apart measured along the road line.

3.13 Day Care Center:

A) For licensed daycare centers operated on premises owned or leased by a religious, educational, or public organization, the attendance will be limited to 1 child per 1,000 square feet of lot area*.

B) Licensed daycare centers shall conform to all necessary regulations of the Maryland Department of Health and Mental Hygiene*.

SECTION 4.0 NONCONFORMING LOTS, STRUCTURES AND USES*

4.1 Nonconforming Lots.

A) A nonconforming lot is a lot which was legally subdivided and recorded in the county land records prior to February 7, 1990 or at the time of amendment of this ordinance and does not comply with the dimensional requirements of this ordinance.

B) In any district where permitted, a principal structure and accessory buildings may be erected on any nonconforming lot, provided all of the following conditions are met:

1. The lot is located in a district in which the proposed use is permitted.

2. This provision shall apply even though such lot fails to meet the requirements for street frontage, area, or width, that are applicable in the district. The yard dimensions of the lot shall conform to the regulations for the district in which such lot is located.

3. If said lot lacks street frontage, it must be proven that said lot has an unrestricted right of access.

* Amended 6/92

C) Any lot reduced in area or yard setback to a nonconforming lot by reason of a realignment or dedication of any existing federal, state or county highway or by reason of a condemnation proceeding, is a nonconforming lot of record and any lawful structure on the lot before such reduction in lot size is a nonconforming structure and may continue. However, this provision does not apply to the creation of new streets, roads or courts in a proposed subdivision.

D) A nonconforming lot due to lack of road frontage may be subdivided provided the new lot has road frontage that conforms with Article V, Section 8.0 and the remainder has an unrestricted right of access and does not have less road frontage than before subdivision.

4.2 Nonconforming Structures.*

A) A nonconforming structure is a structure lawfully existing on February 7, 1990 or on the effective date of an amendment of this ordinance, that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot. a nonconforming structure may be continued so long as it remains lawful, subject to the following provisions:

1) No such structure may be modified so as to increase its specific nonconformity.

2) A structure which is damaged beyond 50 percent of its replacement value will not be reconstructed unless:

a) It is in conformity with this ordinance; or

b) The Board of Appeals grants a variance.

3) Such structures once moved, will thereafter conform to the regulations for the district to which it is moved.

* Amended 6/92

4.3 Nonconforming Uses.*

A) A nonconforming use is a use which legally exists on February 7, 1990 or at the time of amendment of this ordinance but that does not comply with the regulations of the district in which it is located. Such nonconforming use may consist of a nonconforming use of land, a nonconforming use of structure, or a nonconforming use of land and structure.

B) The Board of Appeals may grant a special exception to:

1) Change a nonconforming use to another nonconforming use if:

a) No structural alterations are made; and

b) The Board of Appeals, by a specific finding in the case, finds that the proposed use is more appropriate for the district.

c) A nonconforming use will not be changed to a use considered less appropriate to the district.

d) The Board of Appeals may impose conditions within the scope of this ordinance on the granting of such a special exception.

2) Expand a nonconforming use. Expansion is limited to the lot that exists on February 7, 1990.

a) Principal structures may be expanded.

b) Additional acreage or dwelling units will not be added to expand a nonconforming use.

c) A structure or lot where a nonconforming use has ceased for one year or more shall not be allowed to re-establish a nonconforming use.

* Amended 6/92

d) An accessory structure up to 400 square feet in area can be constructed without Board of Appeals approval. Accessory structures greater than 400 square feet would constitute an expansion of a non-conforming use, thus requiring Board of Appeals approval.

e) The casual, temporary or illegal use of land or structure does not establish the existence of a nonconforming use.

SECTION 5.0 SIGNS*

5.1 Generally

A) No sign shall be erected in any district unless in compliance with this Ordinance. Existing signs shall not be altered or moved unless in compliance with this Ordinance.

B) A zoning certificate is required for the erection of new signs or for the alteration of size, height or location of existing signs. Exceptions are noted in Section 8.3.

C) No sign shall rotate, have flashing lights or have characteristics which resemble traffic control devices.

D) Signs attached to a building may not project more than 30 inches from the face of the building and shall have a minimum clearance of 8 feet above the ground.

E) Only one free-standing sign may be permitted for each property.

F) When attached to a building, no part of any sign shall extend above the highest part of the roof.

G) The base of all free-standing signs must be set back a minimum of five (5) feet from all property lines. No part of a free-standing sign shall be located within or overhang into a public street right-of-way, or adjoining properties.**

H) Flag poles located in a commercial zoning district shall have a maximum height of twenty-five (25) feet except for poles displaying Local, State and/or national flags.

* Amended 6/92

I) Yard Sale signs and political campaign signs shall not be attached to utility poles, traffic signal poles or traffic control posts/signs, unless authorized by the Town.**

J) A signage plan identifying the location, height, and size of all signs shall be included on all site plans reviewed by the Planning Commission.**

5.2 **Prohibited Signs In All Zoning Districts*/****

A) Electronic Message Board Signs

B) Billboards

C) Portable trailers/freestanding signs.

* Amended 6/92
** Amended 11/97

5.3 Signs Permitted and Regulated in the Zoning Districts.

Sign Type	Permit Needed	Maximum 1/Size Area (Sq. Ft.)	Permitted Height 2/(Feet)	Zoning District Permitted
(a) Sale or Rent	No	6	4	All districts
(b) Subdivision, Commercial Business Opening Announcement*	Yes	100	10	All districts
(c) Contractors/ Artisan *	Yes	32	8	All districts
(d) Identification for Schools, Churches Civic Organizations, Institutions.	Yes	32	10	Where use is permitted
(e) Home Occupations	No	2	Attached Only	Where use is permitted
(f) Farm Produce Sales	No	16	6	Where use is permitted
(g) Commercial and Industrial Owner Identification and Product	Yes	75	10	All business and industrial districts
(h) Shopping Center ID Sign **	Yes	100	10	TB and GB Districts
Individual Stores **	Yes	1.5 sq.ft./ 1 ft. bldg. frontage	Attached Only**	TB and GB Districts
(i) Industrial Park ID Sign **	Yes	100	6	I-1 District
Individual Uses **	Yes	1.5 sq.ft./ 1 ft. bldg. frontage	6	I-1 District
(j) Subdivision and Community Identification Signs may also include Identification of a Golf Course on the same or an adjacent parcel of land. 3/** (Amended 2/17/04)	Yes	64	6	All R Districts**

1/ Combined total of all signs on a single property shall not exceed maximum size permitted.
2/ If not attached to building.

3/ These signs may be permitted within public street rights-of-way.
* Permits for these signs shall be valid for periods of 6 months and must be removed within 30 days of the opening of the development.
** Revised 6/92

5.4 Measurement of Signs*

a) Exit/Entrance signs, menu boards, gas station price signs and directories are not included in calculating total sign area.

b) Only one face of a double-faced sign shall be computed for sign area provided the two faces are no more than one foot apart.

c) When individual letters are placed directly on a building, the area shall be based on the stroke of each letter.

d) The height of free-standing signs shall be measured from the highest point of the sign structure to the final grade of the property.

5.5 Real Estate Directional Signs **

a) Size may not exceed three (3) square feet in area or three (3) feet in height. On-site signs shall not exceed sixteen (16) square feet and eight (8) feet in height.

b) Shall not be attached to trees, utility poles, traffic control posts/signs, traffic signal poles, buildings, fences or other physical elements. Signs may be placed within Town right-of-ways.

c) Signs shall be permitted from 6:00 p.m. Friday to 8:00 a.m. Monday. This period will be extended to include legal holidays on Mondays and Fridays.

d) For existing real estate, a maximum of three (3) signs are permitted per Open House.

e) For subdivisions under construction, each builder may be permitted a maximum of four (4) off-site signs only identifying the name of a builder are permitted.

f) Individual builders are permitted a maximum of four (4) signs within the subdivision where the building activity is taking place.

g) Town Staff is hereby authorized to remove any signs found to be in violation of this section.

* Amended 6/92
** Amended 11/97

SECTION 6.0 WIRELESS TELECOMMUNICATION FACILITIES *(Amended 9/03)

6.1 PURPOSE AND APPLICABILITY

A) **Purpose:** In recognition of the requirements of the Federal Telecommunications Act of 1996, this section is designed and intended to balance the interests of the residents of Thurmont, telecommunications providers, and telecommunications customers in the siting of telecommunication facilities within the Town of Thurmont, so as to ensure coordinated development of communications infrastructure while preserving the health, safety, and welfare of the town and its residents. This ordinance establishes standards for the siting of wireless telecommunications towers, and antennas to achieve this purpose.

B) Applicability

1) **Public Property:** The terms of this Section shall apply to all wireless telecommunications facilities proposed to be located within the Town of Thurmont whether on property owned by the Town or on privately owned property.

2) **Amateur Radio, Receive-Only Antennas:** This Section shall not govern any tower, or the installation of any antenna that is under thirty -five (35) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive-only antennas. Wireless communication devices for personal use are permitted in any zoning district.

