

ZONING ORDINANCE
HIGHLAND BEACH, MARYLAND

Adopted: October 19, 1990

Amended: August 31, 1991

Amended: February 24, 2003 by Resolution 3-02

TABLE OF CONTENTS

ARTICLE 1	TITLE, AUTHORITY, JURISDICTION, DURATION, NONCONFORMITIES, SEPARABILITY	1
	Section 1-1. Title.....	1
	Section 1-2. Legislative Authority.....	1
	Section 1-3. Jurisdiction.....	1
	Section 1-4. Nonconformities.....	1
	Section 1-5. Separability.....	1
	Section 1-6. Conflict with Other Regulations.....	1
	Section 1-7. Compliance with this Ordinance.....	2
ARTICLE 2	DEFINITIONS	3
	Section 2-1. Definitions, Generally.....	3
	Section 2-2. Definitions, Specifically.....	4
ARTICLE 3	ZONING DISTRICTS AND ZONING DISTRICT MAP	10
	Section 3-1. Zoning Districts Established.....	10
	Section 3-2. Zoning District Map Established.....	10
	Section 3-3. Purpose and Intent of Zoning Districts.....	10
ARTICLE 4	USE REGULATIONS	11
	Section 4-1. Applicability of Regulations.....	11
	Section 4-2. Official Table of Use Regulations by Zoning District	11
	Section 4-3. Supplementary Use Regulations.....	14
	Section 4-4. Mobile Homes	14
	Section 4-5. Other Regulation.....	14
ARTICLE 5	DIMENSIONAL REQUIREMENTS	15
	Section 5-1. Table of Dimensional Requirements for Principal and Accessory Uses.....	15
	Section 5-2. Lot Area or Yards Required.....	15
	Section 5-3. Exceptions of Minimum Lot Size and Lot Widths.....	15
	Section 5-4. Front Yards.....	15
	Section 5-5. Through Lots.....	15
	Section 5-6. Height Exceptions of Maximum Regulations.....	16
	Section 5-7. Traffic Visibility Across Corners (clear sight triangle)	16
	Section 5-8. Permitted Projections into Required Yards.....	16
	Section 5-9. Accessory Buildings in Side and Rear Yards.....	16
	Section 5-10. Front and Side Yards of Corner Lots.....	16

Section 5-11.	Fences	16
Section 5-12.	Swimming Pools	16
	TABLE OF DIMENSIONAL REQUIREMENTS FOR PRINCIPAL AND ACCESSORY USES.....	17
ARTICLE 6 ADMINISTRATION.....		18
Section 6-1.	Planning and Zoning Commission Duties and Powers	18
Section 6-2.	Zoning Permits.....	19
Section 6-3.	Fees.....	19
Section 6-4.	Life of a Permit.....	20
Section 6-5.	County Powers.....	20
ARTICLE 7 BOARD OF APPEALS.....		21
Section 7-1.	Establishment of Board.....	21
Section 7-2.	Membership, Terms of Office.....	21
Section 7-3.	Procedures, Meetings, Records, and Decisions.....	21
Section 7-4.	Notice of Hearings.....	21
Section 7-5.	Powers and Duties - Interpretation.....	22
Section 7-6.	Powers and Duties - Variances.....	22
Section 7-7.	Powers and Duties - Special Exceptions.....	23
Section 7-8.	Actions of the Board in Exercising Powers Concerning Appeals.....	24
Section 7-9.	Time Limitations on Board Approvals.....	24
Section 7-10.	Who May Appeal to the Board.....	24
Section 7-11.	Rules and Procedures for Filing Interpretation and Variance Appeals and Special Exception Applications.....	25
Section 7-12.	Review by the Planning and Zoning Commission on Applications for Special Exceptions, Variances, And Interpretations.....	25
Section 7-13.	Decisions by the Board.....	25
Section 7-14.	Appeal to Court.....	25
ARTICLE 8 AMENDMENTS, REMEDIES, AND PENALTIES.....		26
Section 8-1.	Power of Amendment.....	26
Section 8-2.	Who May Initiate.....	26
Section 8-3.	Public Hearing Notice.....	27
Section 8-4.	Fees.....	27
Section 8-5.	Remedies.....	27
Section 8-6.	Fines and Penalties.....	27

ARTICLE I
TITLE, AUTHORITY, JURISDICTION, DURATION,
NONCONFORMITIES, SEPARABILITY

Section 1-1. Title

This Ordinance shall be known as the Highland Beach Zoning Ordinance.

Section 1-2. Legislative Authority

This Ordinance is established in accordance with the provisions of Article 66B, Annotated Code of Maryland.

