

Town of Brookeville Zoning Ordinance

Article I. In General

Section 10-101. Purpose:

The Town of Brookeville has been included on the National Register of Historic Places since 1979 and designated as an historic district under the Montgomery County Historic Preservation Ordinance since 1986. The Brookeville Zoning Ordinance is designed to preserve and protect this well recognized historic heritage, yet allow reasonable flexibility for new development, changes in existing structures and current and future uses throughout the Town in a manner consistent with the goals and objectives of the Brookeville Comprehensive Plan, as amended.

Section 10-102. Application

This Ordinance applies to all real property in the Town of Brookeville, Maryland.

Section 10-103. Zones

The Town is hereby divided into the following zones:

HVR – Historic Village Residential

HVC – Historic Village Commercial

Section 10-104. Adoption of text

The text of the Zoning Ordinance of the Town of Brookeville, Maryland is hereby adopted for the purposes of protecting the health, safety, comfort, property values and welfare of the present and future inhabitants of the Town of Brookeville.

Section 10-105. Adoption of map

The Zoning Map entitled “Zoning Map of Town of Brookeville, Maryland” dated (xxxx), 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.]

Article II. Definitions

Section 10-201.

The following words and terms have the meanings stated in this section. All other words and phrases have their common, ordinary meaning unless the context clearly indicates otherwise:

(a). 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.

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(b). Bed and Breakfast: A dwelling in which a resident makes available to transient visitors lodging and breakfast in up to three bedrooms for a maximum of two weeks per visit. Such facility must comply with all state and County rules and regulations.

(c). Family Day Care Home: A dwelling in which child day care services are provided in accordance with all applicable state and County laws and regulations, in a home where a resident is the registrant. Care may be provided for a maximum of eight (8) children, including the children of the provider, who are less than six (6) years of age, and where the staffing complies with state and County regulations. No more than two nonresident staff members are on the site at any one time.

(d). Height of building: The vertical distance measured from the level of approved street grade opposite the middle of the front of a building to the highest point of a flat roof; to the mean height level between eaves and ridge of a gable, mansard, or hip roof; except that if the building is located on a terrace, the height above the street grade may be increased by the height of the terrace.

(e). Home Occupation: An occupation which meets all of the following requirements:

(1) It provides a service or product conducted within a dwelling by the resident or residents;

(2) Not more than two (2) nonresident assistants are engaged or employed on the premises;

(3) No modification to the exterior of the premises shall be made to accommodate the occupation except according to a condition approved by the Planning Commission. One (1) sign, not exceeding a total of two and one-half square feet may be displayed on the exterior of the premises. The sign must not be illuminated;

(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) No equipment or facilities are used other than: (a) office equipment such as a typewriter, word processor, calculator, or personal computer and related devices; (b) arts and crafts equipment such as a hand loom, spinning wheel, potter's wheel, kiln, woodworking tools, paints, easels, sculpting equipment, or sewing machines; (c) equipment or facilities ordinarily used for domestic and household purposes;

(6) Visitors from the outside are limited to ten (10) per day.

(f). Lot. A parcel of land occupied or to be occupied by a building and its accessory buildings together with such open spaces as are required under the provisions of this Chapter, having at least the minimum areas required by this Chapter for a lot in the zone in which it is situated and having its principal frontage on a public street. It does not include an outlot.

(g). Private educational institution for the teaching of music or art.

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(h). Professional and business office. An office for the use of professional persons such as doctors, lawyers, accountants, insurance agents, investment advisors, plumbing companies and real estate companies, but not including any retail or wholesale store or warehouse.

(i). Public Use: A use operated by the State of Maryland, Montgomery County or Town of Brookeville other than a waste disposal facility and a storage yard.

(j). Restricted Historic Retail: An antique, art, art supply, book, craft, craft supply, picture framing, and/or gift store. Such use is subject to the Historic Use permit requirements of Section 400.

(k). Single-family dwelling: A detached dwelling designed and used as a residence by one (1) family or not more than five (5) unrelated individuals.

Article III. Residential Zone

Section 10-301. HVR- Historic Village Residential – One family detached, 1 dwelling unit per acre.

(a). Purpose and Intent: To provide for single-family detached dwellings at a density not to exceed one dwelling unit per acre, on lots no less than 10,000 square feet in size, and to allow additions to existing structures and certain other uses which are compatible with the low density residential character of this Zone.