3) **Minor Utility Installation:** Wireless telecommunications facilities are not to be considered as a minor utility installation as defined and used elsewhere in this Ordinance.

4) **Existing Facilities:** Wireless telecommunication facilities in existence on the effective date of this ordinance shall not be required to comply with these provisions, except in the event they propose an increase in height or substantial modifications.

6.2 Definitions

Alternative Antenna Support Structure: Innovative siting techniques utilizing existing structures such as, clock towers, bell towers, steeples, utility poles, water tanks, and similar design mounting structures that camouflage or conceal the presence of antennas or minimize the aesthetic impact of the antennas.

Antenna: Any exterior apparatus designed for telephone, radio, television, personal communications service (PCS), pager network, or any other communications through the sending and/ or receiving or electromagnetic waves of any bandwidth.

Camouflaged: A wireless telecommunications facility that is sited in a wooded area or a disguised or hidden part of an existing or proposed building or structure, or a facility placed within an existing or proposed building or structure, or constructed as an alternative antenna support structure.

Guy Wire: A cable used to secure and steady a tower.

Tower Height: The distance measured from ground level to the highest point on the tower or other structure, including antennas, whichever is greater.

Monopole: Any tower consisting of a single freestanding pole structure, constructed without guy wires.

Pre-existing Towers and Antennas: Any tower or antenna lawfully constructed or permitted prior to the adoption of the section of the Zoning Ordinance as well as the replacement in kind of any such towers and antennas.

Stealth Technology: Any wireless telecommunication facility designed to look like a structure or tree which may commonly be found in the area surrounding such proposed facilities.

Tower: A structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular carrier towers, cellular telephone towers, and wireless telecommunication facility towers.

Wireless Telecommunication facilities: Any structure, antenna, tower, or other device that provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communication (SMR) and personal communications services (PCS), and common carrier wireless exchange access services.

6.2 Districts Permitted

1) Alternative Antenna Support Structure Including Co-location on Alternative Antenna Support Structures

   TB, GB, I-1, OC & OS: Permitted

2) Co-location on existing Towers

All zoning districts: permitted

3)New Towers

I-1, OC, OS: permitted

6.3 Application Requirements and Process

A) Site plan approval by the Planning Commission for the wireless telecommunication facility including access, equipment, and structures shall be in accordance with the site plan regulations specified within the zoning ordinance.

B) All applications for approval of wireless telecommunications facilities shall also include:

1) A description of the need for the wireless telecommunication facility including propagation studies showing service area and system coverage in the Town and surrounding area.
2) Sufficient information to indicate that construction, installation, and maintenance of the wireless telecommunication facility will not create a safety hazard or damage to the property of other persons.
3) Documentation of the area to be served including a search area for the antenna location. A narrative describing a search area (with not less than a 1 ½ mile radius) clearly explaining why the site was selected including documentation that all potentially suitable existing or approved towers, structures or buildings within the search area were considered for the communications equipment, and if rejected, the basis for these conclusions.
4) A copy of all reports including the environmental assessment, National Environmental Policy Act review, etc. as required by or provided to the Federal Communications Commission.
5) Photographs of the existing conditions of the site and photo simulations of the proposed wireless telecommunication facility installation from at least four directions and from a distance of no more than ¼ mile, including from residential properties within that distance from which the facility would be visible.
6) For applications for new towers, photo documentation of the balloon test that was conducted at the proposed site location, sufficient to show the visibility of the tower from affected residential areas. This test will be conducted by raising upon a temporary mast, a 3 foot diameter minimum, brightly colored balloon at

the precise location and maximum height of the proposed tower.

C) For all applications for construction of a new tower, the applicant must publicize the proposal using a block advertisement of a size acceptable to staff, which includes a map showing the site and a one-mile radius, the timing and duration of the required balloon test, and date of the Planning and Zoning meeting at which the application will be considered. The applicant must hold an informational meeting in the area of the tower within two weeks after submitting the application. Written notice of such meeting shall be provided to all homeowners within ¼ mile of the site.

D) No zoning certificate will be issued until the monetary guarantee for facility dismantlement described in Article IX, Section 6.5, E) is posted with the Town.

E) Prior to receiving a zoning certificate, the applicant shall certify in writing submitted to the Town that the wireless telecommunication facility complies with all current FCC regulations for non-ionizing electromagnetic radiation (NIER).

6.5 Site Location and Design Criteria

A) The Planning Commission shall consider the following standards and factors in determining whether to approve or disapprove a proposed plan for construction of a wireless telecommunication facility:

1) Whether the proposed wireless telecommunication facility is needed to be located at the proposed site for the provision of wireless communication services;
2) Whether a preferred site is available for wireless telecommunication facilities.

The Town's preferred sites in order of preference are as follows:

a) Co-located on or a new alternative antenna support structure;
b) Co-located on pre-existing tower;
c) New tower on public lands where it would not interfere with activities or aesthetics on or adjacent to the site;
d) New tower on private lands where it would not interfere with activities or aesthetics on or adjacent to the site;

3) Whether the proposed wireless telecommunication facility would endanger the health and safety of people and animals, including, but not limited to, the likelihood of the failure or collapse of such structure, or the potential of falling ice:

4) Whether the design and siting of the facility would minimize adverse impacts on property values, aesthetics, view sheds, environmentally sensitive areas, and historically significant locations;
5) Such other factors as the Planning Commission deem relevant to the application.

B) Antennas and towers may be considered either principle or accessory uses/structures. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lots.

C) For purposes of determining whether the installation of a tower or antenna complies with district development standards, the dimensions of the entire lot shall control, even though the antennas and towers may be located on leased areas within such lots.

D) The applicant shall be responsible for maintaining the wireless telecommunication facility in a safe condition.

E) The wireless telecommunication facility shall be utilized continuously for wireless communications. The Town shall be notified within 30 days of any interruption in the operation of the facility including identification of the applicant's plans for resumption or termination of operation. In the event it ceases to be used for wireless communications for a period of six (6) months, the approval will terminate. The applicant shall remove the tower within ninety (90) days after termination. The applicant shall insure the wireless telecommunication facility removal by posting an acceptable monetary guarantee with the Town on forms provided by the office of the zoning administrator. The guarantee shall be for an amount equal to a cost estimate approved by the zoning administrator for the removal of the facility, plus a twenty-five (25) percent contingency.

F) All towers shall be designed for co-location, which shall mean the ability of the structure to allow for the placement of antennae for two (2) or more carriers. This provision may be waived by the approving body if it is determined that co-location will have an adverse impact on the surrounding area.

G) The tower height may exceed the maximum height permitted within the zoning districts, provided the required setbacks are met after a determination by the approving body that it's visual profile and appearance would make no substantial change in character of the area. In no event will the tower exceed 199 feet in height.

H) As part of the site plan review, screening and fencing may be required around the base of the tower structure and any equipment buildings. In some cases, a tree preservation easement may be required.

I) The appearance of the wireless telecommunication facility shall be minimized by the reasonable use of commercially available technology to reduce visual impact, with specific reference to size, color and silhouette properties and the possible utilization of stealth technology.

J) No lighting is to be placed on a wireless telecommunication facility unless specifically required by the Federal Aviation Administration.

K) Monopoles shall be the preferred tower structure type within the Town.

L) Wireless telecommunication facility sites shall be identified by means of a sign no larger than six (6)square feet affixed to the equipment building or fence enclosure. Said sign shall identify the facility owner and each locating provider and shall provide the telephone number for a person to contact in the event of an emergency. In addition, safety and warning signage of an appropriate size shall be provided as needed.

M) Antennas mounted on alternative antenna support structures including water tanks, public structures or on the roofs of existing public buildings shall not exceed twenty (20) feet above the principal structure and, where possible, will utilize enclosures which blend with the existing structure for screening the antennas.

N) New towers should be sited within or adjacent to areas of mature vegetation and should be located down slope from ridge lines, and towards the interior of a parcel whenever possible and only should be considered elsewhere on the property when technical data or aesthetic reasons indicate there is no other preferable location.

O) Setbacks for wireless telecommunication facilities shall be as follows:
   1) Towers shall be setback from all property zoned residential a minimum of three hundred (300) feet. Setback distance may be modified by the approving body.
   2) Setbacks of towers from all properties zoned other than residential shall be determined by the approving body, but shall not be less than the fall zone of the tower as defined by the engineering specifications.

3) Setbacks for supporting equipment and for alternative antenna support structures shall be as specified in the zoning regulations for the district in which the wireless telecommunication facility is located.

P) Communication towers shall be constructed to the EIA/TIA 222-F Standards, as published by the Electronic Industries Association, which may be amended from time to time, and all applicable Town building codes. Communication towers shall be designed and constructed to ensure that the structural failure or collapse of the tower will not create a safety hazard to adjoining properties, according to EIA/TIA 222-F Standards. Further, any improvements and/or additions (i.e., antenna, satellite dishes, etc.) to existing communication towers which exceed the design of the structure or which are not routine maintenance shall require submission of site plans in accordance with the Zoning Code and which demonstrate compliance with the EIA/TIA 222-F Standards in effect at the time of said improvements or additions.