Section 1-3. Jurisdiction

The provisions of this Ordinance shall apply to the incorporated territory of Highland Beach, Maryland. The Zoning Laws of Anne Arundel County shall apply to Highland Beach. However, whenever any provision of this ordinance conflicts with the Anne Arundel County Code, that provision which is more restrictive or imposes the higher standard or requirement shall govern. *[Amended by Resolution No. 3-02]*

Section 1-4. Nonconformities

Any legally recorded lot not conforming to a dimensional lot requirement prescribed by this Ordinance shall continue to be a legally buildable lot, despite its nonconformity on the date of adoption of this Ordinance, subject to the provisions of Section 5-3 concerning adjoining lots of record in single ownership. Any structure, that does not conform to a dimensional regulation prescribed by this Ordinance for the zone in which it is located, may be altered, reconstructed, or enlarged provided that no such nonconformity is increased beyond its extent on the date that it became nonconforming. Any nonconformity may not be enlarged beyond its current dimensions and square footage. *[Amended by Resolution No. 3-02]*

Section 1-5. Separability

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 1-6. Conflict with Other Regulations

Whenever any provision of this Ordinance conflicts with any other provisions of law, whether set forth in this Ordinance or contained in any law, rule, regulation, ordinance, deed restriction, or covenant covering any of the same subject matter, that provision which is more restrictive or imposes the higher standard or requirement shall govern.

Section 1-7. Compliance with this Ordinance

No building, structure, land, or part thereof shall hereafter be used, occupied, altered, erected, constructed or reconstructed unless in conformity with this Ordinance.

ARTICLE 2
DEFINITIONS

Section 2-1. Definitions, Generally

The following rules shall apply to this Ordinance.

The words "shall" and "will" are mandatory.

Unless the context otherwise specifies, words used in the present tense shall include the future; words used in the singular number include the plural; and words in the plural number include the singular.

The word "building" or "structure" includes the other and any part thereof.

The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for".

Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", or "either/or", the conjunction shall be interpreted as follows:

- A. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
- B. "Or" indicates that the connected items, conditions, provisions, or events may apply separately or in any combination.
- C. "Either/or" indicates that the connected items, conditions, provisions, or events shall apply separately but not in combination.

The word "includes" shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

Words and terms not defined herein shall be interpreted in accordance with their normal dictionary meaning.

Section 2-2. Definitions, Specifically

Accessory Structure or Use

A subordinate structure or use which is clearly incidental to and customarily found in connection with the principal structure or use, and is located on the same lot as the principal structure or use.

Board

The Board of Appeals of Highland Beach, Maryland.

Board of Appeals

The Board established by the Town Commissioners which is authorized to grant Variances and to hear Appeals from administrative decisions as provided in this Ordinance.

Building

Any structure having a roof and designed for shelter or enclosure of any person, animal, or property of any kind.

Building, Principal

Any building in which is conducted or in which is intended to be conducted the main or principal use of the lot on which it is located.

Dwelling

Building or portion thereof designed and used for residential purposes.

Dwelling, Single-Family

A dwelling designed for or occupied exclusively by one family.

Dwelling Unit

A room or group of rooms located within a dwelling occupied or intended to be occupied as separate living quarters by one family.

Family

One (1) or more persons related by blood, marriage, adoption, or guardianship including not more than two (2) persons not so related, occupying a dwelling unit and living together as a single housekeeping unit.

Height

The vertical distance from the highest point of a structure, excepting a chimney or antenna on a structure, to the average level of the grade where the walls or other structural elements intersect the ground.

Home Occupation

Any occupation or business conducted by members of the family residing on the premises.

Lot

A contiguous area of land separated from other areas of land by separate description in a recorded deed or plat; or a parcel of land which may include one or more platted lots occupied or intended for occupancy by a single principal use or establishment.

Lot Area

The total horizontal area of a lot as determined by the closure of the rear, side, and front lot lines.

Lot, Depth of

The mean horizontal distance between the front and rear lot lines.

Lot, Interior

A lot other than a corner lot with only one street frontage.

Lot Line

The boundary line of a lot.

Lot Line, Front

A line connecting the foremost points of the side lot lines and dividing the lot from the access right-of-way.

Lot Line, Rear

A line connecting the rearmost points on the side lot lines.

Lot Line, Side

A line defining the boundary of a lot other than the front and rear lot lines.

Lot of Record

Any validly recorded lot which at the time of its recordation complied with all applicable laws, ordinances, and regulations.

Lot, Through

A lot where both the front and rear yards abut a road. The determination of which yard of a through lot is the front yard shall be made by the Planning and Zoning Commission based on the prevailing yard pattern in the neighborhood.

Lot Width

The distance between the side lot lines measured at the front building restriction line.

Mobile Home

A structure that is transportable in one or more sections, eight (8) or more body feet in width and thirty (30) or more body feet in length, built on a permanent chassis, designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and contains built-in plumbing, heating, air conditioning and electrical systems. Mobile manufactured home means a portable structure or vehicle on wheels so configured and designed as to permit occupancy for dwelling or sleeping purposes. [*Amended by Resolution 3-02*]

Owner

The person, partnership, corporation, company, or other legal entity holding current legal title to a lot, tract, or parcel of land.

Public Utilities

Uses or structures for the public purpose of power transmission and distribution (but not power generation); natural gas transmission and distribution (but not manufacturing or storage); water treatment and distribution; sewage collection and treatment; telephone service facilities; radio and television facilities (not including broadcasting studios); and rail or road rights-of-way (not including stations or terminals).