(b). Permitted Uses:

(1) Residential

A. Single-family dwelling

B. Accessory apartment

C. Guest rooms, for not more than two roomers in any dwelling unit

(2) Transportation, Communication And Utilities

A. Electric power transmission and distribution lines, overhead, carrying 69,000 volts of less

B. Electric power transmission and distribution line, underground

C. Pipelines, underground

D. Telephone and telegraph lines (new construction underground)

E. County franchised television/communication cable

F. Parking of motor vehicles, off street, in connection with any use permitted in the zone

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(3) Services

- A. Adult foster care home (1 adult)
- B. Bed and Breakfast
- C. Family day care home
- D. Home Occupation

(4) Cultural Entertainment And Recreational

- A. Parks, institutionally owned
- B. Places of worship
- C. Publicly owned or publicly operated uses

(5) Agricultural

- A. Agricultural uses, devoted to primary agricultural products

(6) Miscellaneous

- A. Accessory structures and uses
- B. Signs, in accordance with Section 200(e)(3)

(c). Development Standards:

(1) Minimum lot area: 10,000 square feet

(2) Maximum building height:

A. Single-family dwelling: 35 feet

B. Accessory building: 35 feet, or not taller than the primary structure.

(3) Setbacks:

A. Main buildings:

i. Side yard – Eight (8) feet.

ii. Front yard – Fifteen (15) feet.

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iii. Rear yard – Forty (40) feet.

(4) Accessory buildings – May only be located in the side or rear yard and must be setback a minimum of two (2) feet from any property line.

Exceptions to these requirements may be approved by the Planning Commission at the time of site plan review upon a showing of good cause and a finding that the location and height of the proposed construction is compatible with the adjoining and confronting properties and is consistent with the historic building patterns within the Town.

Section 10-302. Method of Residential Development.

In order to preserve, protect and enhance the historic patterns of development in Brookeville, all applications for new residential development must be submitted for subdivision and site plan review and approval by the Planning Commission on forms provided by the Town. Any plan for new development may be permitted to yield up to no more than one lot per acre. Such application must meet the requirements of the Brookeville Subdivision Ordinance, and must, in addition, comply with the following standards:

- (a). It must consist of at least one acre;
- (b). It must provide residential lots no less than 10,000 square feet in size and provide appropriate mechanisms approved by the Planning Commission for protecting and conserving the non-developed portion;
- (c). It must conform to the approved and adopted comprehensive plan for the Town, and, in particular, meet the objectives for conserving the Town=s cultural landscape;
- (d). It must be compatible with and not detract from existing development in the Town;
- (e). It must not overburden existing public services or facilities;
- (f). It must be consistent with all local, county, state and federal environmental requirements and objectives;
- (g). It must provide adequate and safe access to a public street.

Article IV. Commercial Zone

Section 10- 401. HVC – Historic Village Commercial

(a). Purpose and Intent: To provide for the support of and continuation or alteration of existing commercial uses in a manner consistent with the Town=s historic heritage. It is the intent of this zone to permit low intensity commercial and professional office uses which achieve maximum compatibility with adjoining residential areas with low activity, low traffic, adequate parking, screening and buffering.

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(b). Permitted Uses:

(1) Residential

A. Single-family dwelling

B. Accessory apartment

C. Guest rooms, for not more than two roomers in any dwelling unit

(2) Transportation, Communication and Utilities

A. Electric power transmission and distribution lines, overhead, carrying 69,000 volts of less

B. Electric power transmission and distribution line, underground

C. Pipelines, underground

D. Telephone and telegraph lines (new construction underground)

E. County franchised television/communication cable

F. Parking of motor vehicles, off street, in connection with any use permitted in the zone

(3) Services

A. Adult foster care home (1 adult)

B. Family day care home

C. Bed and Breakfast

D. Home Occupations

E. Professional and Business Offices

F. Restricted Historic Retail

G. Private educational institution for the teaching of music or art.

(4) Cultural Entertainment and Recreational

A. Parks, institutionally owned

B. Places of worship

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C. Publicly owned or publicly operated uses

(5) Agricultural

A. Agricultural uses, devoted to primary agricultural production

(6) Miscellaneous

A. Accessory structures and uses

B. Signs, up to an aggregate total of twenty (20) square feet

(c). Development Standards:

(1) Building height: Normally, 25 feet. At the time of site plan review, this may be increased to 35 feet.

(2) Setbacks: All setbacks must demonstrate a compatible relationship to adjacent existing and proposed development.

(3) Any new redevelopment or additions to existing structures must satisfactorily demonstrate to the Planning Commission that the redevelopment will be consistent and compatible with the historic heritage and design of Brookeville and surrounding residential uses. The Planning Commission shall evaluate any new redevelopment based on its design characteristics, use of construction materials and proposed setbacks, height and adequacy of parking.

(d). Use approval. All properties in this zone must obtain a Historic Use permit from the Planning Commission for any change in use. All such applications must be submitted on forms made available by the Town and shall demonstrate that the proposed use is of a nature and scale consistent with the historic heritage of the Town and complies with the requirements of this Zone. In particular, such application must include (1) information as to the intended number of employees/workers, anticipated number of visitors/clients/students, and intended hours of operation and (2) a parking plan, and must describe how the application will achieve the objectives of this ordinance. Such application must provide a detailed description of any proposed signage, which may not be illuminated, and describe whether the proposed use will use equipment or any process which may create noise, vibration, glare, fumes, odors or electrical or electronic interference detectable beyond the walls of the structure.

