

ZONING ORDINANCE  
  
OF  
  
LAYTONSVILLE, MARYLAND

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Zoning Ordinance of Laytonsville Maryland  
Amended through June 7, 2011

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**Section 100. APPLICATION**

This Ordinance shall apply to all real property in the Town of Laytonsville, Maryland, except property of the United States of America, State of Maryland and agencies thereof. **(Amended June 7, 2011)**

## **Section 101. ZONES**

The Town is hereby divided into the following zones:

- (a) Agricultural
- (b) R1 - Residential One Acre
- (c) R2 - Residential One-Half Acre
- (d) R3 – Residential Two Acres
- (e) RH - Residential Historic
- (f) C1 - Commercial
- (g) CH - Commercial Historic

**Section 102. ADOPTION OF TEXT**

The regulations of this Ordinance constitute the text of the Zoning Ordinance of the Town of Laytonsville, Maryland, and are hereby adopted.

**Section 103. ADOPTION OF MAP**

The Zoning Map entitled "Zoning Map of Town of Laytonsville, Maryland" dated January 4, 2005, and amendments thereto showing the zoning classification of each and every parcel of land to which this Ordinance applies, and the improvements thereon, is hereby adopted and shall constitute the official Zoning Map of the Town. **(Amended June 7, 2011)**

## Section 104. DEFINITIONS

(Amended June 7, 2011)

The following words and terms shall have the meanings hereinafter stated unless the context or other provisions of this Zoning Ordinance clearly indicates otherwise:

(a) **“Accessory Apartment”**: A second dwelling unit with a separate entrance that is part of an existing one-family detached dwelling, or is located in a separate existing accessory structure on the same lot as the main dwelling with provision within the accessory apartment for full cooking, eating, sanitation and sleeping. Such a dwelling unit is subordinate to and smaller in size, bulk and height than the main dwelling and the main dwelling must be owner occupied. Accessory Apartments must have separate windows permitting egress. **(Adopted June 7, 2011)**

(b) **"Accessory Use or Structure"**: A subordinate use or structure located on the same lot as the primary use and serving a purpose incidental to the primary use.

(c) **“Animal Boarding Place”**: Any building, structure or land other than a veterinary hospital used, designated or arranged for the breeding or care of dogs, cats, pets, fowl or other domestic animals for profit, not including those animals raised for agricultural purposes. **(Adopted June 7, 2011)**

(d) **"Automobile Service Station"**: Land, buildings, and other structures which are used to dispense motor vehicle fuels, oils, and accessories at retail, where repair service is strictly incidental, where vehicles are not stored, sold, or rented, and parking space is not rented

(e) **"Automotive Repair Facilities"**: Land, buildings, and other structures which are used for motor vehicle repair and service, excluding, however, "junk" and "auto wrecking". The term "junk" includes old or scrap copper, glass, rope, rags, batteries, paper, trash, rubber debris, waste, iron, steel, and other old or scrap material. The term "auto wrecking" includes an establishment or place which is maintained, operated, or used for storing, keeping, dismantling, buying, or selling wrecked, scrapped, or dismantled motor vehicles or motor vehicle parts.

(f) **“Building height”**: The building height is the vertical distance measured from the average elevation of the finished grades along the front of the building to the mean height level between the eaves and ridge of a gable, hip, mansard, or gambrel roof, or the highest point of a flat roof. However, for the purposes of determining building height, at no point must the finished grade be higher than the pre-development grade. The pre-development grade is the grade that existed at the time of application for a building or demolition permit, or the grade necessary to implement an approved subdivision plan. Determination of grade is by examination of the contour lines on the property as they extend to the adjoining properties and to the street. **(Adopted September 4, 2007.)**

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**(g) "Charitable and Philanthropic Institution";** A private, tax exempt organization whose primary function is to provide either health, social, recreational, religious, or benevolent services, or research or educational activities in areas of benefit to the public such as health, medicine or conservation of natural resources. An organization for the purpose of operating a trade or business or whose primary purpose or function is promoting the economic advancement of its members, such as a professional or trade, association or a labor union, is not a charitable or philanthropic institution for zoning purposes. This definition also does not include other uses specifically defined or regulated in this ordinance such as a place of worship, public or private educational institution, library or museum.

**(h) "Church and Religious Institutions":** A building, structure or land together with its accessory buildings, structures, land and uses where persons regularly assemble for religious worship, or religious education and which building, structure or land, together with accessory buildings and uses is maintained and controlled by a religious body or leader organized to sustain or promote public worship. This definition and use includes religious schools and places for ritual ceremonies of a religious nature.

**(Adopted December 5, 2006)**

**(i) "Contributing Resource":** A property or improvements that upon investigation is considered to have significant historical or architectural contributions or attributes of local, state or federal significance.

**(Amended October 2, 2007)**

**(j) "Floor Area of Building":** The total number of square feet of floor area in a building, excluding cellar, uncovered steps, and uncovered porches, but including the total floor area of accessory buildings on the same lot. All measurements are to be made horizontally between interior faces of walls.

**(k) "Floor Area Ratio":** The figure which is equal to the total gross floor area as a multiple of the area of the lot. Said figure is determined by dividing the gross floor area of all buildings on the lot by the area of the lot.

**(l) "Guidelines, Historic Preservation":** (Amended: June 7, 2011) Guidelines created and administered by the Historic District Commission the purpose of which is to identify types and categories of changes to historic sites and resources that are so minimal in nature that they do not affect historic, archeological or architectural significances and require no review and approval by the Historic District Commission.

**(m) "Half-acre":** 20,000 square feet shall be deemed to be a half-acre.

**(n) "Home Occupation":** An occupation which meets all of the following requirements:

1. It provides a service or product conducted within a dwelling by a resident or residents thereof;
2. Not more than two (2) non-resident assistants are engaged or employed in the same occupation;

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3. No modification of the exterior of the premises shall be made to accommodate the occupation except as a condition specified by the by the Board of Appeals and when applicable by the Historic District Commission (**Amended September 4, 2007**) in the granting of the exception, and except that one (1) sign, for uses located in a CH or RH Zone or site designated as a historic site or resource must be first approved by the Historic District Commission, (**Amended September 4, 2007**) not exceeding a total of one and one-half square feet may be displayed on the exterior of the premises, provided that it is not illuminated and does not project more than one (1) foot beyond an exterior wall;
4. The occupation uses no equipment or process which creates noise, vibration, glare, fumes, odors, or electrical or electronic interference detectable beyond the walls of the premises;
5. The keeping, sale, or treatment of animals, birds, pets, or other living creatures is not included;
6. No equipment or facilities are used other than :
  - (a) office equipment such as a typewriter, word processor, calculator, or personal computer;
  - (b) arts and crafts equipment such as a hand loom, spinning wheel, potters wheel, kiln, woodworking tools, paints, easels, sculpturing equipment, or sewing machines; and
  - (c) equipment or facilities ordinarily used for domestic and household purposes;
7. No goods or equipment used in the occupation are stored outside the building.

(o) **"Kennel or Stable, Non-Commercial"**: Any building, structure or land used, designed or arranged for the boarding, breeding or care of dogs, cats or horses belonging to the owner thereof and kept for the purposes of training, show, hunting or as pets. (**Adopted June 7, 2011**)

(p) **"Landscape Contractor"**: The business of designing, installing, planting or maintaining lawns, gardens or other landscaping or hardscaping services at off-site locations with vehicles, equipment and supplies that are stored, parked, serviced, or loaded at the business location. Landscape contractor's use also includes the removal and installation of trees, vegetation, decks, patio's, walls, ponds and other decorative amenities, as well as snow removal services. (**Adopted June 7, 2011**)

(q) **"Open Air Market"**: The display and retail sale of vegetative, agricultural products, crafts and cut flowers in an open or non-fully enclosed building or structure. (**Adopted June 7, 2011**)

(r) **"Personal Service Establishments"**: Includes barber and beauty shops, tailors, laundries, shoe repair, and dry cleaning, provided only non-explosive and non-flammable solvents are used and no work is done on the premises for retail outlets elsewhere.

(s) **"Private Club"**: (**Adopted June 7, 2011**) An incorporated or unincorporated association operated without profit for the benefit of its members and not open to the general public for civic, social, cultural, religious, recreational, charitable, literary or like activities. This use must meet the following standards:

- (i) Lots size and setback: Twice the minimum lot size and building setback required in the zone.

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- (ii) Maximum building coverage: 20% including accessory buildings
- (iii) Lot frontage: Twice the minimum required in the zone
- (iv) Parking: 2.5 spaces per each 1000 square feet of floor area
- (v) Screening: All parking must be screened by natural vegetation or fencing of a sight, tight nature at least 3.5 feet in height.

(t) **"Proprietary Interest"**: A legal right established by deed, lease, rental agreement, contract, trust, option, will or other similar instrument. **(Adopted June 7, 2011)**

(u) **"Professional and Business Offices"**: Include real estate, insurance, and other business offices, and the offices of architects, clerks, engineers, attorneys, physicians, dentists, and other recognized professions, not including, however, the boarding or treatment of horses, dogs, cats, or other animals.

(v) **"Public Benefit Organizations"**: Includes community centers, libraries, art galleries, museums, and charitable and eleemosynary organizations.

(w) **"Public Use"**: A use operated by the State of Maryland or Town of Laytonsville other than a waste disposal facility and a storage yard.

(x) **"Resident"**: Any person who occupies a dwelling within the Town, for a period of time in excess of thirty (30) consecutive days and their presence is other than transitory in nature. **(Amended September 4, 2007.)**

(y) **"Restaurants"**: Includes all places for the sale and consumption of food and beverages, excluding, however, places providing dancing or theater entertainment.

(z) **"Signs"**: See Section 128.02 for definitions relating to signs.

(aa) **"Single-family Dwelling"**: A detached dwelling designed and used as a residence by one (1) family.

(bb) **"Storage Pods"**: means a fully enclosed structure or container used for the temporary storage of personal property or commercial goods or equipment which is leased or rented. **(Amended February 3, 2009.)**

(cc) **"Warehouse and Storage Facilities"**: A building, part of a building or land for storing documents, equipment, wares, merchandise and personal effects whether for the owner of the facility or others where access to such building is afforded only to the owner of such facility. Warehouse and storage facilities shall not include self storage facilities as defined in Sec. 104 (r). **(Amended February 3, 2009.)**

## **Section 105. AGRICULTURAL ZONE**

### **Section 105.01 Purpose and Intent:**

To provide a zone for agricultural and farming uses including plant nurseries, with standards which provide for the conservation of these areas and recognize the difference between agricultural uses and more urban residential uses. It is further the purpose and intent of this Zone to protect open space and environmental resources. **(Amended: June 7, 2011)**

### **Section 105.02 Permitted Uses: (Amended: June 7, 2011)**

- (a) Agriculture, including the raising of crops, livestock and plant material;
- (b) Accessory Apartment
- (c) Agriculture, including the raising of crops, livestock and plant material;
- (d) Equestrian facility
- (e) Guest house, as an accessory use
- (f) Kennel or stable, non-commercial
- (g) Plant nursery and/or garden center
- (h) Public uses
- (i) Roadside stands, markets, and stands for sale of farm products
- (j) Single-family dwelling

### **Section 105.03 Special Exception Uses: (Amended: June 7, 2011)**

- (a) Animal boarding places for not more than eight (8) animals.
- (b) Home Occupation

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- (c) Landscape Contractor
- (d) Utility transmission facilities and public utility buildings
- (e) Veterinary clinic

**Section 105.04 Lot Size Requirements: (Amended June 7, 2011)**

- (a) Minimum lot area: 25 acres except under the following conditions:

The lot was annexed to the Town after July 1, 2004; and contains an existing residential dwelling which has been designated as an historic resource subject to the Town's historic preservation ordinance and any applicable regulations; and

The minimum lot area shall not be less than the environmental setting established by the Mayor and Town Council.

- (b) Minimum lot width: 200 feet, except that for lots established pursuant to Section 105.04 (a) the lot width shall be not less than 30 feet at the right-of-way line and not less than 200 feet at the front building line.

**Section 105.05 Cluster Option: (Amended June 7, 2011)**

Cluster option is permitted subject to the provisions of Section 112 of the Zoning Ordinance and to the following restrictions:

Minimum lot size, one acre

Density of overall tract or parcel is not less than one dwelling unit for each 25 acres.

Remaining area is reserved by recorded easement, for agricultural, conservation or open space purposes.

**Section 105.06 Height & Yard Regulations: Amended: June 7, 2011)**

Maximum building height:

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1. Single-family dwelling: 35 feet. See Section 104 (f). (**Amended: June 7, 2011**)
2. All other structures: 60 feet. See Section 104 (f). (**Amended: June 7, 2011**)

(b) Minimum yard requirements:

1. For single-family dwellings:

Front yard: 60 feet

Side yard: 50 feet

Rear yard: 50 feet

2. For all other structures:

Front yard: 60 feet

Side yard: 25 feet

Rear yard: 25 feet

**Section 105.07 Maximum Density:**

One (1) dwelling unit per twenty-five (25) acres.

## **Section 106. R1 RESIDENTIAL - ONE ACRE**

### **Section 106.01 Purpose and Intent:**

To provide for single-family detached dwellings at a density not to exceed one (1) dwelling unit per acre and to allow certain other uses which are compatible with the low density residential character of this Zone.

### **Section 106.02 Permitted Uses:** (Amended: June 7, 2011)

- (a) Accessory uses and structures to the primary use of property
- (b) Agriculture
- (c) Churches
- (d) Public uses and publically supported uses such as a fire and rescue squad
- (e) Single-family dwelling

### **Section 106.03 Special Exception Uses:** (Amended June 7, 2011)

- (a) Accessory apartment
- (b) Animal boarding places for not more than six (6) animals
- (c) Child or senior daycare facility for not more than four persons
- (d) Community uses, e.g. swimming clubs, racquet clubs and similar uses
- (e) Equestrian facility located on property containing five acres or more
- (f) Funeral home
- (g) Home occupation
- (h) Indoor and/or outdoor recreation uses
- (i) Open air markets
- (j) Private clubs

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- (k) Private schools
- (l) Public benefit organizations
- (m) Utility transmission facilities

**Section 106.04 Lot Size Requirements:**

(a) Minimum lot area:

Conventional lot: 40,000 square feet  
Cluster lot: 30,000 square feet

(b) Minimum lot width:

Conventional lot: Minimum lot width of a conventional lot shall be 150 feet at the front building line, and 40 feet at the right-of-way line.

Cluster lot: 100 feet at the front building line, and 30 feet at the right-of-way line.

**Section 106.05 Cluster Option:**

Cluster option may be permitted in this Zone subject to the provision of Sec. 112 hereof.

**Section 106.06 Bulk Regulations:**

(a) Maximum building height:

1. Single-family dwelling: 35 feet. See Section 104 (f). **(Amended June 7, 2011)**
2. All other structures: 40 feet

(b) Minimum yard requirements:

1. Conventional lot:

Front yard 40 feet  
Side yard 20 feet  
Rear yard 25 feet

2. Cluster lot:

Front yard 30 feet  
Side yard 15 feet  
Rear yard 15 feet

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Accessory structures may be located in a side yard or the rear yard closer than specified above, but not within five (5) feet of an adjoining property line. Fences located in a side of rer yard are exempt from setback requirements. **(Amended June 7, 2011)**

**Section 106.07 Maximum Density:**

One (1) dwelling unit per acre

**Section 106.08 Open Space:**

In cluster subdivisions, a minimum of 20% of the gross area shall be open space.