Right-of-Way

A strip of land designated for the use as a street, alley, or walkway, or for any drainage or public utility purpose or other similar uses.

Setback

The minimum required distance between the point where any structure or use on a lot meets the

ground surface and any lot line or boundary of a town, county, or State street right-of-way.

Sign

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

Sign Area

That area enclosed by the periphery connecting the extreme points or edges of a sign. The area shall be determined using the largest sign area or silhouette visible at any one time from any one point. This area does not include the main supporting sign structure, but all other ornamental attachments; inner connecting lines, etc. which are not a part of the main supports of the sign are to be included in determining sign area. On a two-sided sign, only one face is counted in computing the sign's area provided the faces are located not more than two (2) feet from each other.

Sign, On-Premises

A sign which directs attention to a business, commodity, service, entertainment, home occupation, or other activity conducted, sold or offered on the same lot. A sign advertising exclusively the sale, lease, rental or development relating to the lot on which it is displayed shall be deemed an on-premises sign.

Special Exception

Permission by the Board of Appeals to establish a specific use that would not be appropriate generally or without restriction throughout a zoning district but which if controlled as to number, area, location, or relation to the neighborhood, would comply with the purpose and intent of this Ordinance. Such uses may be approved within a zoning district if specific provision for such a Special Exception is made in this Ordinance.

Story

That portion of a building other than a basement included between the surface of any floor and the surface of the floor or ceiling next above it.

Street

A way for vehicular traffic which provides primary access to abutting properties including the rights-of-way.

Structure

Anything constructed or erected which requires location on the ground or attached to something having a location on the ground.

Use

The purpose or activity for which land or any building thereon is designed, arranged, or intended or for which it is occupied or maintained. Structure does not include a walk not greater than six inches above grade, a driveway, a fence, or an at-grade parking lot. *[Amended by Resolution 3-02]*

Use, Principal

The specific, primary purpose for which premises are used.

Variance

A modification of the term of this Ordinance with regard to height, area, and the size of structures or size of yards and open spaces.

Yard

An open space, other than a court on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this Ordinance; the area between a lot line and the building line.

Yard, Front

A yard extending across the front of a lot between the side of lot lines and being the horizontal distance between the front lot line and the principal building or any projections thereof, other than uncovered steps, balconies, terraces, or unenclosed porches.

Yard, Rear

A yard extending across the rear of the lot between the side lot lines, and being the horizontal distance measured between the rear lot line and the rear of the principal building or any projection other than uncovered steps, balconies, terraces, or unenclosed porches.

Yard, Side

A yard between the principal building and the side line of the lot, and extending from the front yard to the rear yard and being the horizontal distance between the side lot line and side of the principal buildings or any projection other than steps, balconies, terraces, or unenclosed porches.

Zoning District

An area within which certain uses of land, and structures are permitted and certain others are prohibited; yards and other open spaces are required; and minimum lot areas, dimensions and other requirements are established.

Zoning Permit

A written statement issued by the Planning and Zoning Commission authorizing buildings, structures, or uses consistent with the terms of this Ordinance, and for the purpose of carrying out and enforcing its provisions.

ARTICLE 3
ZONING DISTRICTS AND ZONING DISTRICT MAP

Section 3-1. Zoning Districts Established

The following zoning districts are hereby established for Highland Beach, Maryland:

- “R” Residential
- “OS” Open Space

Section 3-2. Zoning District Map Established

The official boundaries of the zoning districts shall be shown on the map, designated as the Zoning District Map of Highland Beach, Maryland dated and signed by the Mayor of Highland Beach. The Zoning District Map, together with all explanatory matter thereon, is adopted by reference and declared to be part of this Ordinance. Amendments to zoning district boundaries or other matter portrayed on the Zoning District Map shall be promptly recorded on the map after approval by the Mayor and Town Commission. No changes in zoning district boundaries shall be made on the Zoning District Map except in conformity with this Ordinance.

Section 3-3. Purpose and Intent of Zoning Districts

The “R” Residential zoning district is intended to provide for residential development together with such buildings, facilities, and accessory uses as may be necessary or are normally compatible with residential surroundings.

The “OS” Open Space zoning district is intended to preserve open space for recreational uses and protect persons and property against hazards of floods and water pollution and protect Highland Beach against costs that may be incurred if development that is not compatible within the natural environment occurs.

**ARTICLE 4
USE REGULATIONS**

Section 4-1. Applicability of Regulations

Unless otherwise provided by law or in this Ordinance, no building or structure shall be constructed, erected, or extended and no building, structure, or land shall be used or occupied except for the purposes permitted in this Article.

Section 4-2. Official Table of Use Regulations by Zoning District

This table lists the permitted uses in the zoning districts and any additional specific use regulations if applicable.