SECTION 7.0 SURFACE WATER CONTROL (5/24/05)

SECTION 7.1 APPLICABILITY (5/24/05)

The requirements of this section apply to any commercial entity responsible for erecting new dwelling unit(s) or for making modifications to existing dwelling units and or lots which cause a change in the flow of surface-water in the Town of Thurmont. These entities are referred to hereafter in this section as the "contractor."

The requirements of Section 7.2 shall apply to new dwelling units and modifications to existing dwelling units for a period of two(2)years following issuance of an occupancy permit or in the case of modifications, completion of the construction activities.

All the requirements of section 7.2 concerning damage to adjacent lots also apply to non-commercial entities erecting new dwelling unit(s) or making modifications to existing dwelling units and/or lots which cause a change in the flow of surface-water and will apply for a period of two (2) years

following issuance of the occupancy permit for new dwelling units or following completion of modifications to existing dwelling units and/or lots. These entities are referred to hereafter in this section as the "owner".

Any change to a lot causing a substantive change in the flow of surface-water made by the purchaser shall result in voiding of the contractor's responsibilities under this section for that property.

SECTION 7.2 SURFACE-WATER CONTROL TECHNICAL REQUIREMENTS (5/24/05)

A) Requirements for mitigating the impacts of precipitation in amounts up to and including the "1-year, 24-hour storm event [1]."

1) There shall be no standing water anywhere on a residential lot 24 hours after the precipitation has ended.

2) Water flow on the lot during and immediately after the precipitation event shall occur primarily on the perimeter of the lot and have a depth or no more than 3 inches, shall not cause erosion on a yard that has been stabilized with vegetation, and shall not result in the deposit of silt or other debris on the lot.

3) Those portions of the dwelling unit at or below grade level shall suffer no leakage of water or seepage into the habitable part of the structure from surface-water.

4) If active components such as sump pumps are utilized to prevent such leakage, they should be sized such that they operate no more than 50% of the time at any time during or after the precipitation.

[1] Reference Maryland Stormwater Design Manual, Volumes I & II

5) Any grading performed and surface-water control devices installed on the lot shall not result in damage to adjacent lots and structures and shall not cause requirements 1) through 3) above to be violated on the adjacent lots due to actions by the contractor, or the owner.

B) Requirements for mitigating the impacts of precipitation in amounts up to and including the "10-year, 24'hour storm event [1]."

1) There shall be no standing water anywhere on a residential lot 48 hours after the precipitation has ended.

2) Water flow on the lot during and immediately after the precipitation event shall occur primarily on the perimeter of the lot and have a depth of no more than 5 inches, shall not cause erosion on a yard that has been stabilized with vegetation, and shall not result in the deposit of silt or other debris on the lot.

3) Those portions of the dwelling unit at or below grade level shall suffer no leakage of water or seepage into the habitable part of the structure from surface-water.

4) If active components such as sump pumps are utilized to prevent such leakage, they should be sized such that they can fully discharge the necessary quantities of water to prevent in-leakage of water into the habitable part of the structure.

5) Any grading performed and surface-water control devices installed on the lot shall not result in damage to adjacent lots and structures and shall not cause requirements 1)through 3) above to be violated on the adjacent

[1] Reference Maryland Stormwater Design Manual, Volumes I & II

lots due to actions by the contractor or the owner.

C) Requirements for mitigating the impacts of precipitation in amounts up to and including the "100-year, 24-hour storm event[1]."

1) Those portions of the dwelling unit at or below grade level shall suffer no leakage of water or seepage into the habitable part of the structure from surface-water.

2) If active components such as sump pumps are utilized to prevent such leakage, they should be sized such that they can fully discharge the necessary quantities of water to prevent in leakage of water into the habitable part of the structure.
3) Any grading performed and surface-water control devices installed on the lot shall not result in damage to adjacent lots and structures.

D) All features required for storm-water control for a lot including grading, swales, channels/ditches, subsurface piping, pumps, etc. must be complete and in place prior to the issuance of an occupancy permit for the dwelling unit(s) on that property and the contractor must provide a certification to the Town to that effect.
E) Nothing in these requirements relieves the contractor or owner from complying with all other applicable requirements identified in Town, County, State, and Federal laws, regulations, and design manuals.

[1] Reference Maryland Stormwater Design Manual, Volume I & II.

SECTION 7.3 DISCLOSURE REQUIREMENTS(5/24/05)

A) For a commercial entity responsible for erecting new dwelling unit(s), the contractor shall disclose in writing to the buyer of a dwelling unit before a purchase is consummated, the information described below. The buyer shall sign the disclosure, prior to the purchase, indicating that they have read the disclosure in full and agree:

1.) A copy of Section 7.0 Surface-Water Control, of Article IX of the Town's Zoning Ordinance.
2.) A description of all grading and surface-water control devices to be utilized to meet the above requirements on the property being sold including, but not limited to, the use of swales, rip-rapped ditches, subsurface drainage devices, pumps, etc. (No surface-water control devices shall be connected to, or in any way direct water to, the Town's sanitary sewer system).
3.) A description of the expected performance of the above devices during a 1,10, and 100- year storm event.
4.) Any special conditions or restrictions required to be maintained to meet the above requirements such as the location of down-spout and sump pump discharges, limitations on vegetation in certain locations, periodic maintenance requirements for storm-water control devices, etc.
5.) A statement to the effect that the contractor shall be responsible for rectifying any deficiencies in meeting the above surface-water control technical requirements and that a surety deposit has been posted with the Town for a period of two years (2) from the date of the Occupancy Permit to assure compliance.
6.) A statement to the effect that any

change to a lot causing a substantive change in the flow of surface-water made by the owner shall result in voiding of the contractor's surface-water control responsibilities for the property.

B) A copy of the signed disclosure must be provided to the Town before an occupancy permit will be issued.

7.4 SURETY REQUIREMENTS (5/24/05)

At the time of applying for a zoning certificate for each new residential dwelling unit, the contractor or owner responsible for constructing the unit shall be required to provide to the Town either a cash deposit or an irrevocable letter or credit in the amount of $0.50 per square foot of lot area per permit to assure compliance with the above requirements. Any cash deposit will be held in an interest-bearing account by the Town and both the deposit and letter of credit are required to remain in place for a period of two(2) years following the date of the Occupancy Permit. Any deficiencies in meeting the above requirements and any resulting damage to an affected property as identified by the property owner and verified by the town, require correction by the contractor or owner responsible for constructing the dwelling unit at their expense and in a timely manner (generally within one month). Failure to correct such deficiencies and damage in a timely manner will result in utilization of these funds by the Town for these corrections. If the cost of correcting the deficiencies and damage exceeds the funds in the cash deposit or letter of credit for the dwelling in violation of the requirements of the section, the contractor or owner responsible for constructing the unit shall be responsible for providing the additional funds necessary for completion of the work.

SECTION 8.0 STRUCTURES WITH A BASEMENT NEAR WET SOILS(5/24/05)

No zoning certificate or building permit shall be issued for construction of a residential structure with a basement if proposed on or within one hundred (100) feet of "wet soils" until a soils delineation report is prepared by a licensed soils scientist or professional engineer registered in the State of Maryland. The soils report shall be submitted to the Frederick County Permits and Inspections Department for review by the Soil Conservation District and must be approved by the Permits and Inspections Department prior to the zoning administrator's approval of the certificate or permit.

In addition, if a residential structure(s) with a basement(s) is proposed within "wet soils" the developer must:

(1) Perform one of the following:
   a. Construct a gravity drainage system in accordance with the International Residential Code; or
   b. Utilize another similar solution acceptable to the Frederick County Department of Permits and Inspections; or
   c. Submit for approval to the Frederick County Permits and Inspections Department, a geotechnical report by a registered professional engineer in the State of Maryland to include a soil profile of house location and a certification of the specific basement/footer elevations; and

(2) Place a note on the plat requiring that all construction shall be in conformance with the approved solution.

ARTICLE X

ADMINISTRATION AND ENFORCEMENT

SECTION 1.0 ZONING ADMINISTRATOR: There is hereby established the office of Zoning Administrator. It shall be the duty of the Zoning Administrator to administer and cause the enforcement of the provisions of this Ordinance. All departments, officials and public employees of Thurmont or Frederick County which are vested with the authority to issue permits or licenses in Thurmont, shall conform to the provisions of this Ordinance and shall not issue any permit or license for any use, building, structure, or purpose which would be in conflict with the provisions of this Ordinance. Any permit or license, issued in conflict with the provisions of this Ordinance shall be null and void.