**Section 106.09 Lot Coverage:**

For non-cluster development, the maximum percentage of net lot area that may be covered by buildings including accessory building shall not exceed twenty-five percent.

## **Section 107. R2 RESIDENTIAL ONE-HALF ACRE**

### **Section 107.01 Purpose and Intent:**

To provide for single-family detached dwellings at a density not to exceed one (1) dwelling unit per one-half acre and to allow certain other uses as special exceptions when they are compatible with the low density residential character of the Zone.

### **Section 107.02 Permitted Uses: (Amended June 7, 2011)**

- (a) Accessory structures and uses to the primary use of the property
- (b) Churches
- (c) Public Uses
- (d) Single-family dwelling

### **Section 107.03 Special Exception Uses: (Amended June 7, 2011)**

- (a) Accessory apartments
- (b) Child or senior daycare facility for not more than four individuals
- (c) Community uses, e.g. swimming clubs, racquet clubs and similar uses
- (d) Indoor and/or outdoor recreation area
- (e) Home occupation
- (f) Lawn and landscape maintenance
- (g) Private clubs
- (h) Public benefit organizations
- (i) Utility transmission facilities

**Section 107.04 Lot Size Requirements:**

- (a) Minimum lot area: 20,000 square feet
- (b) Minimum lot width: 100 feet at the front building line, and 30 feet at the right-of-way line

**Section 107.05 Cluster Option:**

Cluster option is not permitted in this Zone

**Section 107.06 Height and Yard Regulations: (Amended June 7, 2011)**

- (a) Maximum building height:
  - 1. Single-family dwelling: 35 feet. See Section 104 (f). **(Amended June 7, 2011)**
  - 2. All other structures: 40 feet.

- (b) Minimum yard requirements:

- 1. Single-family dwelling:
  - Front yard 35 feet
  - Side yard 15 feet
  - Rear yard 15 feet

Accessory structures may be located in a side or rear yard closer than specified above, but not within five (5) feet of an adjoining property line. Fences located in a side or rear yard are exempt from setback requirements. **(Amended June 7, 2011)**

**Section 107.07 Maximum Density:**

One (1) Single-family dwelling unit per half acre.

**Section 107.08 Lot Coverage** (Amended June 7, 2011)

The maximum percentage of net lot area that may be covered by buildings including accessory buildings is thirty –five percent.

## **Section 108. R3 RESIDENTIAL TWO ACRES**

(Adopted June 3, 2003)

### **Section 108.01 Purpose and Intent:**

To provide for single-family detached dwellings at a density not to exceed one (1) dwelling unit per two acres.

### **Section 108.02 Permitted Uses: (Amended June 7, 2011)**

- (a) Agriculture
- (b) Guest house as an accessory use
- (c) Single family – detached dwelling
- (d) Public uses and publically supported uses such as fire and resue squads

### **Section 108.03 Special Exception Uses: (Amended June 7, 2011)**

- (a) Accessory apartment
- (b) Bed and breakfast lodging with not more than three guest rooms
- (c) Child or senior daycare facility for not more than four persons
- (d) Churches and other places of worship
- (e) Community uses, e.g. swimming clubs, racquet clubs and similar uses
- (f) Equestrian facilities located on property containing five acres or more
- (g) Fences over 4 feet in height
- (h) Funeral home
- (i) Home occupation
- (j) Indoor and/or outdoor recreation uses

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- (k) Open air markets
- (l) Private clubs
- (m) Private educational institutions
- (n) Public utility and telecommunications facilities and structures, except overhead electric transmission lines in excess of 69,000 volts.

**Section 108.04 Lot Size Requirements:**

- (a) Minimum lot area:
  - Conventional lot: 80,000 square feet
  - Cluster lot: 35,000 square feet
- (b) Minimum conventional lot width:
  - At the right-of-way line: 30 feet
  - At the front building line: 150 feet
- (c) Minimum cluster lot width:
  - At the right-of-way line: 25 feet
  - At the front building line: 125 feet

**Section 108.05 Cluster Option:**

Cluster option may be permitted in this Zone subject to the provision of Section 112 of the Zoning Ordinance.

The purpose and intent is to provide flexibility in lot size and configuration to preserve and protect rural and scenic open spaces and environmentally sensitive areas, particularly those in the Town's Master Plan.

**Section 108.06 Bulk Regulations:**

- (a) Maximum building height:
  - 1. Single-family dwelling: 35 feet. See Section 104(f). **(Amended June 7, 2011)**
  - 2. All other structures: 40 feet.
- (b) Minimum yard requirements:
  - 1. Conventional lot:

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Front yard - 50 feet

Side yard - Total of 50 feet minimum, 15 feet on one side

Rear yard - 35 feet

2. Cluster lot:

Front yard - 40 feet

Side yard - Total 40 feet, minimum 15 feet

Rear yard - 35 feet

**Section 108.07 Maximum Density:**

One (1) dwelling unit per two (2) acres of gross land area.

**Section 108.08 Open Space:**

In a subdivision of land in the two acre cluster zone, a minimum of 20% of the gross land area shall be open space. Open space shall be defined as a contiguous unoccupied area of land associated with or located on the same tract of land as any building or group of buildings to provide light and air or utilized for scenic, environmental, recreational or similar purposes. Such areas may include lawns, planting and forested areas, recreational areas, ponds and watercourses, but generally does not include parking lots or driveway surfaces.

Open space areas associated with residential development shall be owned and maintained by a homeowners association or condominium association unless otherwise designated for public dedication at the time of subdivision approval.

**Section 108.09 Accessory Structures:**

Enclosed accessory structures may be located only in a side yard or the rear yard but not less than ten (10) feet from an adjoining property line. Accessory structures, except fences, which are not enclosed may be located in any side or rear yard area but not less than five (5) feet from an adjoining property line. Fences four (4) feet or less in height shall have no setback restriction and fences greater than four (4) feet in height shall be allowed only by approval of a special exception.

## **Section 109. RH-Residential Historic**

### **Section 109.01 Purpose and Intent:**

The purpose and intent of this zone is to provide for single-family detached dwellings at a density not to exceed one (1) dwelling unit per half acre and to allow certain other uses of a commercial nature when they are compatible with the low density character of the zone and the historic and architectural structures therein. Properties within this Zoning District must be included or recommended for inclusion in this Zone by the Comprehensive Plan for the Town. **(Amended June 7, 2011)**

### **Section 109.02 Permitted Uses: (Amended June 7, 2011)**

- (a) Accessory apartments
- (b) Accessory structures and uses subordinate to the primary use of the property
- (c) Agriculture
- (d) Child or senior daycare facility for not more than four individuals
- (e) Churches
- (f) Funeral home
- (g) Public uses
- (h) Single-family dwelling

### **Section 109.03 Special Exception Uses: (Amended June 7, 2011)**

The following uses may be permitted as special exceptions provided that they are conducted or operated within a dwelling or accessory structure by a resident or residents thereof:

- (a) Antique store, professional and business offices
- (b) Artist studio

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- (c) Crafts store
- (d) Home occupation
- (e) Interior decorating service and display
- (f) Open Air Market
- (g) Tea room or small restaurant

The following uses may be permitted as special exceptions, regardless of whether they are conducted by a resident or residents:

- (a) Fire Department and/or Rescue Squad
- (b) Public Benefit Organization

A special exception granted to a Fire Department and/or Rescue Squad may include the right to use and maintain the following:

- (a) Monopole, freestanding, not exceeding one hundred fifty (150) feet in height, used to support Fire Dep't, Rescue Squad or public safety communications antenna.
- (b) Cellular (mobile) telephone antenna and not more than one equipment building per telecommunications carrier located on the monopole, subject to the following:
  - (1) The antennae are attached to an existing Fire Dep't, Rescue Squad or public safety communications structure;
  - (2) The total gross floor area for all equipment buildings is a maximum of 750 square feet and no equipment building itself shall exceed 12 feet in height; **(Text Amendment September 23, 1998)**
  - (3) The antennae and equipment buildings shall provide communications services for Fire Dep't, Rescue Squad, or public safety entities and the general public; provided that the design and construction of said Monopole and any changes thereof are subject to approval of the Historic District Commission of Laytonsville.

A special exception for a Monopole shall expire at the end of two years, and may be renewed for successive two year periods **(Amended June 7, 2011):**

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- (a) upon application filed pursuant to Secs. 118 et seq. hereof; or
- (b) without a hearing, upon affidavit by the user, and a finding by the Board of Appeals, that no changes in the design, construction, equipment or use of the facility have taken place.  
(Section above starting at the conclusion of (g) was adopted May 3, 1994)

**Section 109.04 Lot Size Requirements:**

- (a) Minimum lot area: 20,000 square feet
- (b) Minimum lot width: 100 feet
- (c) Exception: Lots which were established by plat or deed recorded prior to the adoption of this Ordinance shall be exempt from the lot size requirements set forth in (a) and (b) above.

**Section 109.05 Cluster Option:**

Cluster option is not permitted in this Zone

**Section 109.06 Bulk Regulations:**

- (a) Maximum building height:
  - 1. Single-family dwelling: 35 feet. See Sec. 104(f). **(Amended June 7, 2011)**
  - 2. All other structures: 40 feet.
  
- (b) Minimum yard requirements:
  - Front yard: 25 feet
  - Side yard: 15 feet
  - Rear yard: 25 feet

Accessory structures may be located in a side yard or rear yard closer than specified above, but not within five (5) feet of an adjoining property line.

**Section 109.07 Maximum Density:**

One (1) single-family dwelling unit per half acre or two (2) dwelling units per acre.

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**Section 109.08 Open Space:**

There is not a provision for Open Space in this Zone.

**Section 109.09 Historic District Restrictions:**

All buildings and structures in this Zone are also subject to the Historic Area Zoning Ordinance and the authority of the Historic District Commission thereunder.

## **Section 110. C1-COMMERCIAL**

### **Section 110.01 Purpose and Intent:**

The purpose and intent of this Zone is to provide a zone for the sale of goods and services.

### **Section 110.02 Permitted Uses (Amended February 3, 2009, June 7, 2011 ):**

- (a.) Ambulance and rescue squads
- (b) Antique shops
- (c) Artist and photography studio and gallery
- (d) Banks and other financial institutions
- (e) Child or senior care facilities
- (f) Churches and other places of worship
- (g) Commercial establishments devoted to sales, service, trade, and/or merchandising
- (h) Country inn
- (i) Craft shop
- (j) Food and beverage stores
- (k) Fire stations
- (l) Funeral homes
- (m) Health clubs
- (n) Hospitals
- (o) Hotels, motels, rooming and boarding houses
- (p) Interior design and decorating services and displays
- (q) Medical and/or dental care facilities

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- (r) Museums, libraries, galleries and similar uses
- (s) Nursing and care homes
- (t) Personal service establishments
- (u) Private clubs
- (v) Private schools
- (w) Professional, real estate and other business offices
- (x) Public benefit organizations
- (y) Public uses
- (z) Recreational facilities
- (aa) Repair service establishments
- (bb) Restaurants and tea rooms containing not more than 1,000 square feet of patron area
- (cc) Theatres

**Section 110.03 Special Exception Uses (Amended February 3, 2009, June 7, 2011):**

- (a) Agricultural uses including raising crops, livestock and plant material
- (b) Animal boarding place for not more than twelve animals.
- (c) Automobile service stations
- (d) Automotive repair facilities
- (e) Charitable or philanthropic institutions
- (f) Community facilities such as swimming and racquet clubs and similar uses
- (g) Home occupation
- (h) Lawn and landscaping services

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- (i) Open air market
- (j) Plant nursery and/or garden center
- (k) Roadside stand and markets for sale of farm products
- (l) Veterinary clinics and hospitals

**Section 110.04 Lot Size Requirements:**

- (a) Minimum lot area: 20,000 square feet
- (b) Minimum lot width: None

**Section 110.05 Cluster Option:**

Cluster option is not permitted in this Zone

**Section 110.06 Height and Yard Regulations: (Amended June 7, 2011)**

- (a) Maximum building height: 40 feet
- (b) Minimum yard requirements:
  - Front yard: 25 feet
  - Side yard: None, except 20 feet when adjacent to property zoned residential
  - Rear yard: 25 feet, except that accessory structures may be located within, but not less than, five (5) feet of the rear property line.

**Section 110.07 Maximum Density:**

Floor area ratio: 0.30

## **Section 111. CH - COMMERCIAL HISTORIC**

### **Section 111.01 Purpose and Intent:**

The purpose and intent of this Zone is to promote and preserve the historical character of the areas where historical structures are present, and to encourage re-use and revitalization of commercial properties within the historic area. Properties within this Zoning District must be recommended for inclusion in this zone by the Comprehensive Plan for the Town. **(Amended June 7, 2011)**

### **Section 111.02 Permitted Uses: (Amended June 7, 2011)**

- (a) Antique shop
- (b) Artist and photography studio or gallery
- (c) Banks and other financial institutions
- (d) Child or senior daycare facility for not more than eight (8) individuals
- (e) Churches and other places of worship
- (f) Craft and gift shop
- (g) Museum, gallery or similar use
- (h) Personal service establishments
- (i) Professional and business offices
- (j) Public uses

### **Section 111.03 Special Exception Uses: (Amended June 7, 2011)**

- (a) Child or senior daycare facility for more than four individuals
- (b) Country inn

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- (c) Commercial establishments devoted to sales, service, trade and/or merchandising
- (d) Medical or dental offices and clinics
- (e) Open air markets
- (f) Private school or instruction
- (g) Restaurant
- (h) Public benefit organizations

**Section 111.04 Lot Size Requirements:**

- (a) Minimum lot area: 20,000 square feet
- (b) Minimum lot width: None required

**Section 111.05 Cluster Option:**

Cluster option is not permitted in this Zone

**Section 111.06 Height and Yard Regulations: (Amended June 7, 2011)**

Maximum building height: 40 feet

Minimum yard requirements:

- Front yard - 25 feet
- Side yard - None, except 20 feet when adjacent to property zoned residential
- Rear yard - 25 feet

**Section 111.07 Maximum Density:**

Maximum density shall not exceed 0.25 F.A.R. (Amended June 7, 2011)

**Section 111.08 Open Space**

There is no minimum requirement for open space in this Zone.

**Section 111.09 Historic District Restrictions:**

All buildings and structures in this Zone are also subject to the Historic Area Zoning Ordinance and the authority of the Historic District Commission thereunder.