OFFICIAL TABLE OF USE REGULATIONS

Key to Table

- P -** Permitted Use
SE - Use subject to Special Exception from Board of Appeals

LAND USE BY DISTRICTS	ZONING DISTRICTS	
	R	OS
Single-family dwelling, detached (not including mobile homes)	P	
Home Occupation, provided it: <ul style="list-style-type: none"> a. is clearly incidental and secondary to the use of the dwelling for residential purposes. b. conforms to the following regulations: <ul style="list-style-type: none"> 1. the home occupation shall be carried on wholly indoors, and within the principal building; 2. there shall be no use of show windows or display or advertising visible outside the premises other than home occupation announcement signs as permitted; 	P	

LAND USE BY DISTRICTS	ZONING DISTRICTS	
	R	OS
<p>3. no external alterations, additions, or changes to the structure shall be permitted in order to accommodate or facilitate a home occupation;</p> <p>4. the home occupation shall be carried on only by members of the immediate family residing on the premises;</p> <p>5. the floor area devoted to a home occupation shall not be more than twenty-five (25) percent of the ground floor area of the principal residential structure or two hundred fifty (250) square feet, whichever is less; and,</p> <p>6. any applicable State licenses are obtained.</p>		
Library or Museum	P	
Public or Nonprofit Park or Recreation Area	P	P
Community Building	P	
Public Utilities	P	SE
Accessory Structure or Use	P	
<p>Signs</p> <p>Official traffic signs and other official federal, State, county or government signs.</p>	P	

LAND USE BY DISTRICTS	ZONING DISTRICTS	
	R	OS
Signs, On Premises		
a. A sign indicating the name or number of the building or premises, provided that such sign shall not exceed two (2) square feet in area, and that not more than one (1) such sign shall be erected on a property. No sign shall be illuminated	P	
b. Bulletin or announcement board or identification signs for libraries, museums, and other principal uses or buildings other than dwellings, provided that the area of any such sign shall not exceed eight (8) square feet and not more than one (1) such sign shall be placed on a property.	P	
c. Signs advertising exclusively the prospective sale or lease of the land or building upon which such signs are displayed, provided that the area of any such signs shall not exceed six (6) square feet and not more than one (1) such sign shall be placed on a property. Such signs shall be removed immediately upon final settlement or renting of a property.	P	
d. A temporary sign advertising the development of the property upon which it stands or the opening of a new subdivision, provided that the area of any such sign shall not exceed eight (8) square feet, that not more than one (1) such sign may be placed on a property. Such signs shall be removed immediately upon completion of the development or eighteen (18) months after erection of the signs, whichever shall occur first.	P	
e. Temporary contractors, architects or building signs, provided that the area of any such sign shall not exceed eight (8) square feet. Such signs shall be removed immediately upon completion of work or eighteen (18) months after erection of the signs, whichever shall occur first.	P	
f. Temporary signs, signs indicating the private nature of a road, driveway, or premises, provided that the area of any such sign shall not exceed two (2) square feet.	P	

LAND USE BY DISTRICTS	ZONING DISTRICTS	
	R	OS
g. Temporary signs announcing a campaign or event of a civic philanthropic, or educational nature. Such signs shall not exceed eight (8) square feet in area and shall be removed not more than five (5) days after the event	P	
Off-Street Parking, provided it is satisfactorily maintained in accordance with the following standards: a. Single-family dwelling, detached: Two (2) spaces per dwelling unit; b. Other principal uses: Sufficient spaces to accommodate all parking demand off the public streets.	P	

Section 4-3. Supplementary Use Regulations

No more than one principal building shall be erected on a single lot.

Section 4-4. Mobile Homes

The Anne Arundel County Code does not permit the use of mobile homes except in parks designed and licensed for that purpose, therefore, mobile homes are not allowed within the corporate limits of Highland Beach. *[Added by Resolution 3-02]*

Section 4-5. Other Regulations

Uses shall be subject, in addition to use regulations, to such regulations and dimensional requirements and to such other provisions as are specified in other Articles hereof.

ARTICLE 5
DIMENSIONAL REQUIREMENTS

Section 5-1. Table of Dimensional Requirements for Principal and Accessory Uses

This Table specifies the requirements for each District pertaining to minimum lot area, minimum lot area per dwelling unit, minimum lot width, maximum height, and minimum required yards subject to further applicable provisions of Articles 4 and 5.

Section 5-2. Lot Area or Yards Required

The lot or yard areas required for any new building or use shall not include any part of a lot that is required by any other building or use to comply with the requirements of this Ordinance. No required lot or area shall include any property, the ownership of which has been transferred subsequent to the effective date of this Ordinance, if such property was a part of the area required for compliance with the dimensional requirements applicable to the lot from which such transfer was made.

Section 5-3. Exceptions of Minimum Lot Size and Lot Widths

- (a) If two (2) or more adjoining lots of record, one or both of which fail to meet the requirements of this Ordinance with regard to lot area and/or lot width, have continuous frontage and are in single ownership at any time after the application of the provisions of this Ordinance to such lots, and if such lots taken together would form one or more lots, each meeting the requirements of this Ordinance or reducing the extent of nonconformity with regard to lot area and lot width, such lot or lots shall no longer be considered nonconforming, and must be used in compliance with the lot area and lot width requirement irrespective of subsequent change in ownership.
- (b) Subject to the provisions of Section (a) above, a building or other improvements may be erected on any lot which was of record prior to the effective date of this Ordinance, even if the lot is a nonconforming lot, provided the building or other improvements comply with the applicable minimum yard requirements and all other applicable provisions of this Ordinance.