SECTION 2.0 ZONING CERTIFICATE

2.1 It shall be unlawful to locate or begin the excavation, erection, construction, reconstruction, extension, conversion, or structural alteration of any building, structure, Fence, or wall without first obtaining a Zoning Certificate therefore from the Zoning Administrator. This provision shall not apply to minor utility installations as defined in Article XIV.* (Amended 9/23/03)

2.2 Every application for a zoning certificate shall be signed by the applicant, and shall be accompanied by copies of a plot plan. Said plot plan shall have been prepared by a registered surveyor licensed in the State of Maryland, with all corners staked, subject, however, to the following provisions:

1) If the application concerns the construction or alteration of a single-family dwelling, or any building or structure accessory thereto, upon a lot shown upon the plat of a subdivision which has been approved by the Commissioners of Thurmont or the Thurmont Planning Commission and recorded among the Land Records of Frederick County, then the plot plan need not be prepared by a registered surveyor.

2) If the application concerns the alteration of any existing building or structure, or the construction of any building or structure accessory to a building already existing on the same lot, and if the Superintendent of Public Works finds that a plot plan prepared by a registered surveyor is not necessary in order to determine the compliance of the proposed alteration or construction with applicable laws, ordinances and regulations, then the plot plan need not be prepared by a registered surveyor.

The plot plan shall conform to the requirements set forth below.

Single-Family Dwellings

1) General Style and Form. The plot plan shall be on tracing cloth or paper, 9" x 11", and shall be legibly and accurately drawn to a scale of 1" equals 30'.

2) Graphic Information.

(a) Exact boundaries of the lot to be built upon shall be shown, with dimensions accurate to the nearest hundredth of a foot, and bearings accurate to the nearest half minute.

(b) Exact location, width and name of each existing or recorded street or road adjoining or intersecting the boundaries of the property.

(c) The exact location, size and height of the dwelling or structure to be erected or altered, with building lines drawn to the same scale as the property lines.

(d) All easements and streams shall be shown and drawn to scale.

(e) Soil type(s) information shall be provided and appropriate boundaries shown. In the event "wet soils" are located on or within one hundred (100) feet of any proposed residential site plan, the requirements of Article IX, Section 8.0 must be met. (5/24/05)

3) Before a zoning certificate is issued, all plans shall have been inspected and approved by the Superintendent of Public Works. No zoning certificate for construction of a residential structure with a basement shall be issued if proposed on or within one hundred (100) feet of "wet soils" unless the requirements of Article IX, Section 8.0 have been met.(5/24/05) Before a Certificate of occupancy is issued, all buildings,structures and required improvements shall have been inspected and approved by the Superintendent of Public Works to insure that they conform to the plans and Meet the Town's specifications.

Buildings Other Than Single-Family Dwellings

1) General Style and Form. The plot plan shall be legibly and accurately drawn on tracing cloth or paper, 18" x 24" in size, at a scale of 1" equals 50'.

2) Graphic Information.

(a) Exact boundaries of the lot to be built upon shall be shown, with dimensions accurate to the nearest hundredth of a foot, and bearings accurate to the nearest half minute.

(b) Exact location, width and name of each existing or recorded street or road adjoining or intersecting the boundaries of the property.

(c) The exact location, size and height of the dwelling or structure to be erected or altered, with building lines drawn to the same scale as the property lines.

(d) The plan shall show parking areas drawn to scale, and shall show angle or degree of parking, and the areas shall be numbered and dimensioned to building and property lines.

(e) All easements and streams shall be shown and drawn to scale.

(f). Soil type(s) information shall be provided and appropriate boundaries shown. In the event "wet soils" are located on or within one hundred (100) feet of any proposed residential site plan, the requirements of Article IX, Section 8.0 must be met. (5/24/05)

3) The plan submitted shall also include the following data relating to proposed improvements:

(a) The plan shall show all proposed roads, sidewalks, curbs, and gutters drawn to scale.

(b) The grades and type of paving of roads, streets, and parking areas shall be shown.

(c) The location, size, type, and grade of water and sanitary sewer lines shall be shown.

(d) The proposed storm drainage of the site, including parking and roadway areas, shall be shown.

4) Before a zoning certificate is issued, all plans shall have been inspected and approved by the Superintendent of Public Works. No zoning certificate for a residential structure shall be issued if it is located on or within one hundred (100) feet of "Wet Soils" unless the requirements of Article IX, Section 8.0 have been met (5/24/05). Before a certificate of occupancy is issued, all buildings, structures, and required improvements shall have been inspected and approved by the Superintendent of Public Works to insure that they conform to the plans and meet the Town's specifications; provided, however, that the Superintendent of Public Works shall have the power and discretion to approve the issuance of a certificate of occupancy even though streets, parking areas, sidewalks, or curbs and gutters may not have been completed, if satisfactory bond is furnished to the Commissioners of Thurmont guaranteeing completion within a reasonable time.

2.3 The lot and location of the building, structure, or other improvements shall be staked out on the ground before construction is started or a zoning certificate is issued.

2.4 No zoning certificate shall be issued until the proposed water supply system and disposal of sanitary wastes has been approved by the County Health Department in cases where public sewer and water is not available.

2.5 No zoning certificate shall be issued until the proposed location and design of any driveway and drainage structures connected with any public road has been approved by either the County Roads Engineer, State Highway Administration District Engineer, or Commissioners of Thurmont whichever has jurisdiction.

2.6 A zoning certificate shall become void one (1) year after the date of issuance and any existing zoning certificate issued prior to this Ordinance shall become void one (1) year after the effective date of this Ordinance if the construction or use for which the certificate was issued has not been started.

SECTION 3.0 CERTIFICATE OF OCCUPANCY

It shall be unlawful for any owner to use or to permit the use of any building or land or part thereof, hereafter created, erected, changed, converted or enlarged, except for minor utility installations defined in Article XIV, until a Certificate of Occupancy shall have been issued by the Superintendent of Public Works. Such Certificate of Occupancy shall show that such building or premises or part thereof, and the proposed use thereof, are in conformity with the provisions of this Ordinance. It shall be the duty of the Superintendent of Public Works to issue a Certificate of Occupancy provided he is satisfied that the building or premises and the proposed use thereof conform with all the requirements of this Ordinance.

3.1 Upon request from the owner or tenant of an existing building or premises the Superintendent of Public Works shall issue a Certificate of Occupancy for said building or premises, certifying, after inspection, the extent and kind of use made of the building or premises and whether such use conforms to the provisions of this Ordinance.

SECTION 4.0 FEES

Each application for a zoning certificate and, in case no zoning certificate is required, for each request for a certificate of occupancy shall be accompanied by the town zoning/occupancy certificate fee(s) in effect at the time of application.

SECTION 5.0 VIOLATIONS AND PENALTIES

Any person who shall erect, construct, extend, alter, or add to any building, or convert or use any building or land, or change the use of any land or building, in violation, of these regulations, or who shall fail to secure the certificates required by these regulations, or who shall fail to remove any building, sign or other structure or discontinue the use of land or building erected or being used in violation of these regulations, when ordered to do so by the Zoning Administrator and any person who shall fail to comply with any reasonable requirement of the Board or Zoning Inspector in the administration and enforcement of these regulations, shall be guilty of a zoning infraction and, upon conviction by a court of competent jurisdiction, shall be fined not more than one hundred ($100.00) dollars, provided, however that every day such violation shall continue shall be deemed a seperate offense.

5.1 All zoning certificates and certificates of occupancy shall be revocable, subject to continued compliance with all requirements and conditions.

5.2 In case any building is or is proposed to be located, erected, constructed, reconstructed, altered, repaired, converted, maintained or used, or any land is proposed to be used, in violation of this Ordinance or any amendment thereto, the Mayor and Commissioners, the attorney to the Commissioners, the Zoning Administrator, or any neighboring property owner who would be damage by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, restrain, correct or abate such unlawful location, erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to prevent the occupancy of said building or land, or to prevent any illegal act, conduct, business, or use.

SECTION 6.0 CIVIL ZONING INFRACTIONS

6.1 Pursuant to Section 7.01c of Article 66B of the Maryland Code, any violation of any of the provisions of this entire ordinance which is entitled Zoning Ordinance - Thurmont, Maryland, is a civil zoning violation, and shall be called a civil zoning infraction. If, after investigation, a civil zoning infraction is believed to exist, the zoning administrator or his/her authorized agent shall deliver a person or persons responsible for the infraction. If the person is unable to be located personally, the zoning administrator or his/her authorized agent may post the citation or warning in a conspicuous place on the property and mail a copy of same to the person, which shall be sufficient for delivery under this section.

6.2 The citation or warning, as provided for in this section, shall be in writing and shall contain the following:

1) The name and address of the person charged (or warned);

2) The nature of the violation;

3) The location of the violation;

4) The date(s) of the violation;

5) The amount of the fine assessed (or possible of assessment);

6) The manner, location and time in which the fine may be paid (or violation corrected, if applicable);

7) The person's right to stand trial for the violation (if applicable); and

8) A certification by the zoning administrator or his/her authorized agent attesting to the truth of the matters set forth.