## Section 112. CLUSTER APPLICATION

(Revised and adopted June 3, 2003)

A cluster subdivision may be permitted in the R-1 and R-3 Residential Zones through an application to the Mayor and Council. An application for a cluster subdivision shall be accompanied by six (6) copies of a plat drawn to a designated scale, certified by a professional engineer or land surveyor, licensed by the State of Maryland, containing the following information:

- (a) Boundaries of the property with bearings and distances on all boundary lot lines
- (b) Total area of the property in square feet or acres
- (c) Scale and north arrow
- (d) Area of open space in square feet or acres
- (e) Type of open space, whether common or dedicated and the proposed use thereof
- (f) Maximum number of dwelling units proposed, and the calculation of the density and open space
- (g) Existing topography with a maximum contour interval of five (5) feet
- (h) Proposed layout of lots, streets, open space, and limits of clearing
- (i) Location, where applicable, of recreation area, parks, schools, flood-plain, stormwater management structures and other public or community uses
- (j) Location and widths of public right(s)-of-way adjoining the property and location of all areas to be dedicated to public use. **(Amended June 7, 2011)**
- (k) Name and State road number, if applicable, of each street, road, and highway
- (l) Location of public water, sewer, wells and septic fields, whichever applicable
- (m) Designation of minimum lot areas and yards that will be provided on lots adjacent to major thoroughfares and adjacent to peripheral lot lines of the subdivision
- (n) Location of all proposed utility and conservation easements
- (o) Location of all environmentally sensitive areas including streams, floodplains, wetlands, slopes over 20% grade, and areas of highly erodible soils **(Amended June 7, 2011)**

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- (p) The percentage and square footage of impervious services
- (q) Seal and signature of professional person preparing the plat

### **Section 113. APPROVAL OR DENIAL OF CLUSTER APPLICATION**

The Mayor and Council may approve such application with or without conditions (**amended June 7, 2011**) if it shall find that the location, topography and other physical characteristics of the property are such that cluster development will:

- (a) Preserve the environmental integrity of the site by protecting and/or promoting the preservation of features such as steep slopes, stream valleys, desirable vegetation or farmland, and either
  1. Produce a more efficient and practicable development, or
  2. Provide land necessary for public or community facilities
  
- (b) Be in accordance with the adopted comprehensive plan and the established character of the area. To accomplish this end, the cluster subdivision shall be designed to maintain the character of the area by preserving rural views along major roads and from surrounding properties through the use of open space buffers, minimum yard requirements, varied lot sizes, landscaping or other measures;
  
- (c) In no case shall the maximum density specified for the Zone be increased, nor shall other applicable regulations or use limitations for the Zone be modified or changed; provided, however, the Mayor and Council may approve a modification to the minimum lot size and/or minimum yard requirements when it concludes that such modification is in keeping with the purpose of this Section and the applicable residential zone. No lot shall extend into a flood plain unless approved by the Mayor and Council based on a determination that:
  1. The particular flood plain, by reason of its size or shape, has no practical open space value;
  2. The amount of flood plain on the lot is minimal; and
  3. The lot otherwise meets the required minimum lot area.
  
- (d) Full density credit may be granted for those areas of the site contained in a flood plain up to thirty-five (35) percent. Where flood plain comprises an area greater than thirty-five (35) percent of the site, a density credit of fifty (50) percent may be granted for that area in excess of thirty-five (35) percent of the site.
  
- (e) The Town Planning Commission will review Cluster Applications and provide the Mayor and Council with the Commission's comments and recommendations. (**Adopted June 7, 2011**)
  
- (f) The Mayor and Council may deny the application if it shall find that the cluster subdivision (i) does not conform to the findings in paragraphs (a) and (b) above; or (ii) will increase pollution from run-off over and above that which would occur from conventional development of the property. (**Amended June 7, 2011**)

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(g) Upon approval of a cluster subdivision by the Mayor and Council, the applicant shall submit a cluster subdivision plat in accordance with the terms and provisions of the resolution approving same, and said plat shall be recorded among the land records of Montgomery County before any construction is commenced.

## **Section 114. OFF-STREET PARKING REQUIREMENTS**

### **Section 114.01 General Provisions:**

At the time of the construction, reconstruction, or alteration of a building or when any dwelling or structure is converted from a non-commercial use to a commercial use, minimum off-street parking shall be provided as follows:

1. Residential -- two (2) spaces per dwelling unit
2. Commercial establishment devoted to sales, service, trade or merchandising: one (1) parking space for each 100 square feet of floor area used for sales or service, and one (1) parking space for each 300 square feet of floor space used for office, storage, or other purposes;
3. Hotel, motel, rooming house or other establishment having accommodations for guests: one and one-tenth (1.1) parking spaces for each guest room;
4. Automobile service station or automotive repair facilities: one (1) parking space for each 100 square feet of floor area of a shop or garage, and one (1) parking space for each two (2) employees;
5. Community center, library, museum, private school, civic club, private club, lodge, or similar use: one (1) parking space for each 400 square feet of floor space;
6. Hospital, nursing home, care home, medical or dental clinic: one (1) parking space for each 1,000 square feet of floor area;
7. Mortuary or funeral parlor: one (1) parking space for each 100 square feet of reception space;
8. Office building, professional building, or similar use: one (1) parking space for each 200 square feet of office space;
9. Recreational establishment: one (1) parking space for each 100 square feet of floor space;.
10. Restaurant: one (1) parking space for each 50 square feet of floor area;
11. Theatre or auditorium: one (1) parking space for each 4 seats or similar accommodations provided therein;
12. Church or other place of worship: One parking space for each four persons for whom seating is provided in the main auditorium. The requirement does not apply to any existing building which was used for this use prior to January 1, 2011, nor to any additions or alterations of such building; **(Adopted June 7, 2011)**
13. Child Daycare Facility: One space for every non-resident staff member **(Adopted June 7, 2011)**
14. Day Care Center for Senior Adults: One space for each senior adult with disabilities and one space for each non-resident staff member. **(Adopted June 7, 2011)**

### **Section 114.02 Location:**

All off-street parking spaces shall be provided on the same parcel on which the primary use is located or on an adjoining parcel as a special exception. Each parking space shall have access to a street or alley

open to public use via adequate interior aisles and entrances and exit driveways. **(Amended June 7, 2011)**

**Section 114.03 Construction Standards: (Amended June 7, 2011)**

All off-street parking spaces in the number required by this Section 114 shall be provided on a grade capable of accommodating the movement and parking of motor vehicles, and the surface thereof shall be paved or treated so as to be resistant to erosion.

(a) Size of parking spaces:

Each parking space shall be at least 180 square feet in area. The aisles shall be not less than 24 feet in width for two-way traffic, and 20 feet in width for one-way traffic. Entrances and exits shall be not less than 20 feet in width for two-way traffic, and 12 feet for one-way traffic, but in no case more than 30 feet in width.

(b) Off-street loading spaces:

For any building or land used for commercial or industrial purposes, adequate space for off-street parking to accommodate the loading and unloading of materials shall be provided, consistent with the size and proposed use of the building. Such space, whether inside or outside a building, shall be in addition to the schedule of requirements in Section 114 and shall be designed so as not to impede normal vehicular and pedestrian circulation.

(c) Arrangement and marking:

All off-street parking areas shall be arranged and marked so as to provide for orderly and safe loading, unloading, parking and storage of vehicles. Individual parking spaces shall be clearly defined and directional arrows and traffic signs shall be provided as necessary for traffic control.

(d) Spaces for handicapped:

Parking spaces for handicapped persons shall be provided in accordance with the standard specified in the Maryland Building Code for the Handicapped as contained in the Code of Maryland Regulations 05.01.07,\* dated September 5, 1980, and as subsequently amended.

(e) Walkways:

In addition to all required parking spaces and driveways, pedestrian walkways or sidewalks shall be provided in all off-street parking facilities where necessary for pedestrian safety. Such walkways and

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sidewalks shall be protected from vehicular encroachment by wheel stops, curbs, or other approved methods.

(f) Separation from parking spaces:

All parking spaces shall be separated from sidewalks, roads, streets, or alleys by curbing. All roads, streets, alleys, sidewalks and other public right-of-way shall be protected from vehicular overhang by wheel stops, curbs, spacing between the right-of-way line and the parking area of other approved method.

(g) Landscape strip area adjacent to a street right-of-way:

Parking facilities for non-residential uses located adjacent to a street right-of-way shall provide a landscaping strip at least six (6) feet in width. This area shall be planted with either shade or ornamental trees or an evergreen hedge of at least three feet in height at time of planting.

(h) Perimeter landscape area adjoining property other than a street right-of-way:

Landscaped areas shall be provided along the perimeter of a parking facility for non-residential uses other than area adjacent to a street right-of-way. The perimeter landscape strip shall be at least 4 feet in width but not less than the setback required in the adjoining residential zone where a parking facility adjoins a residential zone.

(i) Setback for parking facilities within or adjoining a residential zone:

Where a parking facility is within a residential zone or adjoins land in a residential zone that is neither recommended for commercial or institutional use on the approved and adopted Comprehensive Plan for the Town, nor used for public or private off-street parking, nor in a public right-of-way that is 80 feet or more in width, residential setbacks apply as follows: All parking surfaces, spaces and driveways must be set back a distance not less than the applicable front, rear or side yard setback required for the property in the residential zone that adjoins or confronts the applicable boundary of the parking facility.

The provision shall not apply to joint use driveways within a residential zone between abutting property owners or to circumstances due to the location of existing or proposed structures or utilities it would be infeasible to comply with these setbacks.

(j) Screening for non-residential uses adjoining residentially zoned property or institutional property:

Off street parking facilities for eight or more vehicles must be effectively screened on each side that adjoins or faces land in a residential zone or institutional property by a solid fence, wall or compact

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evergreen hedge at least three feet in height at time of original planting. The screening must be designed and maintained so that safe sight distance is not impaired at entrance, exits or at street intersection.

## **Section 115. EXTENSIONS, PROJECTIONS, AND ACCESSORY USES**

Steps, stoops, terraces, patios, porches, and any similar extensions of a building may extend into any minimum front or side or rear yard not more than 10 feet so long as the same are uncovered and open to the sky.

Bay windows, oriels, entrances, vestibules, balconies, cornices, sills, fire escapes, outside stairways, chimneys, and eaves may project into any minimum front, side, or rear yard not more than 3 feet;

Accessory uses and accessory structures are permitted in all zones and except agricultural structures devoted to agricultural use, shall be subject to the following standards and requirements: **(Adopted December 5, 2006)**

1. Except as otherwise provided in this Section, an accessory structure in any residential zone must be located in a rear yard and must not occupy more than twenty-five (25) percent of the rear yard.
2. The footprint of an accessory structure in a residential zone must not be greater than fifty (50) percent of the footprint of the primary structure and the height must not exceed Fifteen (15) feet unless approved by the Planning Commission.
3. Except for fences or decorative walls, on residentially zoned land accessory structures less than 144 square feet of floor area shall not be less than five feet from any lot line and those accessory structures 144 square feet or greater shall not be less than ten (10) feet from any side or rear lot line. In cases where an accessory structure, coop or run is used for the housing or shelter of animals or fowl, other than a household pet, such structure shall not be less than twenty-five (25) feet from any side or rear lot line and at least seventy-five (75) feet from any existing dwelling on any adjoining lot or parcel of land.
4. Garages, as accessory structures are those that are detached structures or attached to the main house by a breezeway. Garages may be located in any side or rear yard subject to the setback requirements in paragraph (3) above. Garages may be located in the front yard only upon approval by the Planning Commission.
5. Accessory uses and accessory structures located in a historic district or designated as a historic resource shall be subject to the rules, regulations, laws and authority of the Historic District Commission, where applicable.

## **Section 116. BOARD OF APPEALS**

Adopted June 3, 2003

### **Section 116.01 Created; Composition; Appointment and Removal of Members; Compensation:**

There is hereby created and established a board of appeals which shall consist of five (5) members and one (1) alternate who shall be appointed by the Mayor and confirmed by the Council. Board members shall serve for three-year staggered terms. Promptly after adoption of this amendment, members of the board shall be appointed as follows:

- (a) Two members shall be appointed for three-year terms.
- (b) Two members shall be appointed for two-year terms; and
- (c) One member and the alternate member shall be appointed for a one-year term.
- (d) Thereafter, as terms expire, replacements shall be for three- year terms and members shall be eligible for reappointment.
- (e) At the end of his/her term, a member shall continue to serve until his/her successor is appointed and confirmed.
- (f) A member who is appointed after a term has begun shall serve only for the rest of the term and until his/her successor is appointed and confirmed.

Members of the board may be removed for cause by the Council upon written charges and after public hearing. An alternate member shall act in the place of an absent or disabled member. When an alternate member is absent, the Council may designate a temporary alternate. Members of the board may or may not receive compensation as the Council deems appropriate. The board shall elect a chairperson and vice chairperson.

### **Section 116.02 Rules, Meetings, Oaths, Witnesses, Records, Conflicts:**

The board shall adopt rules in accordance with the provisions of this Ordinance and Art. 66B of the Annotated Code of Maryland. Meetings of the board shall be held at the call of the chairman and at other times as the board may determine. Such chairman, or in his absence the vice chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall make a recording of all proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, which shall be immediately filed in the office of the Town Clerk and shall be a public record. The board shall order a transcript of the recording of any proceeding if an appeal to the boards decision is filed in court or if requested by any member of the

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general public provided the costs of such transcript is paid to the Town Clerk by the person or party making the request. The transcript shall then become part of the official record. A member of the board shall recuse himself or herself from participating in a matter in which the member may have a conflict of interest or an appearance of a conflict.

**Section 116.03 Powers, Duties and Functions:**

The Board of Appeals shall have the following powers, duties and functions:

- (a) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decisions or determination made by an administrative official in the enforcement and administration of the zoning ordinance. Appeals must be filed in writing with the board within ten (10) days of the action, decision or order being appealed. **(Amended June 7, 2011)**
- (b) To grant or deny special exception in accordance with the terms of and as provided by the Zoning Ordinance. The board may establish conditions relating to the approval of a special exception. Special exceptions approved by the board shall be implemented in accordance with the terms and/or conditions set forth in the board's decision and shall include the requirement that the petitioner shall be bound by all of his testimony and exhibits of record, the testimony of his witnesses and representations of his attorneys, to the extent that such evidence and representations are identified in the board's opinion approving the special exception. Violation of conditions and limitations imposed by the board shall be deemed a violation of this ordinance and, further, shall constitute grounds for revocation of such special exception. The board may revoke a special exception where the use and/or structure within which the use is contained has materially changed or when the use is being conducted in violation of the special exception approval only after public hearing before the board. The board may revoke a special exception without a hearing upon written request of holder or operator of the special exception or where there is substantial evidence that the special exception use has been abandoned for a continuous period of at least six (6) months after giving the holder or operator of the special exception at least thirty (30) days written notice prior to terminating the special exception and no written request for a hearing has been received prior to termination. **(Amended September 4, 2007.)**
- (c) To grant or deny variances from the strict application of the terms and requirement of the Zoning Ordinance; provided however the board shall not be empowered to grant use variances. In granting any variance the board may prescribe appropriate conditions and limitation, the violation of which may constitute grounds for revocation of such variance. Variances may be revoked only after public hearing before the Board.

**Section 116.04 Decision of Board, Appeals from Board Decisions:**

(a) The decision of the board of appeals on any matter considered under this Section shall be in writing containing findings and conclusions and rendered within sixty (60) days from the date of the closing of the public hearing record unless such time is extended by the board. If the board

does not render a decision within the time set forth above, the application or petition shall be deemed denied. The affirmative vote of a majority of the board present shall be required to grant an application for special exception or petition for variance. The same majority vote of the board shall be required to reverse or affirm, in whole or in part, any order, requirement, decision or determination which is the subject of administrative appeal. If the necessary total of affirmative votes shall not be achieved, the application or petition shall be denied. A copy of the board's decision shall promptly be mailed to all persons entitled to original notice of the hearing and to all persons appearing and testifying in person or by counsel.