Section 5-4. Front Yards

When there is an existing building on each of two (2) lots adjacent on either side of a lot on which a proposed building is to be erected, where both such existing buildings have an alignment nearer to the street line than the required front yard depth elsewhere specified in this Ordinance, and when both such existing buildings are within one hundred (100) feet of the proposed building, the average of the existing front yard depths of such adjacent lots shall be the minimum required front yard depth on which the proposed building is to be erected.

Section 5-5. Through Lots

On through lots, at least the minimum required front yard shall be provided on each road.

Section 5-6. Height Exceptions of Maximum Regulations

Maximum height regulations shall not apply to church spires, chimneys, aerials, and other structures normally built or located above the roof and not devoted to human occupancy.

Section 5-7. Traffic Visibility Across Corners (clear sight triangle)

On any corner lot, no wall, fence, or other structure shall be erected or altered, and no hedge, tree, shrub, or other growth shall be maintained which may cause danger to traffic on a street by obscuring the view. Visual obstructions shall be limited to a height of not more than two (2) feet above street level within the triangular area bounded by the street lines, and a straight line drawn between points on each such street line twenty-five (25) feet from the intersection of said street lines.

Section 5-8. Permitted Projections into Required Yards

The provisions of Section 5-1 shall not apply to fences or walls which are less than six (6) feet high above the natural grade nor to terraces, steps, uncovered porches, or other similar features not over three (3) feet high above the floor level of the ground story.

Section 5-9. Accessory Buildings in Side and Rear Yards

Completely detached accessory buildings may occupy required side and rear yards, but shall not be located closer than five (5) feet to any side or rear property line and may not exceed one story or ten (10) feet. [*Amended by Resolution 3-02*]

Section 5-10. Front and Side Yards of Corner Lots

On a corner lot the street side yard shall equal the required front yard for lots facing that street.

Section 5-11. Fences

Fences may not be placed so as to encroach upon property lines (including the property being fenced), easements or any kind, or State, County, or Town right-of-ways. On a corner lot the fence may not be located within 25 feet of the point of intersection of the property line that abuts the street. Fencing shall not exceed six (6) feet in height. Fencing shall not be installed on berms or where the topography will accentuate or increase the height of the fence. The finished side of fencing, where only one side is finished, must face outside the lot. [*Added by Resolution 3-02*]

Section 5-12 Swimming Pools

An in ground swimming pool is permitted as an accessory use on a residential lot and must be located so that the edge of the pool and surround is at least ten (10) feet from each lot line. A swimming pool is prohibited in the front yard except in the case of water front properties. [*Added by Resolution 3-02*]

TABLE OF DIMENSIONAL REQUIREMENTS FOR PRINCIPAL AND ACCESSORY USES

ZONING DISTRICT	Minimum Depth of Front Yard in Feet	Minimum Width of Each Side Yard in Feet	Minimum Depth of Rear Yard in Feet	Maximum Height Feet/Stories	Minimum Lot Area in Square Feet/Unit	Minimum Width of Lot in Feet	Minimum Depth of Lot in Feet
"R" Residential	30	7 feet and 20 feet combined	25	35 or 2 ½ stories	15,000	100	150

[Amended by Resolution 3-02]

Additional specific regulations may be found elsewhere in this Ordinance.

**ARTICLE 6
ADMINISTRATION**

Section 6-1. Planning and Zoning Commission Duties and Powers

The provisions of this Ordinance shall be administered and enforced by the Planning and Zoning Commission whose members shall be appointed by the Mayor and confirmed by the Town Commission.

It shall be the duty of the Planning and Zoning Commission and they shall have the power to:

- (a) Receive and examine all applications for Zoning Permits;
- (b) Issue permits only where there is compliance with the provisions of this Ordinance, and with other Town ordinances. Permits for construction or uses requiring a special exception or variance shall be issued only upon order of the Board of Appeals;
- (c) Receive applications for special exceptions and forward these applications to the Board of Appeals for action thereon.
- (d) Following refusal of a permit, receive applications for interpretation and variance appeals and forward these appeals to the Board of Appeals for action thereon.
- (e) Conduct inspections and surveys to determine compliance or noncompliance with the terms of this Ordinance;
- (f) Issue stop, cease, and desist orders, and orders in writing for correction of all conditions found to be in violation of the provisions of this Ordinance;
- (g) With the approval of the Town Commission, or when directed by them, institute in the name of the Town an appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; restrain, correct, or abate such violation so as to prevent an illegal act, conduct, business, or use in or about such premises;
- (h) Revoke, by order, a zoning permit issued under a misstatement of fact or contrary to the law or the provisions of this Ordinance;
- (i) Record and file all applications for zoning permits with accompanying plans and documents. All applications, plans, and documents shall be a public record.
- (j) Maintain a map or maps showing the current zoning classification of all land in the Town.
- (k) Maintain a map of all nonconforming and special exception uses in the Town and a file on each such use.

- (l) Upon the request of the Mayor or Town Commission or the Board of Appeals, present to such bodies facts, records, or reports which they may request to assist them in making decisions, or assist them in any other way as requested.