6.3 Whenever an alleged or possible civil zoning infraction comes to the attention of the zoning administrator, the procedure to be followed is:

1) That the zoning administrator will investigate whether an infraction has occurred;

2) That, if he/she reasonably finds that an infraction has occurred, he/she will issue a warning to the person or persons responsible in the form and manner as outlined in this section, with a reasonable time stated to abate or to prevent future infractions;

3) That, if the infraction continues or is allowed to occur after the reasonable time stated, the zoning administrator will issue a citation to the person or persons responsible in the form and manner as outlined in this section. Notwithstanding the provisions of step (2) above, the zoning administrator may issue a citation at step (2) without the prior issue of a warning.

6.4 A present fine of one hundred dollars ($100.00) is hereby imposed upon any person responsible for a civil zoning infraction for each violation. Each day such violation is permitted to exist shall be payable to The Commissioners of the Town of Thurmont, Maryland; in the Town Office.

6.5 A person who receives a citation may elect to stand trial for the offense by filing with the zoning administrator a notice of intention to stand trial. The notice shall be given at least five (5) days before the date of payment as set forth in the citation. On receipt of the notice of intention to stand trial, the zoning administrator shall forward to the district court for Frederick County, Maryland, a copy of the citation and the notice of intention to stand trial. On receipt of the citation, the district court shall schedule the case for trial and notify the defendant of the trial date. All fines, penalties, or forfeitures collected by the district court for zoning infractions shall be remitted to the Commissioners of Thurmont, Maryland.

6.6 If a person who receives a citation for an infraction fails to pay the fine by the date of payment set forth on the citation and fails to file a notice of intention to stand trial, a formal notice of the infraction shall be sent to the person's last known address. If the citation is not satisfied within fifteen (15) days from the date of the notice, the person is liable for a fine of two hundred dollars ($200.00) for each infraction. If, after thirty-five (35) days, the citation is not

satisfied, the zoning administrator may request adjudication of the case through the district court. The district court shall schedule the case for trial and summon the defendant to appear.

6.7 Adjudication of an infraction under this subsection is not a criminal conviction, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction.

6.8 In a proceeding before the district court, the violation shall be prosecuted in the same manner and to the same extent as set forth for municipal infractions in Article 23A, Section (B) (8) through (15) of the Maryland Code. However, the town attorney is hereby authorized to prosecute all civil zoning infractions under this section.

6.9 If a person is found by the district court to have committed a civil zoning infraction, he shall be liable for the costs of the proceedings in the district court.

6.10 Depending on the circumstances of each case and after consultation with the town attorney, the zoning administrator has the discretionary authority to reduce or suspend all or a portion of the fine payable through his/her office.

6.11 Nothing contained in this section shall prohibit or prevent the zoning administrator; or anyone else, from seeking other legal remedies, such as injunctions or criminal prosecution.

SECTION 7.0 SITE PLAN REVIEW*

In the review of a site plan, the Planning Commission shall review the site plan for compliance with the provisions of this ordinance and principals of good planning and design, so as to further the intent and purpose of this ordinance and to assure development that is compatible with the surrounding properties and public facilities. The Commission may require such additional information as may be reasonably required by the Commission to adequately review the site plan and may require any reasonable changes to the proposed site plan which it considers necessary to comply with the requirements of this Ordinance. (5/24/05)

7.1 No zoning certificate and building permit will be issued, and no structure or use will be established except in conformity with a site plan approved by the Planning Commission or their authorized representatives. Should the soil type information shown on the Site Plan be questioned by the Planning and Zoning Commission, the Commission may require a soils evaluation of the proposed property by a certified soils scientist prior to its approval of the Site Plan. (5/24/05)

7.2 After a site plan has been approved and construction of the development has been completed in accordance with the site plan, a change in use which does not affect the design of the development and which requires no new construction other than minor remodeling or changing of permitted signs, will not require an additional site plan review by the Planning Commission. The zoning administrator may process minor changes, however, he will refer major proposed changes to the Planning Commission for approval.

7.3 Approval of a site plan shall expire two years after the date of approval unless construction has begun. An extension of up to one year may be granted after which the site plan would have to conform to all zoning regulations in effect at that time.

*Amended 6/92

7.4 Site Plan Development Standards.

(A) Landscaping - curbed islands a minimum of five (5) feet wide shall be provided at the end of each parking row. Additional islands a minimum of five (5) feet wide shall be provided for shade trees. Appropriate landscaping around the perimeter of a site shall be provided for necessary screening and shade along adjoining streets.

(B) Lighting - shoe box type fixtures, with the lens directed downward, shall be required for all lighting including wall mounted fixtures and free standing poles. The maximum height for free standing light poles shall be twenty-five (25) feet.

(C) Pedestrian access - sidewalks shall be provided from an adjoining street to the building. These sidewalks shall be a minimum five (5) feet wide.

(D) Architectural review - the Planning Commission may require that architectural renderings of the proposed building be presented with the site plan to assure that the appearance, size, type of building material, or other aspects of the building address the goals and policies of the Master Plan.

(E) Signage - all site plans shall include the proposed signage showing the location and sizes of all building mounted or free standing signs. The design of all signs shall also be provided on the site plan.

(F) Stream buffer - a minimum building setback of twenty-five (25) feet shall be provided from all FEMA 100 year floodplain boundaries or fifty (50)feet, whichever is greater, from the bank of any of the following named streams: High Run, Hunting Creek, Rouzer Run and from any of the unnamed streams shown on the USGS Quadrangle maps. This buffer area shall be maintained or planted with natural vegetation. (Amended 11/04)

ARTICLE XI

BOARD OF APPEALS

SECTION 1.0 APPOINTMENT

In compliance with the provisions of Section 4.07 of Article 66B of the Annotated Code of Maryland, the Board of Appeals of Thurmont is hereby created. The number of members, their terms of office, succession, removal, filling of vacancies, and their powers and duties shall be as provided in said Section 4.07.

SECTION 2.0 ORGANIZATION

The board shall organize and adopt rules in accordance with the provisions of this Ordinance and Article 66B. Meetings of the Board shall be held at the call of the Chairman, and at such other times as the Board may determine. The Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact. All actions of the Board shall be by resolution and records of the Board shall be available to the public.

2.1 The Board may call upon the Town departments for assistance in the performance of its duties, and it shall be the duty of such departments to render such assistance to the Board as may reasonably be required.

SECTION 3.0 APPLICATIONS, APPEALS, HEARINGS AND STAY OF PROCEEDINGS

3.1 An application, in cases in which the Board has original jurisdiction under the provisions of this Ordinance, may be taken by any property owner, tenant, or government official, department, board or bureau. Such application shall be filed with the Zoning Administrator who shall transmit same to the Board.

3.2 An appeal to the Board may be taken by any person aggrieved, or by any officer, department, board or bureau affected by any decision of the Zoning Administrator. Such appeal shall be taken within twenty (20) days after the decision by filing with the Zoning Administrator a notice of appeal specify ing the grounds thereof and the Zoning Administrator shall transmit same to the Board.

3.3 The Board shall fix a reasonable time for the hearing of the application or appeal, shall give at least ten (10) days public notice in a newspaper of general circulation and by posting the property. At the hearing, any party may appear in person or by agent or attorney.

3.4 Any party adversely affected by a decision of the Board may appeal to the Circuit Court of Frederick County in the manner set forth in Sub-Section (i), Section 22, Article 66B, Annotated Code of Maryland, or Rule 1101 of the Maryland Rules of Procedure on the ground that such decision was illegal. The court may affirm, reverse, vacate or modify the decision complained of in the appeal. An appeal may be taken from the determination of the Circuit Court to the Court of Appeals of Maryland in accordance with Sub-Section A, Section 4.08, of Article 66B, or Rule 1101 of the Maryland Rules of Procedure.

3.5 An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board or the Court, after notice of appeal shall have been filed with him, that by reason of facts stated in the certificate of stay, would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be granted otherwise than by restraining order which may be granted by the Board or Court, on application after notice to the Zoning Administrator and on due cause shown.

3.6 In exercising its powers, the Board may, in conformity with the provisions of statute and of this Ordinance, reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all powers of the officer from whom the appeal is taken.

3.7 If the application is disapproved by the Board, thereafter the Board shall take no further action on any other application for substantially the same proposal, on the same premises, until after one (1) year from the date of such disapproval.

3.8 If an appeal to the Board is perfected and the public hearing date set and public notice given, and thereafter the applicant withdraws the appeal, he shall be precluded from filing another application for substantially the same proposal on the same premises for one (1) year from the date of written notice of withdrawal.

3.9 A filing fee of twenty-five ($25.00) dollars shall accompany each application or appeal to the Board.

SECTION 4.0 POWERS OF THE BOARD OF APPEALS

4.1 The Board of Appeals shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative officer under the provisions of this Ordinance.

4.2 Where in this Ordinance certain powers are conferred upon the Board, or the approval of the Board is required before a permit may be issued, or the Board is called upon to decide certain issues, such Board shall study the specific property involved and the neighborhood, cause the property to be posted in a conspicuous place, hold a public hearing, and consider all testimony and data submitted, and shall hear any person for or against the issuance of the permit. However, the application for a permit shall not be approved where the Board finds the proposed building, addition, extension, use, or structure would adversely affect the public health, safety, security, morals, or general welfare, or would result in dangerous traffic conditions, or would jeopardize the lives or property of the people living in the neighborhood. In deciding such matters the Board shall give consideration, among other things to the following:

A) The purpose, application, interpretation and standards of these regulations as provided in Article I and XV.