(b) All decisions of the board under this article shall be based solely upon the evidence of record.

(c) Any person, taxpayer, officer, department or board of the Town of Laytonsville aggrieved by any final decision of the board of appeals may within thirty (30) days from the date of the board's decision, file a Petition for Review of the decision to the Circuit Court for Montgomery County and thereafter to the appellate courts of this state for further review. A Petition for Review shall be subject to Section 4.08 of Article 66B of the Annotated Code of Maryland and the Maryland Rules of Procedure governing such Petitions for Review. **(Amended June 7, 2011)**

**Section 117. VARIANCES (Amended June 7, 2011)**

The Board of Appeals may grant variances from the strict application of this Ordinance upon finding by the evidence of record that due to reasons of exceptional narrowness, shallowness, or shape of any parcel, or by reason of exceptional topography or other conditions, the strict application of this Ordinance would result in peculiar or unusual difficulties or a hardship upon the owner of said property; provided that such variance can be granted without substantial impairment of the intent, purpose, and integrity of this Ordinance.

In addition to the above findings, the Board must additionally find that:

- (a) The variance requested is the minimum necessary to overcome the exceptional conditions; and
- (b) The granting of the variance will not be detrimental to the use and enjoyment of neighboring properties; and
- (c) The exceptional conditions as the basis of the variance were not caused by the owner or lessee of the property.

## Section 118. SPECIAL EXCEPTIONS

Amended November 3, 2009

(a) The Board of Appeals may grant a special exception or modify an existing special exception only upon finding from the evidence of record and inspection of the property and the surrounding area that:

1. The proposed use will be in harmony with the adopted Comprehensive Plan and additionally if the use and improvement is located within the Town's Historic District must be consistent with conditions and requirements specified in the Comprehensive Plan or any amendment to the Plan with respect to proposed uses of the property upon which those uses are to be placed; and
2. The proposed use will not adversely affect the health or safety of the residents or workers in the area; and
3. The proposed use will not be detrimental to the use peaceful enjoyment or future development of adjacent properties or the general area; and
4. The proposed use will not adversely affect pedestrian or vehicular traffic in the area; and
5. The proposed use will be in harmony with the general character of the neighborhood considering density, design, scale and bulk of any proposed new structures and intensity and character of activity, traffic and parking conditions; and
6. The proposed use will cause no objectionable or excessive noise, vibrations, fumes, odors, dust, illumination, glare or physical activity; and
7. The proposed use will be served by adequate public or private services and facilities, including water, sanitary sewer, public roads and storm drainage; and
8. The proposed use will comply with all development standards of the Zone in which the use is located.

(b) In granting a special exception, the Board of Appeals may impose reasonable terms and conditions on the grant thereof, including the height, bulk and scale of buildings and structures, setbacks of buildings and structures and location of parking facilities, number of employees, hours of operation, lighting, limitation of signage, screening, landscaping, and such additional conditions and requirements as are reasonable and appropriate to reduce or eliminate adverse effects on adjacent properties or the general area. The Board of Appeals may also limit the duration of a special exception, i.e.: it may specify a date when the special exception shall expire or require renewal.

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(c) If a special exception use is not commenced and in full operation within 18 months after the date it is authorized, it shall expire and be deemed revoked. The Board of Appeals may grant a single extension not exceeding 18 months to place the special exception in operation upon good cause shown.

(d) An individual holder of a special exception or the property owner may by written request to the Board of Appeals abandon an approved Special Exception. **(Amended September 4, 2007.)** Further, the Board may after public hearing on its own motion revoke a special exception which has ceased operation and use for a period of 12 continuous months or which has failed to abide by the terms of the grant of the special exception including any conditions of approval or representations made by the applicant in the record of the special exception.

## Section 119. APPLICATIONS FOR VARIANCES AND SPECIAL EXCEPTIONS

Amended November 3, 2009

(a) Applications for variances and special exceptions shall be filed with the Board of Appeals. An application for a variance or a special exception may be filed by any governmental agency or party having a proprietary interest in the property which is the subject of the application. Each application shall be accompanied by a filing fee as established from time to time by the Mayor and Council (**Amended September 4, 2007.**) which shall not be refunded unless the application is withdrawn prior to the time it is scheduled for hearing. The Mayor and Council may change the amount of the filing fee from time to time by a duly adopted resolution, provided that the fee so set shall not exceed that reasonably calculated to defray the actual cost of processing the application.

1. An applicant may amend an application before the hearing if the Board approves a motion to amend after giving ten (10) days notice to all parties entitled to original notice of filing. If an amendment would materially alter an applicant's proposal or evidence, the Board may postpone the hearing to a date that permits all interested parties adequate time to review the amendment. Nothing in this section prohibits the Board, during the hearing or at any time before the record is closed, from requesting an applicant to revise any aspect of a proposal.

(b) An application for a variance shall set forth and contain:

1. Name and address of owner of the property and the applicant; and
2. Street address and legal description of the property; and
3. Survey plats and site plans or other accurate drawings showing boundaries, dimensions, area, topography and frontage of the property involved, as well as the location and dimensions of all structures and parking areas existing and proposed to be erected, and the distances of such structures and parking areas from the nearest property lines; and
4. Relief requested and supporting reasons; and
5. A summary of what the applicant expects to prove, including the names of applicant's witnesses, summaries of the testimonies of expert witnesses, and the estimated time required for presentation of the applicant's case; and
6. A copy of official zoning vicinity map of 1000-foot radius surrounding the subject property and other information to indicate the general conditions of use and existing improvements on adjoining and confronting properties, along with a list of those adjoining and confronting property owners in the county tax records.

(c) An application for a special exception shall contain:

1. Name and address of applicant and the property owner;
2. Legal description (including tax account number) and street address of the property;
3. All information and documentation required for Subsection (b)3, 5 and 6 of this Section 119;

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4. Complete information concerning the size, type and location of any existing and proposed trees, landscaping and screening, and exterior illumination. This requirement may be satisfied by site plan documents or separate landscape, lighting or other similar plans;
5. Plans, architectural drawings, photographs, elevations, specifications, or other detailed information depicting fully the exterior appearance of existing and proposed construction, including parking areas and signs involved in the petition;
6. A statement explaining in detail how the special exception would be operated, including hours of operation, number of anticipated employees, occupants, and clientele, equipment involved, numbered type of motor vehicles to be kept on site and any special conditions or limits which the applicant proposes. In addition, the statement shall include an estimate of traffic impact or separate traffic impact analysis;
7. Applicable master plan maps and/or text reflecting proposed land use, zoning and transportation, together with any other portions of the applicable master plan which the applicant considers relevant;
8. All additional exhibits which the applicant intends to introduce.

**Section 120. NOTICE OF HEARING FOR VARIANCES AND SPECIAL EXCEPTIONS**

Within seven (7) days after receipt of an application for a variance or special exception, the Board shall schedule the same for public hearing. The Board shall give at least fourteen (14) days notice of said hearing to the owner of the property, and in its discretion to any other party, organization, or agency which it believes may be interested in the application. In addition, the Mayor and Council shall cause notice of said hearing to be posted, for at least fourteen (14) days prior to said hearing, at one or more places in the Town most conspicuous to the residents of the Town. The notice of hearing shall state the time and place of the hearing, the name of the applicant, and shall contain a brief description of the property and the relief requested. After scheduling a public meeting, notice thereof shall be accomplished by the Town clerk, by ordinary mail, being given to property owners abutting or confronting the property, not less than fourteen (14) working days prior to the meeting at which the matter is to be heard, and to those citizens or organizations which the Town clerk determines may have an interest in the proceedings. In addition, notice shall be accomplished by delivering a sign deposit as established from time to time by the Mayor and Council and by posting an appropriate sign on the site, not less than fourteen (14) working days prior to the meeting. By duly adopted Resolution, the Mayor and Council, from time to time may change the amount of the sign deposit fee, provided that the fee shall not exceed the amount reasonably calculated to defray the actual cost of the sign. **(Amended September 4, 2007.)**

## **Section 121. POSTING OF SIGN FOR VARIANCES AND SPECIAL EXCEPTIONS**

- (a) At least fourteen (14) days prior to the hearing the applicant shall erect a sign, to be furnished by the Mayor and Council, on the land which is the subject of his application for a variance or special exception. Such sign shall be erected in such manner as will be most readily seen by the public; and if the property abuts a public road, the sign shall be erected within ten (10) feet of such road. The bottom of the sign shall be not less than 2 1/2 feet from the ground. The sign shall state that there is an application pending under the Zoning Ordinance;
- (b) The applicant, at the time of filing his application, shall pay to the Mayor and Council for such sign a deposit as established from time to time by the Mayor and Council. **(Amended September 4, 2007.)** The Mayor and Council may change the amount of said deposit from time to time by a duly adopted resolution, provided that the amount so set shall not exceed that reasonably calculated as equal to the cost of replacing the sign. Said deposit shall be repaid to the applicant only upon the return of the sign in good condition;
- (c) At the time of the hearing, the applicant shall file with the Board of Appeals **(Amended September 4, 2007)** an affidavit that the sign furnished by the Mayor and Council was erected on the property as required by this Ordinance, and remained on the property continuously for a period of two (2) weeks prior to the hearing.

## Section 122. APPLICATIONS FOR RECLASSIFICATION

(a) All applications for reclassification (rezoning) of property shall be heard and determined by the Mayor and Council of the Town of Laytonsville.

(b) An application for reclassification may be filed by the Mayor and Council, any governmental agency, or any person having a proprietary interest in the property which is the subject of the application. Each application shall be accompanied by a filing fee as established from time to time by the Mayor and Council (**Amended September 4, 2007**) which shall not be refunded unless the application is withdrawn prior to the time it is noticed or advertised for hearing. The Mayor and Council may change the amount of the filing fee from time to time by a duly adopted resolution, provided that the fee so set shall not exceed that reasonably calculated to defray the actual cost of processing the application.

(c) Ten copies of the application shall be in the form prescribed by the Mayor and Council and shall include:

1. Name and address of the applicant, and name and address of owner of the property;
2. Street address of the property and/or a brief statement of its location with respect to nearby roads, and other land features;
3. Copy of recorded subdivision plat of the property, or, if there is none, a description of the property by metes and bounds;
4. Copy of survey of the property, if it has been surveyed;
5. Present zoning classification of the property and classification being requested;
6. Area of the land to be reclassified;
7. List of all prior applications for reclassification of the property; and
8. Vicinity map showing the area surrounding the property, including all streets, roads, and other improvements or facilities in the area.
9. Copies of all expert consultant reports intended to be offered in evidence.
10. A list of the names and addresses of all abutting and confronting property owners surrounding the subject property. (**Adopted June 7, 2011**)

(d) In addition to the material and information required in paragraph (c) above, the Mayor and Council may require prior to closing of the record: (**Adopted June 7, 2011**)

- (i) Copies of all site plans, elevation drawings, landscape and lighting plans and indicated thereon which features are binding upon the applicant and which features are illustrative only

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- (ii) A written justification statement containing the factual and legal justification for the reclassification; and copies of all exhibits intended to support the application.

**Section 123. NOTICE OF HEARING ON RECLASSIFICATION**

Within fourteen (14) (**Amended June 7, 2011**) days after receipt of an application, the Mayor and Council shall schedule the same for public hearing. The Mayor and Council shall give at least fourteen (14) days notice of said hearing to the owner of the property and the owners of all properties contiguous to and across the street from the property in question. In addition, the Mayor and Council shall cause notice of said hearing to be posted, for at least fourteen (14) days prior to said hearing, at one or more places in the Town most conspicuous to the residents thereof. The notice of hearing shall state the time and place of the hearing, the name of the applicant, and shall contain a brief description of the property, the present classification, and the requested classification.

**Section 124. POSTING OF SIGN OF HEARING ON RECLASSIFICATION**

(a) At least fourteen (14) days prior to the hearing, the applicant shall erect a sign, to be furnished by the Mayor and Council, on the land proposed to be reclassified. Such sign shall be erected in such a manner as will be most readily seen by the public; and if the property abuts a public road, the sign shall be erected within ten (10) feet of such road. The bottom of the sign shall be not less than 2 1/2 feet from the ground. The sign shall state that there is an application pending under the Zoning Ordinance.

(b) The applicant, at the time of filing his application, shall pay to the Mayor and Council for such sign a deposit as established from time to time by the Mayor and Council. (**Amended September 4, 2007.**)The Mayor and Council may change the amount of said deposit from time to time by a duly adopted resolution provided that the amount so set shall not exceed that reasonably calculated as equal to the cost of replacing the sign. Said deposit shall be repaid to the applicant only upon the return of the sign in good condition.

(c) At the time of the hearing, the applicant shall file with the Mayor and Council an affidavit that the sign furnished by the Mayor and Council was erected on the property as required by this Ordinance, and remained on the property continuously for a period of two (2) weeks prior to the hearing.

**Section 125. HEARING**

Any interested person shall have the right to attend the hearing before the Mayor and Council and cross examine witnesses on any zoning application or zoning text amendment and to offer oral or written testimony. If the applicant or any other person desires a stenographic report or recording of the testimony presented at the hearing, it shall be the duty of the applicant or such person to arrange for the same at his own cost and expense. The Mayor and Council or their designee shall maintain a record of all exhibits and testimony of record. Any hearing may be continued to a time and date certain in the discretion of the Mayor and Council. **(Amended June 7, 2011)**

## Section 126. DECISION

- (a) The Mayor and Council shall render its decision on any application for zoning reclassification or zoning text amendment within thirty (30) days after the close of the public hearing, unless said time is extended by resolution of the Mayor and Council. The decision shall be by resolution which shall be entered in the file of the particular application and in the minutes of the proceedings of the Mayor and Council. **(Amended June 7, 2011)**
- (b) The Mayor and Council shall set forth in writing, as part of said resolution, a short opinion stating why the application has been granted or denied, as the case may be. A copy of the resolution shall be sent to the applicant and all parties of record. **(Amended June 7, 2011)**
- (c) The Mayor, any member of the Council, or the applicant or party of record may request reconsideration of the decision by filing with the Town Clerk within seven (7) days of receipt the decision a written request for reconsideration stating the grounds for the request. The mayor and Council may reconsider the decision with thirty (30) days of receipt of the request and if reconsideration is granted, the time for appeal is suspended. Reconsideration may be granted only for the following reasons: **(Amended June 7, 2011)**
- (i) Fraud, mistake, surprise or inadvertence
  - (ii) The discovery of any evidence which could not be presented at the hearing or prior to the closing of the hearing record;
- (d) Appeals of the decision shall be governed by Section 133 of the Zoning Ordinance. **(Amended June 7, 2011)**

## Section 127. PRESERVATION OF HISTORIC RESOURCES

Adopted August 5, 2003

### **Section 127.01 Purpose and Intent:**

It is the purpose of this ordinance to provide for the preservation of structures, districts, sites, and resources of historic, architectural, and archaeological significance together with their appurtenances and environmental settings, consistent with the general welfare of the town, its inhabitants, and visitors thereto. This ordinance shall apply within the areas of the town zoned RH-Residential Historic, CH-Commercial Historic and any other area hereinafter designated by zoning action or the actions of the Town Historic District Commission. All prior actions of the Town of Laytonsville undertaken pursuant to the Historic Area Zoning Ordinance enacted prior hereto are hereby reaffirmed and ratified.