Section 6-2. Zoning Permits

Hereafter, no structure shall be erected, constructed, reconstructed, altered, or moved; no land or building used or occupied; and no land or building changed in use until a Zoning Permit has been secured from the Planning and Zoning Commission. Upon completion of changes in use or construction, reconstruction, alteration, or moving of structures, the applicant shall notify the Planning and Zoning Commission of such completion. No permit shall be considered as complete or permanently effective until the Planning and Zoning Commission has noted on the permit that the work or occupancy and use has been inspected and approved as being in conformity with the provisions of this Ordinance.

Applications for Zoning Permits shall include the following information:

- (a) Statement as to the proposed use of the building or land;
- (b) a site plan, certified by a licensed engineer, architect, or surveyor, drawn to scale showing the location, dimensions, and height of proposed buildings, structures, or uses and any existing buildings in relation to property and street lines; [*Amended by Resolution 3-02*]
- (c) lot dimensions, lot and block numbers, and subdivision name, if any;
- (d) the location, dimensions, and arrangement of all open space, parking areas, and yards;
- (e) for nonresidential uses, sufficient information to demonstrate that all parking demand can be accommodated in off-street parking areas;
- (f) in the case of applications for interpretations, special exceptions and variances, the additional information as specified in Article 7, Section 7-11.

Section 6-3. Fees

All applicants for Zoning Permits, Special Exceptions, Interpretations, and Variance Appeals shall at the time of making application, pay to the Planning and Zoning Commission a fee in accordance with a fee schedule adopted by resolution of the Town Commission upon the enactment of this Ordinance, or as such schedule may be amended by resolution of the Town Commission.

Section 6-4. Life of a Permit

Any erection, construction, reconstruction, alteration, or moving of a building or other structure, authorized by a Zoning Permit, shall be commenced within one (1) year after the date of issuance of the permit, otherwise the permit shall be considered null and void. Upon expiration of a zoning permit, a new application must be submitted, before any work may commence. [*Amended by Resolution 3-02*]

Section 6-5. County Powers

In order for the County to assist the Planning and Zoning Commission, Anne Arundel County, Maryland is authorized and empowered to administer or enforce this Ordinance.

ARTICLE 7 BOARD OF APPEALS

Section 7-1. Establishment of Board

In order that the objectives of this Ordinance may be more fully and equitably achieved and a means for competent interpretation of this Ordinance provided, there is established a Board of Appeals for the Town.

Section 7-2. Membership, Terms of Office

The Board shall consist of five (5) members. The terms of office of the members shall be three (3) years. Members shall be appointed by the Mayor, confirmed by the Town Commission, and removable for cause upon written charges and after public hearing.

Section 7-3. Procedures, Meetings, Records, and Decisions

- (a) Procedures - The Board shall elect a chairman from its membership, shall appoint a secretary, and shall prescribe rules in accordance with the provisions of Article 66B of the Annotated Code of Maryland and this Ordinance for the conduct of its affairs.
- (b) Meetings - Meetings of the Board shall be held at the call of the chairman, and at such other times as the Board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. Three members present shall constitute a quorum.
- (c) Records and Decisions - The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. All actions or decisions of the Board shall be taken by resolution in which three members present during the proceedings must concur. Each resolution shall contain a statement of the grounds, and any findings forming the basis of such action or decision.

The Board shall notify the Mayor, Town Commission, and Planning and Zoning Commission, of all decisions and resolutions.

Section 7-4. Notice of Hearings

Upon filing with the Board of Appeals an application for variance or appeal from alleged error of the Planning and Zoning Commission, the Board shall fix a reasonable time not less than thirty (30) days nor more than sixty (60) days from the filing date for a public hearing thereon, and give notice as follows: [*Amended by Resolution 3-02*]

- (a) At least fifteen (15) days prior to the date fixed for public hearing, publish a notice containing the name of the applicant and the date, time, and place fixed for the hearing; and a brief statement of the special exception sought by the applicant, or the error alleged by the appellant, or if the variance or other question, which is subject to appeal, in at least one (1) newspaper of general circulation within the Town.
- (b) Post, in a conspicuous place on the property involved, a notice of pending action containing the same information as in (a) above, such posting to take place at least fifteen (15) days prior to the date fixed for the public hearing.
- (c) Give written notice of the time and place of such hearing to the applicant or appellant and to owners of abutting properties. [*Amended by Resolution 3-02*]
- (d) At least fifteen (15) days before the date of the hearing on an application for a special exception, interpretation or variance, the Secretary of the Board shall transmit a copy of said application to the Planning and Zoning Commission together with a notice of the aforesaid hearing. [*Amended by Resolution 3-02*]

Section 7-5. Powers and Duties - Interpretation

Upon appeal from a decision by the Planning and Zoning Commission, the Board shall decide any question (1) involving the interpretation of any provisions of this Ordinance; (2) where it is alleged there is error in any order, requirement, decision, or determination including any order requiring an alleged violation to stop, cease, desist made by the Planning and Zoning Commission in the enforcement of this Ordinance.