B) Decisions of the Circuit Court of Frederick County and the Court of Appeals of Maryland.

C) The orderly growth of the neighborhood and community.

D) The most appropriate use of land and structures.

E) Facilities for sewage and trash disposal and water supply.

F) Availability of fire-fighting equipment.

G) The effect of such use upon the peaceful enjoyment of people in their homes.

H) The number of people residing, or studying in the immediate area.

I) The type and kind of structures in the vicinity where people are apt to gather in large numbers, such as, schools, churches, theaters, hospitals, and the like.

J) Traffic conditions, including facilities for pedestrians, such as sidewalks and safety zones, parking facilities, and the access of cars to highways.

K) The preservation of cultural and historic landmarks.

L) The conservation of property values.

M) The effect of odors, dust, gas, smoke, fumes, vibrations, glare and noise upon the use of surrounding properties.

N) The contribution, such proposed use, building or addition would make toward the deterioration of the neighborhood and community.

SECTION 5.0 INTERPRETATION AND ADJUSTMENT OF ZONING MAP AND DISTRICT LINES

The Board may determine, after notice to the owners of the property affected and after public hearing, boundaries of districts as follows:

5.1 Where the road or lot layout on the ground, or as recorded, differs from the road or lot layout as shown on the Zoning Map, the Board shall interpret the map in such a way as to carry out the intent and purpose of this Ordinance.

5.2 The Board may permit the extension of a district, where the boundary line of a district divides a lot held in single ownership on the effective date of this Ordinance, but not more than one hundred (100) feet beyond said boundary line.

SECTION 6.0 SPECIAL EXCEPTIONS

The Board shall have the power to hear and decide, in accordance with the provisions of this Ordinance, applications for conditional uses or for decisions upon other special questions on which the Board is authorized by this Ordinance to pass.

6.1 In considering any application for a special exception the Board shall give due regard to the nature and condition of all adjacent uses and structures; and in authorizing a special exception the Board may impose such requirements and conditions with respect to location, construction, maintenance and operations, (in addition to those expressly stipulated in this Ordinance for the particular special exception as the Board may deem necessary for the protection of adjacent properties and the public interest. The criteria used for granting a special exception shall be those items listed in Article XI, Section 4.2, Page 53.

6.2 In connection with the special exception the Board may require the installation, operation, maintenance in or in connection with the proposed use, such devices and methods of operation as may, in its opinion, be reasonably required to prevent or reduce hazardous or congested traffic conditions, odor, dust, smoke, gas, noise or similar nuisances, and it may be necessary in its opinion to protect adjacent properties and neighborhoods, and prevent conditions which may become obnoxious or offensive. In authorizing a special exception subject to compliance with certain conditions, the Board shall require from the owners, lessees or tenants of the property for which the special exception is granted such evidence, written guarantee, or bond as it may deem necessary, to insure that the conditions stipulated by the Board are being and will continue to be complied with. Any such written agreement may be required by

the Board to be recorded among the Land Records of Frederick County, at the expense of the applicant.

SECTION 7.0 VARIANCES

7.1 In authorizing a variance, the Board shall give due considerations to the guides and standards elsewhere in this Article and may require compliance with reasonable conditions for the safeguarding of the neighborhood and require the compliance with said conditions as prescribed in Sub-Section 6.2.

7.2 No such variance shall be authorized by the Board unless the Board finds, beyond reasonable doubt, that all of the following facts and conditions exist:*

A) That there are exceptional and extraordinary circumstances or conditions for the safeguarding of the neighborhood and require the compliance with said conditions as prescribed in Sub-Section 6.2.*

B) That the authorization of such variance will not be a detriment to adjacent property and will not impair the purposes of this Ordinance.*

C) The literal interpretation of the provisions of this Ordinance would result in a practical difficulty.*

D) That the special conditions and circumstances did not result from the actions of the applicant.*

7.3 No such variance shall be authorized unless the Board finds that the condition or situation of the specific piece of property, or the proposed use of said property is not of so general or recurrent a nature as to make reasonable practicable the formulation of a general regulation for such conditions or situations.

7.4 No action will be taken which will be contrary to an adopted Town plan. (When a question arises as to whether the contemplated action of the Board is contrary to an adopted Plan, the Board shall request the recommendation of the Planning Commission.)

* Amended 6/92

ARTICLE XII

AMENDMENTS

SECTION 1.0

Whenever the public necessity, convenience, general welfare, or good zoning practice require, the Mayor and Commissioners may by ordinance, subject to the procedure set forth in this Article, amend, supplement or change this ordinance. Amendments may be initiated by resolution of the Mayor and Commissioners, by motion of the Planning Commission, or by petition of any property owner.

SECTION 2.0

Any proposed amendment, supplement or change shall be referred by the Mayor and Commissioners to the Planning Commission for an investigation and recommendation. The Planning Commission shall cause such investigation to be made as it deems necessary and may require the submission of all pertinent data and information by any person concerned; may hold such public hearings as provided by its own rules; and shall submit its written report and recommendations to the Mayor and Commissioners within a reasonable length of time.

SECTION 3.0

After receiving the recommendations of the Planning Commission, the Mayor and Commissioners shall hold a public hearing in relation to the proposed amendment, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days notice of the time, place and nature of such hearing shall be published in a paper of general circulation in the community and in the case of a change in classification of a particular piece of property, said property shall be posted.

SECTION 4.0

No change in or departure from the proposed amendment as recommended by the Planning Commission shall be made unless the same be re-submitted to said Planning Commission for its further recommendation. No amendment, supplement, or change shall be made contrary to the recommendations of the Planning Commission except by a majority vote of the Commissioners of Thurmont.

SECTION 5.0

In case of a protest against any proposed amendment, supplement, or change as specified in Section 4.05, Article 66B, the Annotated Code of Maryland, or in any amendments thereto, the provisions of said Section relative to the vote required for adoption shall govern.

SECTION 6.0

A filing fee of forty dollars ($40.00) shall accompany each application for a change in zoning map or text.

SECTION 7.0

Where the purpose and effect of the proposed amendment is to change the zoning classification, the President and Commissioners shall make findings of fact in each specific case including, but not limited to, the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development for the area, the recommendation of the Planning Commission, and the relationship of such proposed amendment to the Town's plan; and may grant the amendment based upon a finding that there was a substantial change in the character of the neighborhood where the property is located or that there was a mistake in the existing zoning classification. A complete record of the hearing and the votes of all members of the President and Commissioners shall be kept.

SECTION 8.0

An application for a reclassification shall not be accepted for filing by the Mayor and Town council if the application is for the reclassification of which has been opposed or denied by the mayor and town council within twelve (12) months from the date of the local legislative body's decision.

SECTION 9.0 <u>CONDITIONAL ZONING</u>

9.1 Upon the zoning or rezoning of any land or land pursuant to the provisions of this Ordinance and Article 66B of the Annotated Code of Maryland, the President and Commissioners of Thurmont may impose such additional restrictions or limitations as may be

deemed appropriate to preserve, improve or protect the general character and design of the lands and improvements being zoned or rezoned, or of the surrounding or adjacent lands and improvements and may upon the zoning or rezoning of any land or lands, retain or reserve the power and authority to approve or disapprove the design of buildings, construction, landscaping or other improvements, alterations, and changes made or to be made on the subject land or lands to assure conformity with the intent and purpose of the Zoning Ordinance.

9.2 Conditions improved or requested may not include the allowance of uses not otherwise expressly permitted in the district.

9.3 Conditions recommended by the Planning and Zoning Commission shall be published with the notice of the public hearing that is required for the hearing held by the President and Commissioners. The President and Commissioners may accept, reject or modify the conditions recommended by the Planning and Zoning Commission. The President and Commissioners shall submit for comment from the Planning and Zoning Commission conditions not reviewed by the Planning and Zoning Commission at their own meeting.

9.4 Conditions imposed by the decision of the President and Commissioners shall be made public concurrently with the decision.

9.5 Conditions shall be enforced by the President and Commissioners through the Planning and Zoning Commission. The Planning and Zoning Commission may require from the applicants what information it deems necessary to show that the conditions are being adhered to. (1-9-74)

SECTION 10.0 USE IT OR LOSE IT PROVISION

The zoning classification of any land within the Town limits of Thurmont may be reviewed by the Planning Commission and Town Board two year after the rezoning is hereafter granted for any land if no improvement plans have been submitted within one year or no construction has started within two years from that period. In such situations, the Planning Commission or Town Board may initiate new rezoning applications for such land to aid in assuring the orderly development of the town in accordance with the concepts contained within Comprehensive Development Plan, this chapter, and Article 66B of the Annotated Code of Maryland, 1957, as amended. For purpose of this section, construction will be deemed to have begun when all necessary excavation and piers or footings of one or more buildings covered by a valid permit have been completed. This section shall not be construed to limit the authority of the Planning Commission or Town Board to initiate any zoning or rezoning applications given in this article or any other Planning and Zoning authority given by any other applicable law.