### **Section 127.02 Definitions:**

For the purposes of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

- (a) “*Appurtenances and environmental setting*”: The parcel that falls within the Historic District boundary as of the date on which the historic resource is designated as classified in the RH or CH Zones, and structures thereon, on which is located a historic resource. Appurtenances and environmental settings shall include, but not be limited to, walkways and driveways (whether paved or not), vegetation (including trees, garden and lawns), rocks, pasture, cropland, and waterways.
- (b) “*Commission*”: The Historic District Commission of the Town, as described hereinafter.
- (c) “*Contributing resource*”: A property or improvements that upon investigation is considered to have historical or architectural contributions or attributes of local, state or federal significance. **(Amended December 4, 2007.)**
- (d) “*Demolition by neglect*”: The failure to provide ordinary and necessary maintenance and repair to a designated historic site or a historic resource, not including appurtenances and environmental settings within the Town, whether by neglect, purpose or design, by the owner, agent or contractor thereof, or any party in possession of such a site, not caused by financial inability, which results in any of the following conditions:
  - 1. The deterioration of exterior features so as to create or permit a hazardous or unsafe condition to exist.
  - 2. The deterioration of exterior walls, roofs, chimneys or windows, the lack of adequate weatherproofing or deterioration of interior features or foundations which will or could result in permanent damage, injury or loss of or to the exterior features.

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- (e) *“Exterior features”*: The architectural style, design and general arrangement of the exterior of a historic resource, including the nature and texture of building materials and the type of style of all windows, doors, light fixtures, signs or other similar items found on or related to the exterior of a historic resource.
- (f) *“Designated historic resource or site”*: Any designated historic resource outside the boundaries of a historic district of historic, archaeological, architectural, or cultural significance and which has been so designated by resolution of the Mayor and Town Council or which is located on land zoned in the RH or CH district within the Town.
- (g) *“Historic district”*: All property zoned RH-Residential Historic or CH-Commercial Historic and any other significant concentration, linkage or continuity of sites, structures or objects which contributes to the historical, architectural, archaeological or cultural values within the Town, and which have been so designated by the Mayor and Town Council.
- (h) *“Historic District Commission”*: The Mayor and Town Council shall appoint a commission of five (5) members, all of whom are qualified consistent with the provisions of Article 66B, §8.03, MD. CODE ANN., as established by the following criteria:
1. Persons who have previously served on a local legislative body exercising planning and zoning powers; or
  2. Persons who have previously served on a planning commission, board of appeals or historic preservation commission or advisory body; or
  3. Persons who have demonstrated special interest, participation, specific knowledge or professional or academic training in such fields as history, architecture, architectural history, planning, archaeology, anthropology, curation, conservation, landscape architecture, historic preservation, urban design or related disciplines; and agree to serve on this commission and who are residents of the Town. A majority shall consist of three (3) members. The members of the commission shall be appointed for terms of three (3) years each, except that, in making the initial appointments, some appointments shall be established for less than three (3) years in order that, as these initial terms expire, all appointments shall be for three (3) years, and shall not expire at the same time. Commission members may be reappointed. Any vacancy shall be filled for the unexpired term of the particular position.
- (i) *“Historic resource”*: A site or group of sites, buildings, structures or objects, including appurtenances and environmental setting, which is significant in national, state or local history, architecture, archaeology or culture.
- (j) *“Historic site”*: The location of an event of historic significance or a structure, whether standing or ruined, which possesses historic, archaeological or cultural significance.
- (k) *“Permit”*: A historic area work permit issued by the Mayor after approval by the Historic District Commission authorizing work on a designated historic site or a historic resource located within the Town.

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(l) *“Routine maintenance”*: Work that does not alter the exterior materials or features of a site or structure and has no material effect on the historical, archaeological or architectural significance of the historical site or structure, including tree trimming on private property.

(m) *“Site”*: The location of an event of historic significance or a standing or ruined structure that possesses historic, archaeological or cultural significance.

(n) *“Structure”*: A combination of materials to form a construction that is stable as well as those items described below:

1. “Structure” means a combination of material from a construction that is stable.
2. “Structure” includes buildings, stadiums, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks and towers, trestles, bridges, piers, paving, bulkheads, wharves, sheds, coal bins, shelters, fences, and display signs, visible or intended to be visible from a public way.
3. “Structure” also includes a natural land formation and an appurtenance and environmental setting.
4. “Structure” includes a part of a structure.

**Section 127.03 Creation, Powers and Duties of Historic District Commission:**

A commission to be called “The Historic District Commission” is hereby created as provided in Section 127 of this Ordinance. The commission shall meet once each month or as needed at the call of the chairman of the commission. The Historic District Commission shall have those powers, duties and authority assigned to it by Article 66B, MD CODE ANN., the zoning ordinance of the Town of Laytonsville and those acts or enactments of the Mayor and Town Council of the Town of Laytonsville. The commission may adopt such rules and regulations as may be necessary for the proper transaction of its business.

**Section 127.04 Designation of Historic Districts and Historic Sites; Criteria:**

(a) All properties within the Town zoned RH and CH are hereby designated as an historic resource.

(b) The Mayor and Town Council, on its own motion or by petition of the property owners of record may, after prescribed notice and public hearing, designate by resolution historic districts, historic resources, and historic sites in the Town which are deemed to be of historic, archaeological or architectural significance following the procedure applicable to classifications in zoning. These resources shall thereafter be subject to the provisions of this ordinance and any rules and regulations promulgated by the commission. The procedures are substantially similar to those applicable to local map amendments, as provided in the Zoning Ordinance for the Town of Laytonsville.

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(c) In considering historic resources for designation as historic districts and historic sites, the Mayor and Town Council shall apply the following criteria:

1. *Historical and cultural significance.* The historic resource:
  - a) Has character, interest or value as part of the development, heritage or cultural characteristics of the Town, county, state or nation;
  - b) Is the site of a significant historic event;
  - c) Is identified with a person or a group of persons who influenced society; or
  - d) Exemplifies the cultural, economic, social, political or historic heritage of the Town and its communities.
2. *Architectural and design significance.* The historic resource:
  - a) Embodies the distinctive characteristics of a type, period or method of construction;
  - b) Represents the work of a master;
  - c) Possesses high artistic values;
  - d) Represents a significant and distinguishable entity whose components may lack individual distinction;
  - e) Represents an established and familiar visual feature of the neighborhood, community or Town due to its singular physical characteristic or landscape; or
  - f) Embodies design, setting, materials, workmanship and ambience to the Town's sense of time, place and historic development.

(d) Prior to the designation of a historic district or historic site or resource, the Historic District Commission shall investigate, research, and submit findings on each request. Prior to the closing of the public hearing record, the Maryland Historic Trust may analyze and make recommendations concerning the designation and preservation of the site or area under consideration.

**Section 127.05 Historic Area Work Permit; When Required:**

An historic area work permit for work on public or private property which would affect the historic, archaeological or architectural significance of a designated historic resource, any portion of which is visible or intended to be visible from a public way, must be issued pursuant to the provisions of this ordinance before:

- (a) Constructing, reconstructing, moving, relocating, demolishing or in any manner modifying, changing or altering the exterior features of any designated historic site or historic resource located within the Town;
- (b) Performing any grading, excavating, constructing or substantially modifying, changing or altering the environmental setting of a historic site or a historic resource located within the Town;

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- (c) Erecting or causing to be erected any sign or advertisement (with the exception of those signs which temporarily advertise for sale, lease, rental or renovation of a historic site or a historic resource located within the Town, or which for a temporary period advertise a political viewpoint) on the exterior or on the environmental setting of any historic site or any historic resource located within the Town.

Nothing in this Section shall be construed to require the issuance of a historic area work permit for any routine maintenance or repair of exterior features, any customary farming operations or any landscaping, which will have no material effect on historic resources located within the Town, of which such features are a part. For the purposes of clarification of this Section, the commission may adopt, develop and publish standards and guidelines for the rehabilitation and new construction of designated sites or resources and also, for demolition and relocation of historic sites or resource and interpret and decide what activities constitute routine maintenance. The Historic District Guidelines shall identify categories of changes to historic sites and resources that are so minimal in nature that they do not affect, historic, archeological or architectural significance and require no review and approval by the Historic District Commission. The Historic District Guidelines and any amendments thereto must be subject to approval by Resolution of the Mayor and Town Council. **(Amended September 4, 2007.)**

An application for a work permit which is identical to a rejected application shall not be resubmitted within a period of one year after the rejection, including any appeals of the decision to reject. No permit for any such change may be granted until the commission has acted thereon, as hereinafter provided.

**Section 127.06 Historic Area Work Permit; Application Procedure:**

- (a) *Generally.* Applications for issuance of a historic area work permit shall be filed with the Town clerk. The application shall be in a form and contain such information as may be required to provide information as shall be necessary for the Historic District Commission to evaluate and act upon such applications in accordance with the provisions of this Ordinance.
- (b) *Referral.* Upon the filing of a completed application, within three (3) business days the Town clerk shall forward the application and all attachments to the Historic District Commission for their review.
- (c) *Review and public meeting.* The Historic District Commission shall schedule and conduct a public meeting on the application, giving notice pursuant to subsection (d) below. The commission shall maintain minutes and tape recordings of its proceedings and a public file of all relevant correspondence, documents and other materials on the request for the historic area work permit. The Historic District Commission shall make a recording of all proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, which shall be immediately filed in the office

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of the Town Clerk and shall be a public record. The commission shall order a transcript of the recording of any proceeding at the applicant's request provided the costs of such transcript is paid to the Town Clerk by the person or party making the request. The Historic District Commission may render its decision based upon these recommendations or public comment received at the public meeting.

(d) *Notice.* After scheduling a public meeting, notice thereof shall be accomplished by the Town clerk, by ordinary mail, being given to property owners abutting or confronting the property, not less than seven (7) working days prior to the meeting at which the matter is to be heard, and to those citizens or organizations which the Town clerk determines may have an interest in the proceedings. In addition, notice shall be accomplished by delivering a sign deposit as established from time to time by the Mayor and Council (**Amended September 4, 2007**) and by posting an appropriate sign on the site, not less than seven (7) working (**Amended September 4, 2007**) days prior to the meeting. A copy of the notice and application may be mailed to the Maryland Historical Trust for comment. By duly adopted Resolution, the Mayor and Council, from time to time, may change the amount of the sign deposit fee, provided that the fee shall not exceed the amount reasonably calculated to defray the actual cost of the sign. Such sign shall be erected in such manner as will be most readily seen by the public; and if the property abuts a public road, the sign shall be erected within ten (10) feet of such road. The bottom of the sign shall be not less than 2 1/2 feet from the ground. The sign shall state that there is an application pending under the Zoning Ordinance; At the time of the hearing, the applicant shall file with the Historic District Commission an affidavit that the sign furnished by the Historic District Commission was erected on the property as required by this Ordinance, and remained on the property continuously for a period of seven (7) days prior to the hearing. (**Amended September 4, 2007**).

(e) Action by Historic District Commission.

1. The Historic District Commission may:

- a) Issue the work permit.
- b) Issue the work permit subject to such conditions as are necessary to ensure conformity with the provisions and purposes of this Ordinance or Article 66B, Ann. Code of Maryland; or
- c) Deny the work permit subject to the requirements contained in Section (e)(2).

2. In the event of a denial of a permit, the applicant shall receive a written notification of the reasons for such denial. An application which is identical to the denied application shall not be resubmitted within a period of one year after the denial or any appeal from such denial.

3. Failure of the Historic District Commission to act on a completed application within forty-five (45) days from the date the completed application was accepted for filing, or in the event the record is held open by the commission, within fifteen (15) days after the close of the record, shall be deemed to constitute automatic approval of the proposed changes unless an extension of this forty-five (45) day period is agreed upon mutually by the applicant and the commission or the application is withdrawn.

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(f) Any applicant may not begin to work on any project submitted for review by the Historic District Commission until the commission has filed the work permit with the Clerk of the Town and a building permit is issued by the Clerk and permits issued by Montgomery County, if necessary.

(g) If work on an approved project has not begun within six (6) months after the issuance by the Historic District Commission of a certificate of approval, or within time frames as stated in the approval, or any extension to an approval granted by the commission the certificate of approval shall expire. If the work has not been completed within one year of the date of its issuance, or within time frames stated in the approval, the certificate of approval shall expire unless extended by the commission prior. A time extension for one more year is permissible through written request for extension to the Historic District Commission. If the extension is not approved, the historic area work permit becomes null and void.

(h) Miscellaneous provisions.

1. Properties subject to covenants or easements held by other historic preservation organizations shall submit proof of approval of exterior architectural review by the organizations holding the easement.
2. The commission may recommend to the Mayor and Town Council to acquire easements in connection with individual sites or structures, or sites or structures located in or adjacent to a designated historic district to protect such structures or sites from changes which would affect its historic, archaeological or architectural significance.
3. In the event that there is a conflict between the permit and the requirements of the building code, the permit will control; provided, that all health and safety requirements are met.
4. The Mayor on behalf of the Historic District Commission is responsible for the enforcement of this ordinance.

**Section 127.07 Historic Area Work Permits; Criteria for Decision:**

(a) The Historic District Commission, in evaluating an application for a historic area work permit, shall consider and render its decision based on the following factors:

1. The preservation of the historic, archaeological or architectural significance of the site or structure and its relationship to the historic, archaeological or architectural significance of the surrounding area;
2. The relationship of the exterior architectural features of the structure to the remainder of the structure and surrounding area;
3. The general compatibility of the exterior design, scale, proportion, arrangement, texture and materials proposed to be used; and
4. Any other factors, including aesthetic factors, which the commission deems pertinent.

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- (b) In the case of an application for work on a historic resource, the commission shall be lenient in its judgment on plans for structures of little historical or design significance or for plans involving new construction, unless such plans would seriously impair the historic or architectural significance of surrounding historic resources. The Historic District Commission shall be strict in its judgment of plans for sites or structures determined by research to be of historic, architectural or archaeological significance.
- (c) Where the Historic District Commission deems a structure to be of unusual historic importance, it shall, prior to denial of a historic area work permit, attempt with the owner to formulate an economically feasible plan for its preservation. If no economically feasible plan can be formulated, the commission shall have ninety (90) days from the time it concludes that no economically feasible plan can be formulated to negotiate with the owner and other parties in an effort to find a means of preserving the structure. The ninety (90) day negotiating period may be extended only by mutual consent of all parties.
- (d) Notwithstanding anything to the contrary contained in subsection (c) of this Section, the commission may approve a historic area work permit if the structure is a deterrent to a major improvement program of substantial benefit to the public or its retention would either cause substantial financial hardship to the owner or its retention would not be in the best interests of the citizens in the community.
- (e) The Historic District Commission shall consider only exterior features of a structure, and shall not consider any interior features or arrangements.
- (f) Failure to adhere to or comply with the requirements or conditions of a historic area work permit or any other provision of this ordinance shall be grounds for revocation or suspension of the permit by the Mayor. In addition thereto, the penalties and actions provided for in Section 131 may be instituted against an alleged violator.