Section 7-6. Powers and Duties - Variances

- (a) Upon appeal from a decision by the Planning and Zoning Commission, the Board shall have the power to vary or adapt the strict application of any of the requirements of this Ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots or other exceptional physical conditions, whereby such strict applications would result in practical difficulty and unnecessary hardship depriving the owner of the reasonable use of land or building involved but in no other case.
- (b) In general, the power to authorize a variance from the terms of this Ordinance shall be sparingly exercised, and only under peculiar and exceptional circumstances.
- (c) No variance in the strict application of the provisions of this Ordinance shall be granted by the Board unless the Board finds that the requirements and standards are satisfied.

The appellant must show that the variance will not be contrary to the public interest, and that practical difficulty and unnecessary hardship will result if it is not granted. In particular, the appellant shall establish and substantiate his appeal to show that the appeal

for the variance is in conformance with the requirements and standards listed below.

1. That the granting of the variance shall be in harmony with the general purpose and intent of this Ordinance, and shall not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
2. That the granting of the variance will not permit the establishment within a District of any use which is not permitted in that District.
3. There must be proof of unique circumstances: There are special circumstances or conditions fully described in the findings, applying to the land or buildings for which the variance is sought, which circumstances or conditions peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or building
4. There must be proof of unnecessary hardship: If the hardship is general, that is, shared generally by land or buildings in the neighborhood, relief shall be properly obtained only by legislative action or by court review of an attack on the validity of the Ordinance.
5. That the granting of the variance is necessary for the reasonable use of the land or buildings, and that the variance is granted by the Board is the minimum variance that will accomplish this purpose. It is not sufficient proof of hardship to show that greater profit would result if the variance were awarded. Furthermore, hardship complained of cannot be self-created; it cannot be claimed by one who purchases with or without knowledge of restrictions; it must result from the application of the Ordinance; and evidence of variance granted under similar circumstances shall not be considered.

The Board may prescribe any safeguard that it deems to be necessary to secure substantially the objectives of the regulation, or provisions to which the variance applies.

Section 7-7. Powers and Duties - Special Exceptions

- (a) The Board shall have the power to approve special exceptions for any of the uses for which this Ordinance requires obtaining of such exceptions; and for no other use or purpose.
- (b) In granting a special exception, the Board shall make findings of fact consistent with the provisions of this Ordinance. The Board shall not grant a special exception except in conformance with the conditions and standards outlined in this Ordinance.
- (c) **General Requirements and Standards Applicable to All Special Exceptions:**

The Board shall grant a special exception only if it finds adequate evidence that any proposed use submitted for a special exception will meet all of the following general requirements, as well as any specific requirements and standards listed for the proposed use. The Board shall, among other things, require that any proposed use and location be:

1. In accord with the Highland Beach Comprehensive Plan, and consistent with the spirit, purposes, and intent of this Ordinance;
2. suitable for the property in question, and designed so as to be in harmony with, and appropriate in appearance with, the existing or intended character of the general vicinity;
3. suitable in terms of effects on street traffic and safety with adequate access arrangements to protect streets from undue congestion and hazard; and
4. suitable in terms of environmental effects.

The Board may impose conditions consistent with this Ordinance regarding layout, circulation, and performance it deems necessary to insure that any proposed development will secure substantially the objectives of this Ordinance. The Board shall consider recommendations of the Planning and Zoning Commission, if any, prior to rendering a decision.

Section 7-8. Actions of the Board in Exercising Powers Concerning Appeals

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

Section 7-9. Time Limitations on Board Approvals

A decision of the Board permitting the erection or alteration of a building shall be valid for a period of one (1) year, unless a zoning permit for such erection or alteration is obtained within this period, and the erection or alteration proceeds to completion in accordance with the terms of the decision. No decision of the Board permitting the use of a building or land shall be valid for a period longer than one (1) year, unless such use is established within said period; except that, where such use is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a Zoning Permit is obtained within said period, and such erection or alteration proceeds to completion in accordance with the terms of the decision.

Section 7-10. Who May Appeal to the Board

Appeals to the Board may be taken by any person aggrieved or by any officer or board of the Town affected by any decision of the Planning and Zoning Commission.

Section 7-11. Rules and Procedures for Filing Interpretations and Variance Appeals and Special Exception Applications

- (a) General rules and procedures for appeals and applications:
 - 1. Any appeal shall be made by filing with the Planning and Zoning Commission within thirty (30) days after a decision.
 - 2. All appeals and applications shall refer to the specific provisions of the Ordinance involved.
- (b) Interpretation Appeals - appeals concerning the interpretation of any provisions of this Ordinance shall exactly set forth the interpretation that is claimed.
- (c) Variance Appeals - appeals for variance from the strict application of this Ordinance shall include the Zoning Permit application denied by the Planning and Zoning Commission together with a statement with any supporting data regarding the requirements listed in Article 7, Section 7-6(c).
- (d) Special Exception Applications - applications for special exceptions shall include a Zoning Permit application with all information required therein, and a statement with any supporting data regarding the merits of the proposed use at the proposed location, and how the proposal complies with the general and specific requirements of this Ordinance.