ARTICLE XIII

VALIDITY AND REPEAL

SECTION 1.0 VALIDITY

If any article, section, sub-section, paragraph, sentence or phrase of this Ordinance is for any reason held to be invalid by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 2.0 REPEAL

All ordinances or parts thereof which are in conflict with the provisions of this Ordinance are hereby repealed.

ARTICLE XIV

DEFINITIONS

The following definitions shall be used in the interpretation of this Ordinance, and words used in the present tense include the future; the singular shall include the plural, and the plural the singular; the word "use" shall include arranged, designed, constructed, altered, converted, tented, leased, or intended to be used; and the word "shall" is mandatory.

ACCESSORY USE OR STRUCTURE: A use or structure subordinate to the principal use or building on the same lot and serving a purpose customarily incidental to the use of the principal building or land use.

AGRICULTURE: The use of land for agricultural purposes, including farming, dairying, pasturing, agriculture, horticulture, floriculture, viticulture, fish culture, and animal and poultry husbandry, and the accessory uses for packing, treating, or storing the produce.

ALLEY: A public or private way affording a secondary means of access to abutting property.

AMEND/AMENDMENT: Any repeal, modification, or addition to a regulation, any new regulation; any change in the number, shape, boundary, or area of a zone; or any repeal of a map, part thereof, or addition thereto.

AUTOMOBILE SERVICE STATION: Any area of land, including buildings that are used to dispense motor vehicle fuels, oils, and accessories where repair service is incidental, and not storage or parking space is offered for rent.

AUTOMOBILE PARKING LOT, COMMERCIAL: A lot or portion thereof, other than a sales lot held out or used for the storage or parking of six or more vehicles, where service or repair facilities are not permitted. Such parking lot shall not be considered an accessory use; nor shall it be used for the storage of dismantled or wrecked vehicles.

BAR/TAVERN: An establishment used primarily for the dispensing of beer, wine, liquor or other drinks for on-site consumption and where food, music, dancing or other forms of entertainment may be accessory to the principal use.***

*** Amended 2/28/94

BASEMENT: A story where the floor is more than twelve (12) inches, but not more than half of its story height below the average level of the adjoining ground. A basement may be used as a separate dwelling and shall be counted as a story for the purpose of height regulations.

BED AND BREAKFAST: A dwelling in which lodging is provided for transient guests. Meals can be served to guests only. A Bed and Breakfast shall not be deemed a home occupation.*

BILLBOARD: A sign for any activity, person, group of people or thing not located on the premises upon which the sign is located.*

BOARD: The Board of Zoning Appeals of Thurmont.

BOARDING OR LODGING HOUSE: A dwelling or part thereof where meals and/or lodgings are provided, for compensation, for persons not transients.

BUILDING: Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, or chattels including any tent, cabin or trailer. When such structure is divided by one or more unpierced walls extending from the ground up, it shall be considered one building for the purpose of applying the provisions of this Ordinance.

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

BUILDING OR STRUCTURE, HEIGHT OF: The vertical distance from the average finished grade to the highest point of the coping of a flat roof, the deck line of a mansard roof, the mean height level between eaves and ridge for gable, hip, and gambrel roofs, or the highest point on other structures.

CELLAR: A story having more than one-half (1/2) of its height below the average level of the adjoining ground. A cellar shall not be used as a separate dwelling and need not be counted as a story for the purpose of height regulations.

CLUSTER DEVELOPMENT: A subdivision using varying lot sizes to group houses while maintaining the density of a specific zoning district.

* Amended 6/92

COMPREHENSIVE DEVELOPMENT PLAN: The policies, statements, goals, and long-range plan for desirable use of land and structures in Thurmont, as officially adopted and amended from time to time by the Town Commissioners in the form of texts and maps, which constitute a guide for the area's future development including zoning determinations. The term shall be also used for Master Plan, Comprehensive Plan, and the like as adopted in accordance with Article 66B of the Annotated Code of Maryland.

CONDITIONAL ZONING: A limitation or restriction put on the zoning or rezoning of any lands within the town limits. The limitations apply to site development feature including design, landscaping or other improvements.

CONSTRUCTION, STARTING OF: The combining of labor and material into any portion of the structure, on the site thereof.

COURT: An open, unoccupied, unobstructed, and uncovered space enclosed on two (2) sides by buildings on the same lot.

DAY CARE CENTER: A day nursery, day camp, child care center or other place for the day to day reception, board, and/or care for compensation of a child or children under sixteen years of age.

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

DISTRICT: A portion of the territory to which this Ordinance applies within which certain uniform regulations and requirements apply under the provisions of this Ordinance.

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

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

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

(C) **Dwelling, Duplex:** Two (2) dwelling units arranged or designed to be located on abutting and separate lots and separated from each other by a continuous vertical party wall, without openings from the lower floor level to the highest point of the roof which lies along the dividing lot line, and such dwelling is separated from any other structure by yards or other green areas on all sides.

(D) **Dwelling, Multi-Family:** A detached building or a group of semi-detached or attached buildings containing three (3) or more dwelling units.*

DWELLING UNIT: A building or portion thereof arranged or designed for occupancy by not more than one family having cooking facilities and sanitary facilities reserved for the occupants thereof.

FAMILY: A person living alone or two or more persons living together as a single housekeeping unit, but not including a group of persons occupying a boarding house, lodging house, hotel, or motel.

FARM: A parcel of land not less than five (5) acres in size used for agricultural purposes as defined herein.

FAST FOOD RESTAURANT: Any place or premises used for dispensing or serving of food or drink at which more than 10% of its customers are served either while sitting in a motor vehicle or through an interior or exterior sales window or counter at which the food or drink served is packages to facilitate its consumption outside the structure.*

FLOODPLAIN: Those lands defined by soil type as they are designated by the U.S. Soil Conservation Service; such being principally a natural water retention area of generally wet land.

FLOOR AREA: The total number of square feet of floor area in a building excluding cellars. All horizontal measurements shall be made between exterior faces of walls.*

FRONTAGE: The length of the front property line of the lots or tract of land abutting a public street, road, or highway.

GARAGE, COMMERCIAL: An enclosed space or structure, other than a private garage, for the storage, sale, hire, care, repair or refinishing of self-propelled vehicles or trailers.

GARAGE, PRIVATE: An enclosed structure intended for the storage of private motor vehicles of the families resident upon the premises.

GROSS LEASABLE AREA: The total Floor area designated for tenant occupancy and exclusive use, including basements, mezzanines and upper floors.*

* Amended 6/92

HOME OCCUPATION: An occupation conducted entirely within a dwelling by a member or members of the immediate family residing therein with the following provisions: a) no stock in trade kept or commodity sold on premises; b) only one employee in addition to member of the immediate family residing on the premises; c) that the living quarter occupy at least 75% of the entire dwelling. Boarding houses and private education institutions shall not be deemed home occupations; d) that equipment used does not emit uncomfortable or harmful amounts of noise, vibration, heat, glare, smoke, odor, or other obnoxious element.

JUNK YARD: Any land or building used for the abandonment, storage, keeping, collecting, salvage, sale, exchange, disassembling, wrecking, baling or handling of paper, rag, wood, scrap metals, or other scrap or discarded materials including automobiles or other vehicles and equipment not in running condition, but not including pawn shops and buildings for the sale, purchase or storage of used furniture and household equipment, land or buildings used for the sale of used cars or other machinery in operable conditions, or the processing of used or salvaged materials as part of manufacturing operations.

LOT: A piece or parcel of land described in a recorded deed, a subdivision plat, a record of survey map, or by metes and bounds, occupied or intended to be occupied by one principal building or use for the purpose of sale, lease, transfer of ownership or separate lot.*

A) **LOT AREA, NET:** The total horizontal area included within the rear, side, and front lot or proposed street, including off street automobile parking areas and other accessory uses.

B) **LOT, CORNER:** A lot abutting upon two (2) or more roads at their intersection or upon two parts of the same road, and in either case forming an interior angle less than one hundred thirty-five (135) degrees.

C) **LOT, DEPTH OF:** The average distance between the front lot line and the rear lot line.

D) **LOT, DOUBLE FRONTAGE:** A lot having frontage on two (2) non-intersecting roads.

E) **LOT, FRONT OF:** The side or sides of interior lot which abut a street, a corner lot shall be deemed normally to front upon the street on which it has the least dimension.

* Amended 6/92

F) **LOT FRONTAGE, Minimum at Building Line:** The least permissable width of a lot measured horizontally along the building line.

G) **LOT FRONTAGE, Minimum at Front Lot Line:** The least permissable width of a lot measured horizontally along the front lot line.

H) **LOT LINES:** The lines bounding a lot as herein defined.

1) **Front:** The lot line separating the lot from a road. In cases where a lot abuts upon more than one road either line may be considered the front.

2) **Rear:** The lot line or lines generally opposite or parallel to the front lot line.* (Amended 6/92)

3) **Side:** Any lot line other than a front or rear lot line.