**Section 127.08 Demolition by Neglect:**

In the event of a case of demolition by neglect of a historic resource on public or private property, the following provisions shall apply:

If the historic resource is within the RH or CH Zones or has been designated a historic site or a historic resource, the Historic District Commission shall issue a written notice to the Mayor and Town Council and to all persons of record with any right, title or interest in the subject property, or the person occupying the premises, of the conditions of deterioration and shall specify the minimum items of repair or maintenance necessary to correct or prevent further deterioration. The notice shall provide that corrective action shall commence within thirty (30) days of the receipt of such notice and completed within a reasonable time thereafter. The notice shall state that the owner of record of the subject property or any person of record with any right, title or interest therein may, within ten (10) days after the receipt of such notice, request a meeting with the Mayor and Town Council on the necessity of the items and conditions

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contained in such notice. In the event a meeting is requested, it shall be held by the Mayor and Town Council upon written notice mailed to all persons of record with any right, title or interest in the subject property and to the Historic District Commission, and any other person that the Mayor and Town Council feels may have an interest in the proceedings.

After such meeting on the issue of necessity of improvements to prevent demolition by neglect, if the Mayor and Town Council find that such improvements are necessary, the Mayor shall issue a final notice to be mailed to the record owners and all parties of record with any right, title and interest in the subject property, advising of the items of repair and maintenance necessary to correct or prevent further deterioration. The owners shall institute corrective action to comply with the final notice within thirty (30) days of receipt of the revised notice.

In the event the corrective action specified in the final notice is not instituted within the time allotted, the Mayor and Town Council may institute appropriate legal action and perform and complete the necessary remedial work to prevent deterioration by neglect, and the expenses, including administrative, legal, corrective and compensatory expenses, incurred by the Town for such work, labor and materials shall be a lien against the property and draw interest at the same rate as delinquent property taxes, the amount to be amortized over a period of ten (10) years subject to a public sale if there is a default in payment; or, in the alternative, the Town may seek equitable relief in any court of competent jurisdiction to compel such corrective action.

**Section 127.09 Moratorium on Alteration or Demolition:**

(a) Where the Historic District Commission determines that any site, group of sites, structure or object is undergoing active consideration as a historic district, historic site or historic resource, or has the reasonable probability of being so designated or has been so designated, it may request the Mayor to withhold issuance of any permit to demolish, grade or substantially alter the exterior features of any such site, structure or object. The Mayor may withhold such permit for a maximum of six (6) months from the date of the request of the commission.

(b) The commission may withdraw its request to the Mayor if it determines that failure to grant the permit applied for will have the effect of denying the property owner reasonable use of his property or would cause the property owner to suffer substantial financial hardship.

**Section 127.10 Violations and Penalties:**

Any person who violates a provision of this article, or fails to comply with any of the requirements thereof, or disobeys or disregards a decision of the Historic District Commission or Mayor and Town Council or fails to abide by the conditions of a permit, shall be guilty of a misdemeanor, punishable by a fine of \$1,000 or imprisonment for six (6) months or both.

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In addition thereto, the Town may institute injunctive or other appropriate action or proceedings at law or equity for the enforcement of this ordinance or to correct violations of this ordinance, and any court of competent jurisdiction shall have the right to issue restraining orders, injunctions or other appropriate forms of remedy or relief.

**Section 127.11 Appeals:**

In the event that any party is aggrieved by a decision of the Mayor and Town Council or the Historic District Commission within thirty (30) days from the date on which the decision is made public, such party aggrieved may file a Petition for Review with the circuit court of the county and thereafter appeal such decision to the Appellate Courts of Maryland which will review the decision based on the record of the proceedings before the Historic District Commission or the Mayor and Town Council, as the case may be. Appeals shall be governed by the Maryland Rules of Procedure applicable to Petitions for Review **(Amended June 7, 2011)**.

## **Section 128. SIGNS**

Adopted September 5, 2006

### **Section 128.01 Statement of Purpose:**

The purpose of this ordinance is to create the legal framework for a comprehensive and balanced system of street signs that will preserve the right of free speech and expression, provide an easy and pleasant communication between people and their environment, and avoid the visual clutter that is potentially harmful to traffic and pedestrian safety, property values, business opportunities, and community appearance. With these purposes in mind, it is the intent of this ordinance to authorize the use of signs that are: **(Amended June 7, 2011)**

- (a) Compatible with their surroundings;
- (b) Appropriate to the activity that displays them;
- (c) Expressive of the identity of individual activities and the community as a whole; and
- (d) Legible in the circumstances in which they are seen;
- (e) Maintain and enhance the aesthetic environment of the Town while avoiding visual clutter;
- (f) Improve and not impede vehicular and pedestrian traffic safety.

### **Section 128.02 Definitions: (Amended June 7, 2011)**

The definitions of the following terms shall apply to signs and regulatory requirements for signs:

- (a) *Above-roof sign:* A street sign displayed over the peak or parapet of a building.
- (b) *Area:* The “area” of a sign shall include the entire face of the sign including the frame or border thereof, but not the frame or border if the frame or border is completely plain, is not lit, and does not depict or display any figure, lettering, or any part of the message of the sign. Each face of a sign which meets the aforesaid definition of a “sign” in this ordinance shall be considered a separate sign for the purpose of computing allowable area.
- (c) *Banner:* A sign composed of a logo or design on a lightweight material either enclosed or not enclosed in a rigid frame and secured or mounted to allow motion caused by the atmosphere.
- (d) *Building:* A structure having a roof supported by columns or walls.
- (e) *Canopy sign:* A sign which is a part of a permanent or semi-permanent shelter for sidewalks, driveways, doors, or customers eating areas, like awning and umbrellas.
- (f) *Directional sign:* A street sign at the exit or entrance of premises that has two or more driveways.
- (g) *Facade:* The side of a building below the eaves.

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- (h) *Freestanding Sign:* A sign attached to the ground and not to a building.
- (i) *Guidelines, Historic Preservation:* Guidelines created and administered by the Historic District Commission the purpose of which is to identify types and categories of changes to historic sites and resources that are so minimal in nature that they do not affect historic, archeological or architectural significances and require no review and approval by the Historic District Commission.
- (j) *Height:* The vertical distance measured from grade at the base of the sign to the highest point of the sign or its enclosed frame.
- (k) *Monument sign:* A ground sign permanently affixed to the ground at its base, supported entirely by a base structure, and not mounted on a pole.
- (l) *Nonconforming sign:* A sign that was lawfully constructed or installed prior to the adoption or amendment of this ordinance and was in compliance with all of the provisions of this ordinance then in effect, but which does not presently comply with the ordinance.
- (m) *Off-site signs:* A sign that identifies or refers to a location, entity or business activity that is not connected with a use that is lawfully occurring on the property where the sign is located.
- (n) *Portable sign:* A sign that permits relocation or removal of the sign by pulling, carrying or driving including a sign on wheels, a menu or sandwich board sign or an inflatable sign.
- (o) *Premises:* Includes buildings and structures and the property where such are located.
- (p) *Projecting sign:* A street sign attached to and projecting from the wall of a building and not in the same plane as the wall.
- (q) *Real estate sign:* A sign advertising the sale or lease of real property or improvements thereon.
- (r) *Roof sign:* A sign painted on or attached to the roof of a structure.
- (s) *Sign:* Any outdoor advertising sign, light, display, device, figure, painting, drawing, message, lettering, placard, poster, billboard, or other device visible from the outdoors which is designed, intended, or used to inform or advertise. Vending machines advertising a product are considered signs within this definition. Temporary labels and tags, affixed to a product with the intent to identify the type of product or price of the product, are not considered a “sign”.
- (t) *Sign Area:* The surface measurement of a sign. If the sign has two faces that are parallel (not more than two (2) feet apart), each face shall be considered a separate sign area unless expressed otherwise in these regulations.
- (u) *Structure:* Anything built that requires a permanent location. This term includes a building.
- (v) *Temporary Sign:* A sign displayed or normally intended to be displayed for a limited period of time.
- (w) *Temporary real estate signs:* Directional signs on approach routes to a premises advertising the sale or lease of the premises.
- (x) *Traffic sign/signal:* A sign/signal under the control of the town, county or state which regulates the conduct of vehicles, bicycles or pedestrians.
- (y) *Town:* Town of Laytonsville, Maryland.
- (z) *Wall sign:* A sign painted on or attached to a wall of a structure and in the same plane as the wall.

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- (aa) *Window sign:* A street sign applied, painted or affixed to or in the window of a building. A window sign may be temporary or permanent.
- (bb) *Zone:* The word “zone” refers to the zones existing, from time to time, under the Zoning Ordinance of the Town of Laytonsville.

**Section 128.03 Prohibitions:** (Amended June 7, 2011)

The following signs are prohibited and not permitted in any zone:

- (a) Pennants, pinwheels, hot air balloons and air propelled devices which advertise a product or service, and similar circus or carnival type attractors.
- (b) Any device which resembles by color, shape or wording an official traffic sign, traffic signal or device, or which may confuse or mislead pedestrians or vehicle operators or obstruct the view in any direction at the intersection of a street with another street or driveway.
- (c) Any flashing, blinking, moving, or intermittent lighting of a sign is prohibited.
- (d) Lights with excessive glare and lights which glare on other premises, property or public roads is prohibited
- (e) Any sign which obstructs or interferes with a motorist’s or a pedestrian’s view of a traffic signal, traffic sign or of approaching, merging, or intersecting traffic or creates any other unsafe condition. **(Amended June 7, 2011)**
- (f) No sign shall be permitted on the roof of any building, or any utility pole, tree, rock, or any natural feature.
- (g) Signs in the shape or form of any person, animal, vegetable, commodity, product, or a portion of any of the fore-going, are prohibited.
- (h) No sign shall obstruct or interfere with any door, fire escape, stairway, driveway, or any other means of ingress or egress to any property or building.
- (i) Except for street banners specifically approved by the Mayor and two Council members as provided in sec. 128.04e hereof, signs not attached to a building shall not exceed 15 feet in height measured from the finished grade of the property at the base of the sign.
- (j) The lowest point of any sign above an area of pedestrian traffic shall be not less than 8 feet above the finished grade below the sign. The lowest point of any sign which extends over an area intended for vehicular use shall not be less than fourteen (14) feet above the finished grades below the sign. No sign, except for street banners specially approved by the Mayor and two Council members as provided in sec. 128.04e hereof, shall be erected or maintained above the area of vehicular traffic.
- (k) No sign shall be permitted within a public right-of-way, except signs erected by a public agency, utility company or except as otherwise specifically permitted herein.
- (l) No off-stie signs or any other sign shall advertise or refer to a business, business establishment, organization, service, commodity, or thing other than one sold, provided or available on the

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premises or property on which the sign is located, except as otherwise specifically permitted herein.

- (m) Signs advertising or promoting a business, business establishment, organization, or property for sale or lease which is not located within the Town of Laytonsville is prohibited unless otherwise specifically permitted in this Ordinance.
- (n) Flexible signs are prohibited, except for banners specifically approved by the Mayor and Town Council members as provided in Sec. 128.04 e hereof: provided that nothing in this Ordinance shall prohibit display of the flag of the United States, or any of its agencies, the flag of Maryland or any of its subdivisions, the flag of any other government, or the flag of any charitable, religious, civic, or service organization. Banners shall be composed of fabric or plastic material, shall be safely secured and shall be temporary in nature. No more than one banner may be hung from a single building or structure at any time and may be hung a maximum of twice per calendar year for a maximum of a thirty (30) day period.
- (o) No sign shall contain statements, words, or pictures of an obscene, indecent, or immoral character such as will offend public morals or decency.
- (p) Any portable sign or other sign placed on any motor vehicle or trailer or other movable device that reasonably indicates intent to make the principle use of such vehicle, trailer or device as a sign is prohibited.
- (q) Portable or moveable signs which are not firmly attached to a structure are prohibited.
- (r) Any and all signs which are not expressly permitted by one or more provisions of this Ordinance are prohibited.
- (s) Signs attached or affixed to the property or improvements of others without the consent of the Owner of the property.
- (t) Abandoned signs as provided in Section 128.08 of this Ordinance.

**Section 128.04 Signs Permitted in all zones:**

The following signs shall be permitted in any and all zones. The following signs are not restricted by size and number limitations imposed in other sections of this Ordinance.

(a) Real estate signs.

1. One temporary real estate sign advertising sales or leasing information not exceeding twenty four (24) square feet in area and located on the property to which it relates shall be allowed for each tract project or development (**Amended June 7, 2011**) two (2) acres or more in area. If the tract has frontage on more than one improved public street, one additional sign not exceeding twenty four (24) square feet in area shall be allowed on the property to be placed facing the additional frontage. Under no

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circumstances shall more than two (2) such signs be permitted on the property. Any such sign shall be removed within seven (7) days of the completion of the sale of leasing of the building or property.

2. One temporary real estate sign not exceeding twelve (12) square feet and located on the property to which it relates shall be allowed for each tract less than two (2) acres in area. For individual lots, one temporary real estate sign, not to exceed six (6) square feet, shall be allowed and must be placed on the property to which it relates. Any such sign shall be removed within (7) days of the completion of the sale or leasing of the property.

3. Temporary real estate directional signs not exceeding (3) square feet in area and a maximum of four (4) in number showing a direction arrow and placed back of the front property line shall be permitted on approach routes to a house which is for sale and open for inspection. The height of such signs shall not exceed three (3) feet. Such directional signs announcing such an open house may be placed in the public right-of-way on weekends between the hours of noon Saturday and sundown on the following Monday; provided that where, in the opinion of a police officer, signs so placed constitute a hazard to traffic, the police officer or other authorized personnel of the town may remove such signs. Such signs may be located in a public right-of-way but shall not impede nor be a danger to public safety. Such signs shall not be placed in median strips. The removal of these signs shall be the responsibility of the owner thereof, which shall be presumed to be the company or person identified on the sign. The town may seek recovery of costs for removal of such signs and any court of competent jurisdiction may award reasonable costs to the Town.

4. One temporary residential subdivision identification sign for each development of ten (10) lots or more and one temporary identification sign announcing the opening of any commercial, industrial or multifamily residential project, not exceeding thirty (30) square feet in area and located on the property which contains the project, shall be allowed and shall be removed within thirty (30) days of the sale or lease of the last unit in the project.

(b) Temporary signs.

1. Temporary signs, excluding street banners, announcing any special event or function not exceeding thirty (30) consecutive days for each event to be sponsored by a public, charitable, civic, educational or religious organization may be located on the lot or parcel on which the event or function is to take place, and must be set back no less than (10) feet from the property line and placed so as not to impair safe sight distance. Such a sign shall be erected no more than fourteen (14) days prior to the event or function and must be removed within seven (7) days after the end of the event or function. The height of all such signs shall not exceed ten (10) feet and twenty-four (24) square feet in area.

2. All other temporary signs (excluding street banners regulated pursuant to Section 128.03 & 128.04 announcing any special event or function not exceeding twice per calendar year for all such events and functions and not exceeding thirty (30) consecutive days on each occasion, sponsored by any commercial or industrial organization located in the Town), may be located on the property where the

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event is to take place. Such a sign shall be erected no more than fourteen (14) days prior to the event and must be removed within seven (7) days after the event. The height of all such signs shall not exceed ten (10) feet and twenty-four (24) square feet in area.