Section 7-12. Review by the Planning and Zoning Commission on Applications for Special Exceptions, Variances, and Interpretations

The Board shall request an advisory opinion from the Planning and Zoning Commission on any application for a variance, special exception, or interpretation and the Commission shall submit a report of such advisory opinion prior to the decision by the Board on an application. Advisory opinions of the Commission regarding variances, special exceptions, and interpretations shall be rendered within thirty (30) days after submission to it; otherwise, such special exception, variance or interpretation shall be deemed to have been recommended for approval.

Section 7-13. Decisions by the Board

Decisions by the Board on special exceptions, variances, and interpretation appeals shall be rendered within ten (10) calendar days of the hearing unless a later date is mutually agreed upon by the Board and the applicant.

Section 7-14. Appeal to Court

Any person or persons, jointly or severally, aggrieved by any decision of the Board, or any taxpayer of the Town, or any officer or board of the Town, may appeal the same to the Circuit Court of Anne Arundel County.

ARTICLE 8
AMENDMENTS, REMEDIES, AND PENALTIES

Section 8-1. Power of Amendment

The Highland Beach Board of Commissioners may from time to time amend, supplement, change, modify, or repeal this Ordinance including the Zoning Map. When doing so, the Highland Beach Board of Commissioners shall proceed in the manner prescribed in this Article. *[Amended by Resolution 3-02]*

Section 8-2. Who May Initiate

Proposals for amendment, supplement, change, modification, or repeal may be initiated by the Highland Beach Board of Commissioners on its own motion by the Planning and Zoning Commission, or by petition of one or more owners of property to be affected by the proposed amendment, subject to the following provisions: *[Amended by Resolution 3-02]*

- (a) Proposals Originated by the Highland Beach Board of Commissioners - The Highland Beach Board of Commissioners shall refer every proposed amendment, supplement, change modification, or repeal originated by the Commission to the Planning and Zoning Commission. Within sixty (60) days of the submission of said proposal, the Planning and Zoning Commission shall submit to the Highland Beach Board of Commissioners a report containing the Planning & Zoning Commission's recommendations including any additions or modifications to the original proposal. *[Amended by Resolution 3-02]*
- (b) Proposals Originated by the Planning and Zoning Commission - The Planning and Zoning Commission may at any time transmit to the Highland Beach Board of Commissioners any proposal for the amendment, supplement, change, modification, or repeal of this Ordinance. *[Amended by Resolution 3-02]*
- (c) Proposals originated by a Citizen's Petition - Each petition by one or more owners of property to be affected by a proposal for amendment, supplement, change, or modification shall be submitted on forms provided therefore to the Town Clerk. On receipt of said petition, the Town Clerk shall transmit a copy of the petition to the Planning and Zoning Commission. Within sixty (60) days following a public hearing, as provided in Section 8-3, the Planning and Zoning Commission shall submit a report to the Mayor and Highland Beach Board of Commissioners containing the Planning & Zoning Commission's recommendations including any additions or modifications of the original proposal. Failure to submit a report within sixty (60) days shall be deemed to be a recommendation of approval of the petition by the Planning and Zoning Commission. The Highland Beach Board of Commissioners shall defer action on a petition until the recommendations of the Planning and Zoning Commission are received and reviewed, or until sixty (60) days have elapsed, whichever may occur first. *[Amended by Resolution 3-02]*

Section 8-3. Public Hearing Notice

No such amendment, supplement, change, modification, or repeal shall become effective until after a public hearing by the Highland Beach Board of Commissioners in relation thereto at which parties in interest and citizens shall have the opportunity to be heard. Notice shall be given as follows: *[Amended by Resolution 3-02]*

- (a) Once each week for two (2) successive weeks and at least fifteen (15) days prior to the date fixed for public hearing, publish a notice containing the name of the applicant and the date, time, and place fixed for the hearing; and the general nature of such hearing in at least one (1) newspaper of general circulation in the Town.
- (b) When such hearing concerns a zoning map change, post in a conspicuous place on the property involved a notice of pending action containing the same information as in (a) above, such posting to take place at least fifteen (15) days prior to the date fixed for public hearing.

Section 8-4. Fees

All applicants for zoning amendments shall, at the time of making application, pay to the Town Treasurer for use of the Town, a fee in accordance with a Fee Schedule adopted by resolution of the Highland Beach Board of Commissioners upon enactment of this Ordinance, or as such schedule which may be amended by resolution of the Highland Beach Board of Commissioners. *[Amended by Resolution 3-02]*

Section 8-5. Remedies

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this ordinance, the appropriate authorities of the Town of Highland Beach, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct, abate such violate; to prevent any illegal act, conduct, business, or use in or about such premises. The rights and remedies provided in this Ordinance are cumulative and are in addition to all other remedies provided by law.

Section 8-6. Fines and Penalties

- (a) For any and every violation of the provision of this Ordinance:
 1. The owner, general agent, or contractor of a building or premises where such violation has been committed or shall exist;
 2. The owners, general agent, architect, builder, contractor, or any other person who commits, takes part, or assists in any such violation, or who maintains any building or