I) **LOT WIDTH:** The width of the lot measured at right angles to its centerline.

MASTERPLAN: See Comprehensive Development Plan.

MINOR UTILITY INSTALLATIONS: Wires, lines, cables, or pipes used for the distribution, collection, supply or disposal of electric, gas, communication, steam, water or sewage, including poles, crossarms, guy wires, towers, repeaters, boosters, switches, transformers, regulators, pumps, mains, drains, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar accessories and equipments used as an integral part of public service and utility systems that are necessary for the furnishing of adequate service by public utilities or government agencies, but not including buildings, yards, stations or facilities used for storage, repair or processing of material or equipment, and not including buildings, areas, stations, substations, or treatment plants for transforming, boosting, switching, pumping or treatment, when such facilities are constructed on the ground. Wireless Telecommunication Facilities as defined in Article IX, Section 6.2 are not considered minor utility installations and must meet the requirements of Article IX, Section 6.0. * (Amended 9/03)

MOBILE HOME: A portable dwelling unit designed and built to be towed on its own chassis, connected to utilities and designed without a permanent foundation for year-round living. A unit may contain parts that can be combined, folded, collapsed, or telescoped when being towed and expanded later to provide additional cubic capacity. It must be listed by the State of Maryland as a mobile home. This does not include sectional or modular homes.

MOBILE HOME PARK: Any site, lot, or parcel or groups maintained or intended for the purpose of supplying a location or accomodation for two or more mobile homes for living quarters and all accessory buildings or structures.

MOTEL: An establishment for transients consisting of any number of sleeping rooms in permanent buildings, each room or suite of rooms having complete sanitary facilities and separate entrance, including hotel, motor hotel, motor lodge, tourist park, tourist court, and similar establishments, but not including a tourist home, boarding house, lodging house, or trailer park.

NIGHTCLUB: An establishment in which music, dancing, or other forms of entertainment are conducted and beer, wine, liquor and meals may be dispensed as an accessory use.***

NONCONFORMITY: A lot, structure, or use lawfully existing before the effective date of any regulations of this ordinance which does not conform to the current regulations of the district in which it is located.*

NURSING HOME: Includes rest homes, convalescent homes or homes for the aged and provides domiciliary care which includes room, board, housekeeping, and some supervision and/or comprehensive care which includes a full continuum of medical and nursing facilities. A nursing home is not an institution designed exclusively for the treatment and care of mental patients, drug addicts or alcoholics.

OPEN SPACE: An area of land associated with and located on the same tract of land as the principal structure or group of structures in relation to which it serves to provide light and air, or scenic, recreational or similar purposes. Open Space may include but not be limited to lawns, decorative plantings, sidewalks, and active and passive recreational areas including playgrounds, fountains, swimming pools, wooded areas, and watercourses; but shall not include loading areas or vehicle surfaces or accessory structures.*

PLANNING COMMISSION: The Planning Commission of Thurmont.

RESTAURANT: An establishment used primarily for the sale of food and the dispensing of beer, wine, liquor or other drinks for on-site consumption. A restaurant may have music, dancing or other forms of entertainment as an accessory use.***

* Amended 6/92
*** Amended 2/28/94

RESUBDIVISION: A further division or modification of an existing parcel of land previously approved and recorded in the Frederick County Courthouse. Resubdivision of existing lots shall be in conformance with the current zoning of the property, the Comprehensive Development Plan, and fully conform with the Subdivision Regulations.

ROAD: A public or private right-of-way fifty (50) feet or more in width which provides a public means of access to abutting property, or any public or private right-of-way not less than thirty (30) feet in width which existed prior to the enactment of this Ordinance. The term shall include street, avenue,drive, circle, highway or similar term.

ROAD LINE: The existing or proposed right-of-way line of any road as herein defined.

SEASONAL PRODUCE STAND: A structure or building used or designed to be used for display or sale of agricultural products or other goods produced on the premises upon which such stand is located.

SHOPPING CENTER: A group of five (5) or more retail stores, service establishments, and other similar uses which are designed as an integrated unit.*

SIGNS: Any structure, or devise, in whole or in part, which uses symbolic representations to direct attention, to identify or advertise any activity, person, group of people or thing.*

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

STORAGE SHED: Any container or structure other than a garage, intended for the storage of chattel and larger than 20 square feet in area and 3 feet in height having a roof or covering and at least one enclosed side. Storage sheds are considered as accessory structures independent of whether they utilize a permanent or temporary location on the ground. (5/24/05)

STORY: That portion of a building other than a cellar as defined herein, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the ceiling next above it.

A) **Story, Ground:** The lowest story of any building including a basement as defined herein.

B) **Story, Half:** Half-story shall mean a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four (4) feet above the floor of such story; provided, however, that any partial story used as a separate dwelling shall be deemed a full story.

* Amended 6/92

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

STRUCTURE: Anything constructed, the use of which requires a permanent location on the ground, or attached to something having a permanent location on the ground, but not including fences, sidewalks, driveways, curbs, parking lots or spaces, or minor utility installations as defined herein.

SUBDIVISION: The division of any tract or parcel of land into two or more lots, plats, parcels, or sites for the purpose whether immediate or future, of transfer of ownership or building development.

TOWN BOARD: The Board of Town Commissioners of Thurmont, MD.

TOWNHOUSE: One of a group of three or more attached dwelling units divided from each other by party walls and each having separate front and rear or front and side entrances from the outside.

TRAILER; TRAVEL TRAILER: See Mobile Home

TRAILER PARK; TRAVEL/TRAILER PARK: See Mobile Home Park

TRANSPORTATION PLAN: That portion of the Master Plan for the improvement and extension of transportation facilities including highways and roads in Thurmont, as officially adopted and as amended from time to time and as supplemented by detailed plans prepared by the State, County, Town and private developers, when said detailed plans are approved by the Planning Commission as being consistent with the over-all long-range plan and placed on file in the office of the Planning Commission.

USE: The principal purpose for which a lot or the main building thereon is designed, arranged, or intended and for which it is or may be used, occupied, or maintained.

VARIANCE: A modification only of density, bulk, or area requirements in the Zoning Ordinance where such modifications will not be contrary to the public interest and where owning to conditions peculiar to the property, and not the results of any action taken by the applicant, a literal enforcement of the Ordinance would result in practical difficulty.*

WET SOILS: Soils set forth in the "Soils Interpretation and Water Features Report" as extracted from the Frederick County, Maryland Soils Survey Supplement Text and Tables published by the Frederick Soil Conservation District (issued May 1985 or as amended.) (5/24/05)

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

* Amended 6/92

A) **Yard, Front:** Open space extending across the full width of the lot between the front lot line or road line and the nearest permitted line of the building or any enclosed portion thereof. The depth of such yard shall be the shortest horizontal distance between the front lot line or proposed road line and the nearest point of the building or any enclosed portion thereof.

B) **Yard, Rear:** Open space extending across the full width of the lot between the rear lot line and the required building restriction line which shall run parallel to every part of the rear lot line.*

C) **Yard, Side:** Open space extending from the front yard to the rear yard and between the side lot line and the nearest permitted line of the building or any enclosed portion thereof. The width of a side yard shall be the shortest horizontal distance between the side lot line and the nearest point of the building or projection.

ZONE: An area within which certain uses of land and buildings are permitted and certain others prohibited.

ZONING ADMINISTRATOR: An officer of the town who administers the zoning regulations and acts as secretary to the Board of Appeals.

ZONING CERTIFICATE: A written statement issued by the Zoning Administrator, authorizing buildings, structures or uses consistent with Ordinance.

ZONING INSPECTOR: The Zoning Inspector (Administrative Officer) or his authorized representative, appointed by the Mayor and Commissioners of Thurmont, Maryland.

ZONING MAP: The Zoning Map of the Town of Thurmont together with all amendments thereto subsequently adopted.

- Amended 6/92

ARTICLE XV

LEGAL STATUS

1.0 SCOPE

The zoning regulations described herein shall constitute the Zoning Ordinance text.

The map for the incorporated area of Thurmont is hereby made a part of this ordinance and shall henceforth be known as the Zoning Map of Thurmont.

2.0 INTERPRETATION AND SAVING CLAUSE

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, comfort, prosperity, and general welfare of the Town of Thurmont, Maryland.

Whenever there is a discrepancy between minimum standards of dimensions noted herein and those contained in any other official regulations of the town, the more severe standards shall apply.

3.0 This ordinance, including text and map, passed under and by virtue of the power and authority of Article 66B, Annotated Code of Maryland.

Whereas, a publicly advertised hearing was held on November 22, 1999, and a recommendation made by the Planning and Zoning commission.

Now, therefore, the Board of Commissioners of Thurmont hereby adopt these regulations as the Thurmont Zoning to be Ordinance, effective from date of adoption.

ADOPTED BY THE BOARD OF COMMISSIONERS OF THURMONT, MARYLAND, THIS 28th day of March, 2000.

ATTEST:

APPROVED:

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Eileen R. Waesche
President