(c) Public signs. Signs of a noncommercial nature and in the public interest such as directional signs, regulatory signs, warning signs and informational signs may be erected by or on the order of, the Mayor or the Mayor's designee.

(d) Permanent identification signs. On site signs of a permanent nature, setting forth the name of a church, school, community, development, park, community center or other like projects, shall be permitted. Such signs may be freestanding or may be attached to a building wall or a decorative wall; provided, however, where such sign is a part of a decorative wall, only the message area shall be calculated toward the total signage permitted. Any such sign shall not impair sight distance to safe egress from the property and shall not exceed twenty-four (24) square feet in area; provided, however, that the Town Planning Commission may approve such an identification sign in excess of twenty-four (24) square feet in area upon a finding that the proposed sign, by nature of its purpose and location, and the nature of the project it identifies justifies such larger area, and that such larger sign will not affect the health, safety and welfare of the general public, nor be a hazard to traffic, vehicular or pedestrian, or adversely affect visual compatibility in the immediate environments. All permanent identification signs shall be compatible in appearance and design with the surrounding landscape or buildings to which they may be affixed.

(e) Street banners. Street banners advertising an event or entertainment to which the public is invited may be displayed for 14 days prior to, during, and 7 days after the event, if they are specifically approved by the Mayor and two Council members and then only in locations designated by the Mayor and two Council members.

(f) Governmental, religious, charitable, civic, and, service organizations may maintain signs on property other than their own property, provided that the sign of such organization shall not exceed 6 square feet; provided further, that no such organization shall maintain signs (on property other than their own) in more than four separate locations in the Town. All such signs at any one location shall be consolidated and confined to within a single frame, and no part of such sign which is free-standing shall exceed a height of 8 feet.

(g) A community bulletin board may be maintained on property other than the sponsor's provided that the bulletin board is of an informative nature with messages changed periodically. It may be free-standing or attached to a building. The bulletin board or sign may have one face or two faces, but not more than 24 square feet of area for each face.

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(h) Integral part of structure. Names of buildings, dates of erection, monumental citations, commemorative tablets and the like shall be permitted, if carved into stone, concrete, or similar material, or they are made of bronze, aluminum or other durable metal and are an integral part of the structure.

(i) Election campaign signs. Signs relating to primary and general elections, and the candidates therein, are permitted provided they do not exceed an area of 9 square feet in a residential zone, and 24 square feet in a commercial zone and are located within private property not less than fifteen (15) feet from the edges of any street pavement. All such signs may be displayed thirty (30) days prior to such elections and shall be removed within 7 days after the election to which they relate. Those candidates who won a primary election or who ran unopposed in the primary election may continue to display their signs until seven (7) days after the general election.

(j) Construction signs. One sign shall be permitted for all building contractors, another for all professional firms, and another for all lending institutions involved in the construction, enlargement, reconstruction, or repair of any structure. Each such sign shall not exceed 24 square feet in area, and not more than a total of 3 such signs shall be permitted on any one site. All such signs shall be removed within 14 days after initial occupancy of the structure.

**Section 128.05 Signs in Commercial, Commercial Historic and Agricultural Zones:**

The following regulations shall apply to all properties in the C-Commercial Zone, CH-Commercial Historic Zone and Agricultural Zone of the Town; provided further, that any sign to be erected in the CH zone and any illuminated sign in any Historic District Zone must be subject to approval by the Town Historic District Commission as to the number, type, size height, appearance and locations. **(Amended June 7, 2011)**

(a) Signs on Improved Property. The total area of all signs on improved property, whether the same are attached to a building or are free-standing, shall not exceed two square feet for each linear foot, measured horizontally, of the face of the building(s) on the premises, which ratio is hereinafter referred as the "2 to 1 ratio". Signs may be placed on more than one face of the building, except as provided in Section 128.05b below, in which event said ratio shall apply to each face and be computed separately for each face. Not more than one free-standing sign for each street on which the property abuts shall be allowed and, as provided above, the area of free-standing signs shall be included in the computation of the 2 to 1 ratio.

(b) Free-Standing Signs.

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1. Where a building does not cover the entire area of a parcel, signs may be free-standing or ground supported. The area of each sign shall be determined as part of the sign area allowed for building frontage under section 128.05a above. One such sign may be allowed for each road upon which the property fronts. If the sign is free-standing or ground supported and the parcel on which the sign is located has a frontage of less than 125 linear feet, the top of the sign shall not extend more than ten (10) feet in height measured from the finished grade of the property at the base of the sign. If the parcel on which the sign is located has a frontage of 125 linear feet or more, the top of the sign shall not extend more than fifteen (15) feet in height. No part of the sign shall extend within five (5) feet of any property line. **(Amended June 7, 2011)**

2. For a single business or multiple businesses on a parcel with frontage of less than 125 linear feet, the total area for all free-standing signs shall not exceed 48 square feet.

3. For a single business or multiple businesses on a parcel with frontage of 125 linear feet or more, but less than 350 linear feet, the total area for all free-standing signs shall not exceed 100 square feet.

4. For a single business or multiple businesses on a parcel with frontage of 350 linear feet or more, the total area for all free-standing signs shall not exceed 200 square feet.

(c) Wall Signs. Signs may be located on any wall of a building except a wall facing and abutting residentially improved property. No wall sign or any part thereof including its supporting structure shall cover a window or any part of a window, nor shall any wall sign project more than twelve (12) inches from the face of the wall. **(Amended June 7, 2011)**

(d) Projecting Signs. No sign or any part thereof including its supporting structure shall project more than forty-two (42) inches from the wall of the building to which it is attached, nor shall any such sign or any part thereof including its supporting structure be within two (2) feet of the vertical plane of any curb line, or less than ten (10) feet from the ground directly beneath it.

(e) Roof Signs; Above-Roof Signs. No sign shall be erected or maintained on the roof of a building, nor shall any sign or any part thereof including its supporting structure extend above the coping, cornice, or eaves of a building, or above the vertical wall supporting the roof of the building.

(f) Signs on Unimproved Property. Sign(s) on lots or parcels unimproved by buildings or similar structures shall not exceed 24 square feet in area when the tract on which the sign(s) are located exceeds two acres, and shall not exceed an area of 6 square feet when the tract is two acres or less. If the tract has frontage on more than one road, one sign (of 24 square feet or less or 6 square feet or less) may be allowed facing each road.

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(g) Window Signs. Signs on the interior or exterior of windows are permitted provided that no sign or signs on a window shall cover more than 25% of the area of each window; provided further that this section shall not apply to window signs advertising events or activities of charitable, civic or religious organizations.

**Section 128.06 Signs on property in the R1, R2, R3 and RH Zones:**

(a) The area of all signs on premises classified in any of these zones advertising a special exception use located on the premises shall not exceed 12 square feet.

(b) Signs on the property of a governmental agency or on property of a religious, charitable, civic, or service organization may be free-standing or attached to the building, provided that not more than two signs, or two faces of one sign, shall be allowed, and each sign or face thereof shall not exceed 24 square feet in area.

(c) Any permanent sign to be located within the RH Zone or within the Historic District are subject to the approval of the Town Historic District Commission as to the number, type, size, height, appearance and location. (Amended June 7, 2011)

**Section 128.07 Nonconforming signs:**

All signs lawfully erected and in existence on the adoption of this Ordinance and not conforming to the terms and provisions hereof shall be removed, modified, or altered to comply with this Ordinance no later than three (3) years from the date on which it becomes nonconforming, and if not removed, modified, or altered, shall thereafter be deemed to be in violation of this Ordinance.

**Section 128.08 Permits; authorization; removal; abandonment and maintenance:**

(a) The Mayor and Town Council may adopt by resolution any requirements and procedures for the issuance of permits for any class of signs or signage which shall be enforceable by the penalties and proceedings stated elsewhere in this ordinance for violations generally. The denial, suspension, or revocation of any permit, or a violation notice, may be subject to appeal to the Town Board of Appeals if

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noted within thirty (30) days of the date of said action and thereafter by filing a Petition for Review with the Circuit Court for Montgomery County and the Appellate Courts of Maryland.

(b) No sign may be erected without the consent of the owner or his authorized representative of the property upon which such sign has been or is to be erected.

(c) All signs may only be erected and maintained which conform to applicable building and other relevant codes of the Town and in conformance with the Zoning Ordinance of the Town.

(d) Signs shall be deemed abandoned and subject to an order to remove the sign directed to the sign permittee or owner of the sign by the Mayor or his designee if:

1. Maintained on the property in excess of thirty (30) days after expiration of any time period stated in the Ordinance for removal of such sign; or
2. Where the condition of the sign due to breakage, discoloration or lack of material components evidences abandonment; or
3. The content or sign message of an on-site sign bears no relation to the business or activity conducted on-site.

The mayor or his designee is authorized to remove said sign if there is noncompliance with an order to remove and the permittee or owner of the sign shall be liable to the Town for all costs of removal.

(c) All signs and components thereof shall be maintained in good appearance, repair and condition by the owner of the sign or the owner of the property on which the sign is located against breakage, material discoloration and defects in or omission of material components. Signs may be declared unsafe by the Mayor or his designee and subject to removal as provided in subsection (d) of this section if, due to structural or component defects, location or operation, they constitute a danger to the health, safety and welfare of the general public or occupants or visitors to the property upon which said sign is located.

**Section 128.09 Violations; Enforcement:**

Violations of this Ordinance shall be enforced consistent with the provisions of Sections 132 and 133 of the Town Zoning Ordinance. In addition, when enforcement is sought through Section 133 of the Zoning Ordinance, the Mayor and Council of Laytonsville may request a court of competent jurisdiction to issue injunctions, restraining orders or other appropriate forms of relief and such court shall have the authority and jurisdiction to grant such relief.

**Section 128.10 Enforcement Proceedings:**

Proceedings to enforce the provisions of this Ordinance or to prevent or terminate violations thereof may be instituted by the Mayor or his designee (**Amended June 7, 2011**) against any one or more of the following: The owner of the sign, the party who installed or erected the sign, the person who maintains the sign, or the owner or occupant of the premises on which the sign is located.

**Section 128.11 Exceptions:**

This Ordinance shall not apply to any sign erected or maintained by a federal, state, county, or town government. Nor shall it apply to any sign required by federal, state, county, or town law or any ordinance, rule, or regulation enacted pursuant thereto.

**Section 128.12 Sign variances:**

The Town Board of Appeals is authorized to grant variances after public hearing (**Amended June 7, 2011**) to the height and location requirements of the sign regulations contained in this section when the strict application of these regulations would result in peculiar and unusual practical difficulties to, or exceptional or undue hardships upon, the owner of the property or owner of such sign; provided, that such variance can be granted without substantial impairment of the intent, purpose and integrity of the regulations of this Ordinance and of the adopted and approved Town master plan. This provision shall not permit the board to grant a variance allowing any prohibited sign or to grant a variance to the height of a sign which would exceed fifteen (15) feet in height above the grade at the base of the sign.

**Section 128.13 Severability:**

The invalidation of any section, subsection, clause, or phrase of this Ordinance by any court of competent jurisdiction shall not affect the validity of the remaining portions of the Ordinance.

## **Section 129. TEXT AMENDMENT**

- (a) An application for an amendment of the text of this Zoning Ordinance may be filed by the Mayor and Council. **(Amended September 4, 2007.)** The application shall set forth the new text to be added and the existing text to be deleted, if any.
- (b) Within ten (10) days after receipt of any such application, the Mayor and Council shall schedule the same for public hearing by causing notice of said hearing to be posted for not less than fourteen (14) days prior to said hearing, at one or more places in the Town most conspicuous to the residents thereof or by publishing the same twice **(Amended September 4, 2007)** in a newspaper of general circulation in the Town, not less than fourteen (14) days prior to said hearing, or by both posting and publication. The notice of hearing shall state the time and place of the hearing, the name of the applicant, shall set forth the proposed amendment or a brief summary thereof, and shall state where copies of the proposed amendment may be obtained.
- (c) Upon the creation and appointment of a Town Planning Commission, the Commission shall consider the proposed text amendment in public session and provide the Commission's comments and recommendations to the Mayor and Council, if possible before the public hearing, but not later than the close of the hearing record.
- (d) The hearing on said application shall be conducted, and the decision of the Mayor and Council thereon made, in the same manner as provided in Secs. 125 and 126 (a) and (b) hereof. **(Amended June 7, 2011)**
- (e) All text amendments approved by the Mayor and Council shall become effective twenty-one (21) days following the date of adoption. **(Amended June 7, 2011)**

## **Section 130. NON-CONFORMING USES**

- (a) Any building, structure, or use lawfully existing at the time of the adoption of this Ordinance may be continued even though it does not conform to the provisions of this Ordinance or any amendments to this Ordinance, except as otherwise provided herein. A non-conforming use which is conducted on less than an entire lot or parcel at the time of the adoption of this Ordinance or any amendments to this Ordinance shall not be extended or enlarged to other portions of the lot or parcel, nor shall the floor area of a non-conforming building or structure be increased or enlarged beyond that existing at the time of the adoption of this Ordinance or amendments hereto unless the construction conforms to the requirements of the zone in effect when construction commences. **(Amended June 7, 2011)**
- (b) No non-conforming building and no building devoted to a non-conforming use shall, in the event of damage or destruction by fire, flood, or other cause, be repaired, reconstructed, or used for the purpose of conducting the same or any other non-conforming use if such building has been damaged or destroyed in an amount exceeding 25% of its value immediately before the event causing such damage or destruction.
- (c) In case of any conflict between the provisions of this Section 129 and the provisions of the Historic Area Zoning Ordinance, the provisions of the latter and the authority of the Historic District Commission acting thereunder shall control.
- (d) Whenever a non-conforming use has been discontinued for a period of six (6) months or more, such use may not thereafter be established and any use of the property thereafter shall be strictly in conformity with the provisions of this Ordinance.
- (e) No building, structure, lot standard or use shall be deemed non-conforming due to any public taking of property. **(Amended June 7, 2011)**
- (f) The lawful status of a non-conforming use may be certified by the Mayor and Council upon written application of a property owner filed with any documents, plats, photographs or other exhibits to support such certification. After public meeting, the Mayor and Council shall decide by resolution as to whether to approve or deny such certification. This certification shall be terminated upon a change in use or extension of such use. **(Amended June 7, 2011)**
- (g) A change in use or the approval of a special exception shall terminate a non-conforming use. **(Amended June 7, 2011)**

**Section 131. SITE DEVELOPMENT PLANS (Adopted June 7, 2011)**

**Section 131.01 When required**

No building permit shall be issued or building or structure erected on property which has received final subdivision or resubdivision plan approval by the Town Planning Commission and is not covered by the transitory provisions of Section 132 of the Zoning Ordinance unless a site development plan is approved by the Mayor and Town Council.

**Section 131.02 Submission; fee; requirements of plan**

Each proposed site development plan shall be submitted in triplicate to the Mayor and Council and shall be accompanied by such fee as shall be hereafter determined by the Mayor and Town Council by resolution. A proposed site development plan application shall include the following:

- (a) One or more drawings at one hundred (100) feet or larger scale, clearly showing the following:
  - (1) Location and dimensions of existing and proposed buildings, structures, curb cuts, driveways, off-street parking and loading areas, signs, walls, fences, screen planting, pedestrian walks, open space and recreational areas for use by employees, residents, tenants or the general public.
  - (2) Existing and proposed topography of the site and the surrounding area at two-foot contour intervals showing the location of existing woodland, streams and rock outcropping and other significant features of the land.
  - (3) Proposed traffic circulation system where any part of the land is to be used by motor vehicles.
  - (4) The location of all existing and proposed power lines, telephone lines, gas lines, sewer lines and water lines, and the location of any easements to be granted for these utilities.
  - (5) Any historic building or structure on site.

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- (b) Drawings showing the proposed appearance of the buildings, structures and grounds after the completion of all buildings and structures and the establishment of the uses proposed on the land.
- (c) A statement of the amount of area of land involved in the site, the percentage of the site proposed to be covered by buildings, the total number of dwelling units proposed, the number of dwelling units proposed per acre, the area proposed to be devoted to open space, the area proposed to be paved for parking, driveways, loading space and sidewalks, the total number of parking spaces for the uses proposed, the number of employees expected per shift, the total floor area of proposed commercial uses and the proposed manner of illumination of signs and the property.
- (d) A storm drainage study certified by a licensed surveyor or professional engineer and a proposed storm drainage plan.
- (e) Such other additional information as may be reasonably required by the Mayor and Council to accomplish the purposes of the site development plan regulations.
- (f) Prior to final site plan approval, the applicant shall submit, unless waived by the Mayor and Council, a final record plat.
- (g) An approved natural resources inventory, forest stand delineation and a forest conservation plan, if required pursuant to the Forest Conservation and Reforestation Ordinance of the Town.

**Section 131.03 General standards for approval**

The Mayor and Council shall approve the site development plan only upon a finding by it that the buildings, structures and uses proposed will not:

- (a) Adversely affect the health or safety of persons residing in or working on the land in question or in the neighborhood thereof.
- (b) Be detrimental to the public welfare or adversely affect the use or development of adjacent or surrounding properties or public roads or public lands or facilities or historic sites or buildings.
- (c) Constitute a violation of any provisions of the Zoning Ordinance or any other applicable law, regulation or ordinance.

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- (d) Be incompatible or inharmonious with other existing uses or with existing and proposed adjacent development.
- (e) Be inharmonious or inconsistent with the environmental standards of the Town's Forest Conservation and Reformation Ordinance.

**Section 131.04 Site plan review authority**

(1) In the review and approval of a site development plan, the Mayor and Council shall have the following powers which shall be exercised for the purpose of avoiding adverse impact on the neighboring properties and public facilities, reducing traffic hazards and improving traffic circulation within or without the property which is the subject of the plan, preserving existing desirable natural features, protecting environmental resources, assuring adequate light and air to buildings within or without the subject property, providing adequate access to such buildings by fire and rescue equipment, providing safe, convenient access to such buildings from off-street parking spaces, and pedestrian walkways, avoiding overcrowding of persons and buildings within the development, ensuring the provision or development of recreational and other amenities, and facilitating the creation and maintenance of common or public open space, parking areas and private drainage systems.

- (a) To determine the location, size, height and shape of buildings and structures.
- (b) To determine the location, design and dimensions of streets, driveways and parking areas;
- (c) To require a minimum number of parking spaces;
- (d) To determine the maximum number of dwelling units and/or square feet of floor area to be located within any building;
- (e) To determine the location of common open space;
- (f) To establish the finished grade of the property;
- (g) To establish minimum materials and design standards for buildings and private streets, walkways, driveways, parking areas and drainage systems, where such standards have not been established by ordinance;

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- (h) To require screen planting or fencing;
- (i) To impose other conditions upon the approval of the plan where necessary to assure that the use of the property will be consistent with the purpose and intent of this ordinance;
- (j) To determine whether the site development plan will achieve a maximum of compatibility, safety and efficiency, considering but not limited to the following functions: height, building design, arrangement and scale of development; vehicular circulation system, including access and off-street parking and loading; environmental impact, landscaping, screening, buffering, open space, lighting, signage and pedestrian circulation. The fact that a site plan complies with all of the stated general regulations, development standards or other requirements of the zone shall not, by itself, be deemed to create a presumption that the proposed site development plan is, in fact compatible with adjacent land uses and development and, in itself, shall not be sufficient to require approval of the site plan;
- (k) To require that property be subdivided, resubdivided or replatted to be consistent with the site development plan. Any such requirement shall be an amendment to the final approved subdivision plan.
- (l) To required dedications of the land to public use and such requirement shall be an amendment to the final approved subdivision plan.
- (m) To defer action on any site development plan when an amendment to a master plan, capital improvements plan or water and sewer category change is pending.

**Section 131.05 Notification and Public Hearing**

- (a) Site development plans shall be subject to public hearing before the Mayor and Council. The Mayor and Council shall determine whether the nature and character of any amendment to a site development plan should be subject to a public hearing.
- (b) Public hearing notice and posting requirements shall be as provided in Sections 123 and 124 of the Zoning Ordinance.

**Section 131.06 Compliance with and changes in plan, amendments to plan**

- (a) *Compliance requirements.* Land which is the subject of an approved site development plan shall be developed and used only in accordance with the approved plan or in accordance with

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amendments to said plan approved in accord with the provisions of this ordinance. The approvals of site development plans or amendments thereto may contain such conditions as are necessary to ensure compliance with the requirements of this ordinance or which are in the public interest. Use and development of land which is the subject of the site development plan or the construction of a building or structure thereon in a manner not in compliance with that plan is prohibited and shall constitute a violation of this ordinance.

(b) *Requests for amendment of site development plans.* A request for amendment shall be accompanied by so much of the information required by section 131.02 as is necessary to properly detail and permit action upon the request for amendment. At the time the application for amendment is filed, the applicant shall pay the prescribed fee for processing the request.

**Section 131.07 Development of property subject to plan**

One or more of the new buildings proposed for land which is the subject of a site development plan shall be established on such land within three hundred sixty-five (365) days after the date of approval of the plan or the plan shall become void; provided however the Mayor and Council in its discretion and upon timely request by an applicant may extend the time by not more than two (2) years beyond the expiration date of the original approval for establishment of the building(s) on the land.

**Section 131.08 Violation and penalties**

Violations of this ordinance and any final decision of the Mayor and Council on a site development plan shall be subject to the procedures and penalties provided in Section 133 of the Zoning Ordinance.

**Section 131.09 Appeals**

Appeals of a final decision of the mayor and Council on a site development plan shall be as provided in Section 134 of the Town Zoning Ordinance.

**Section 132. TOWN PLANNING COMMISSION (Adopted June 7, 2011)**

**Section 132.01 Created; Composition; Appointment and Removal of Members; Compensation**

There is hereby created and established a Planning Commission which shall consist of five (5) members and one (1) alternate member who shall be appointed by the Mayor and confirmed by the Town Council. Commission members shall serve for three-year staggered terms. Promptly after adoption of this amendment, members of the Commission shall be appointed as follows:

- (a) Two members shall be appointed for three-year terms.
- (b) Two members shall be appointed for two-year terms.
- (c) One member and the alternate member shall be appointed for a one-year term.
- (d) Thereafter, as terms expire, replacements shall be for three-year terms and members shall be eligible for reappointment.
- (e) At the end of his/her term, a member shall continue to serve until his/her successor is appointed and confirmed.
- (f) A member who is appointed after a term has begun shall serve only for the rest of the term until his/her successor is appointed and confirmed.
- (g) Vacancies occurring other than through an expiration of a term of office shall be filled by appointment by the Mayor, subject to confirmation by the Town Council for the remainder of the expired term.

Members of the Commission may be removed for cause by the Mayor and Council upon written charges and after public hearing. An alternate member shall act in the place of an absent or disabled member. When an alternate member is absent, the Mayor and Council may designate a temporary alternate. Members of the board may or may not receive compensation as the Mayor and Council deems appropriate. The Mayor shall appoint annually for a one-year term a chairperson and vice chairperson subject to consent of the Council. The chairperson and vice chairperson shall be eligible for reappointment.

**Section 132.02 Rules, Meetings, Oaths, Witnesses, Records, Conflicts**

The Commission shall adopt rules of procedure in accordance with the provisions of this Ordinance and Art. 66B of the Annotated Code of Maryland. Meetings of the Commission shall be held quarterly and at the call of the chairman and at other times as the Commission may determine. Such chairman, or in his/her absence the vice chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Commission shall be open to the public except when the Commission for reasons authorized by the State law may go into closed session upon a majority vote of the members. The Commission shall make a recording of all proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, which shall be immediately filed in the office of the Town Clerk and shall be a public record. The Commission shall order a transcript of the recording of any proceeding if the Commission requires the same or an appeal of the Commission's decision, is filed in court. Provided however, if requested by a party to an appeal of the Commission's decision or any other member of the general public, the requesting party shall be assessed the cost of transcription unless a waiver is authorized by majority vote of the Commissions members.

**Section 132.03 Powers and Duties**

- (a) The Town Planning Commission shall have those powers, duties and authority assigned to Planning Commission by Article 66B, Maryland Code Annotated and other laws of the State of Maryland, The Zoning Ordinance, Ordinance of the Town and by those ordinances, regulations and other enactments of the State of Maryland and Town Council of the Town of Laytonsville.
- (b) To conduct public hearings upon all planning and regulatory matters within the jurisdiction and responsibility of the Planning Commission after giving required public notice.
- (c) To provide the Town Board of Appeals with an analysis and recommendation on petitions for special exception uses.
- (d) To provide the Mayor and Town Council with advice and recommendations on local zoning map amendment and cluster development applications, zoning text amendments and other matters involving zoning, planning, subdivision, adequacy of public facilities, environmental regulations and economical and community development.

**Section 132.04 Transitory Provisions**

This section relates to preliminary subdivision plans and site development plans previously approved under the Zoning Ordinance and Subdivision Regulations of the Town of Laytonsville by the Mayor and Town Council, acting as the Town Planning Commission, which are valid and in effect immediately prior to the adoption of the Ordinance and to those subdivision plans and site plans pending but not yet approved by the Mayor and Town Council as of the effective date of this Ordinance or such plans filed after the effective date of this Ordinance.

- (a) Any preliminary subdivision plan or site development plan previously approved by the Mayor and Town Council which was still valid prior to the effective date of this Ordinance shall remain valid and subject to the Subdivision Regulations and Zoning Ordinance requirements and conditions of approval, if any, following the effective date of this Ordinance.
- (b) Any preliminary plan or site development plan previously filed with the Mayor and Town Council prior to the effective date of this Ordinance but not yet approved shall be subject to public hearing and decision by the Town Planning Commission.
- (c) Any preliminary plan or site development plan approved prior to the effective date of this Ordinance may be extended beyond any termination date without additional public hearing provided no changes are made in the plan, there is compliance with any conditions of approval and the property is owned or controlled by the same person or entity.
- (d) Until amended, all references in the Subdivision Regulations for the Town of Laytonsville to the Mayor and Town Council shall mean the Town Planning Commission.

**Section 132.05 Decision of Commission, Appeals from Commission, Regulatory Decisions**

(a) The decision of the Town Planning Commission on any regulatory matter considered under this Section shall be in writing containing findings and conclusions and rendered within Sixty (60) days from the date of the closing of the public hearing record unless such time is extended by the Commission. If the Commission does not render a decision within the time set forth above, the application or petition shall be deemed denied. The affirmative vote of a majority of the Commission present shall be required to grant an application for preliminary subdivision plan or site development plan approval. If the necessary total of affirmative votes shall not be achieved, the application or petition shall be denied. A copy of the Commission's decision shall promptly be mailed to all persons entitled to original notice of the hearing and to all persons appearing and testifying in person or by counsel.

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(b) All regulatory decisions of the Commission under this article shall be based solely upon the evidence of record.

(c) Any person, taxpayer, officer, department or board of the Town of Laytonsville aggrieved by any final decision of the Planning Commission must within thirty (30) days from the date of the Commission's written decision, appeal the decision by filing a Petition for Judicial Review with the Circuit Court for Montgomery County and thereafter to the appellate courts of this state for further review. Appeals shall be subject to the Maryland Rules of Procedure governing administrative appeals.

### **Section 133. TRANSITORY PROVISIONS**

This section relates to the permitted uses and special exception uses in existence under the Zoning Ordinance in effect immediately prior to the adoption of this Ordinance ("pre-existing Zoning Ordinance"), and provides which of those permitted uses and special exception uses may continue under the new Ordinance, which may not, and which may be brought into compliance with the new Ordinance by application.

- (a) Uses permitted under the pre-existing Zoning Ordinance which also qualify as permitted uses under this Ordinance are lawful and may continue.
- (b) Uses permitted under the pre-existing Zoning Ordinance which do not qualify as permitted uses under the provisions of this new Ordinance shall be deemed to be non-conforming uses and thus subject to Section 129 hereof.
- (c) Special exceptions granted under the pre-existing Zoning Ordinance which are still in existence and comply with the provisions of this new Ordinance may continue until terminated in accordance with the conditions and expiration date upon which they were granted. Upon termination, such special exceptions shall and must cease, unless prior to their termination period they are authorized under the new Ordinance. Special exceptions granted under the pre-existing Zoning Ordinance which do not have a termination date and thus do not require renewal, and special exceptions which may be renewed without additional public hearing or application provided that the property is owned by the same person, may be continued so long as they comply with the conditions, if any, upon which they were granted.
- (d) Special exceptions granted under the pre-existing Ordinance which do not comply with the new Ordinance may, if they are in compliance with the pre-existing Ordinance, continue for a period of one (1) year following the effective date of this new Ordinance, and then cease, unless prior to the expiration of said period they are authorized under the new Ordinance.
- (e) Special exceptions which are not in compliance with the provisions of the pre-existing Ordinance or this new Ordinance are deemed to be in violation of this new Ordinance, and must cease and desist forthwith.

### **Section 134. VIOLATIONS AND PENALTIES**

Any person who violates a provision of this ordinance or fails to comply with any of the requirements thereof, or disobeys or disregards a decision or order of the Mayor and Town Council or authorized agent or Historic District Commission or fails to abide by the conditions of a permit, shall be guilty of a misdemeanor, punishable by a fine of \$1,000 or imprisonment for six (6) months or both.

In addition thereto, the Town may institute injunctive or other appropriate action or proceedings at law or equity for the enforcement of this ordinance or to correct violations of this ordinance, and any court of competent jurisdiction shall have the right to issue restraining orders, injunctions or other appropriate forms of remedy or relief. **(Amended October 2, 2007)**

## **Section 135. APPEALS**

In the event that any party is aggrieved by a decision of the Mayor and Town Council or the Historic District Commission within forty-five (45) days from the date on which the final decision is made public, such party aggrieved may appeal to the circuit court of the county and thereafter to the Appellate Courts of Maryland which will review the decision based on the record of the proceedings before the Historic District Commission or the Mayor and Town Council, as the case may be. Appeals shall be governed by the Maryland Rules of Procedure applicable to administrative appeals. **(Amended October 2, 2007.)**

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**CERTIFICATE**

I, Charlene K. Dillingham, Clerk of the Town of Laytonsville, hereby certify that the foregoing Ordinance was duly adopted by the Mayor and Council of the Town of Laytonsville on the 7th day of June 2011 with amendments through May 3, 2011.

\_\_\_\_\_  
Charlene K. Dillingham, Clerk