Such use permit may be approved upon the finding that the proposed use will not adversely affect the health, or safety of residents of the Town and will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood and will be consistent with the historic character of the Town. The Planning Commission may attach such conditions to the approval of the permit, including the imposition of such restrictions as may be reasonable and necessary to assure that the proposed use will be consistent with the purpose and intent of this Ordinance. No Historic Use permit is assignable nor may it be modified without the approval of the Planning Commission. Any change in use must receive a new permit.

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Article V. Procedure for Approval

Section 10-501. HVR Zone

An applicant for new development in the HVR zone must file a subdivision plan and a site plan which meets all the requirements of Section 7.3.4. B.2 of the Montgomery County Code for review and approval by the Planning Commission in accordance with this Chapter. The subdivision plan may be approved upon both a finding by the Planning Commission that the objectives of the Brookeville Subdivision Ordinance are achieved by the plan, and a finding by the Planning Commission that the site plan meets the site plan requirements in Section 10-503. For good cause shown, the requirement of submission of a subdivision plan may be waived by the Planning Commission pursuant to Section 11-704 of the Code.
(Ordinance No: TX 2018-01)

Section 10-502. HVC Zone

An applicant for redevelopment or for any new addition to an existing structure in the HVC zone must file a site plan which meets all the requirements of Section 7.3.4. B.2 of the Montgomery County Code for review and approval by the Planning Commission. It may be approved only upon a finding by the Planning Commission that the site plan meets the site plan requirements in Section 10-503.
(Ordinance No: TX 2018-01)

Section 10-503. Site Plan Requirements:

- (a). The site plan must be consistent with the Brookeville Comprehensive Plan;
- (b). The location of the buildings and structures, the open spaces, the nondeveloped spaces, the landscaping, recreation facilities and the pedestrian and vehicular circulation systems must be adequate, safe and efficient for the use proposed;
- (c). Each structure and use must be compatible with other uses and other site plans and with existing and proposed adjacent and nearby development.

The fact that a site plan complies with all of the stated general regulations and other requirements shall not, by itself, be deemed to create a presumption that the proposed site plan is, in fact, compatible with surrounding land uses and, in itself, shall not be sufficient to require approval of the site plan.

Upon approval the site plan shall be signed by the applicant agreeing to execute all the features and requirements that are part of the site plan and signed by the Chairman of the Planning Commission, certifying the Town=s approval of the site plan.

In the case of any land requiring site plan approval, or any development for which site plan approval is a condition, a record plat must not be approved, and a building permit may not be issued unless the proposed construction is in strict compliance with a site plan approved in accordance with this Ordinance.

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Article VI. Miscellaneous Provisions

Section 10-601. Extensions and Projections

Bay windows, entrances, chimneys, eaves, steps, stoops, terraces, patios, porches, vestibules and any similar extensions of a main or accessory building may extend into any existing or approved front or side or rear yard upon approval by the Planning Commission and its finding that such extension will not have an adverse impact on adjacent properties.

Section 10-602. Signs.

The number, character, and aggregate size of all signs, except those regulated under Section 10-201(e)3 must be shown on a site plan and approved by the Planning Commission.

Section 10-603. Nonconforming Structures and Uses

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, except as otherwise provided herein. A nonconforming use which is conducted on less than an entire lot or parcel at the time of the adoption of this Ordinance shall not be extended or enlarged to other portions of the lot or parcel unless approved by the Planning Commission.

Section 10-604. Existing Platted Lots Not Non-conforming

Any lot that was legally created by subdivision plat recorded before July 13, 1999 and was a buildable lot under the Montgomery County Zoning Ordinance in effect prior to July 13, 1999, has not changed in size or shape since its recordation, and is the subject of a separate tax account is a buildable lot for a one family dwelling only, even though the lot may have less than the minimum area required under this Ordinance. Any new construction on such lot must be approved by the Planning Commission as provided for in Sections 10-301, 10-302 and 10-503 above.

Any other property, lot or parcel created by deed or otherwise must comply with the subdivision ordinance or receive a waiver from compliance with the Ordinance for good cause shown by the Planning Commission pursuant to Section 11-704 of the Code.

Section 10-605. Existing Buildings.

Any existing building or accessory structure which was built prior to [DATE OF ADOPTION] and lawful when established but which no longer conforms to the requirements of this Ordinance due to the size of the lot or parcel on which it is located, its height, or setbacks, is declared to be a conforming use and may be replaced or repaired, but not expanded. Any replacement of, addition to, or expansion of such building or structure, that reduces the degree of conformity, and the construction of any new building or structure on the lot or parcel on which the main building is located, must be approved by the Planning Commission through the site plan review process in Sections 10-501 through 10-503 above to ensure the compatibility of the design and proposed

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materials with the adjoining properties and the historic heritage of the Town. This requirement applies to all new construction which will extend the footprint of an existing main building in any way, all construction which replaces an existing structure or part thereof, and proposed balconies, porches, decks, garages, walkways, vestibules, swimming pools, accessory structures, barns, coops, gazebos and the like.

Section 10-606. Board of Appeals

The Brookeville Commissioners shall constitute the Board of Appeals and shall exercise the authority set out in Section 4.07 of Article 66B, Annotated Code of Maryland.

Section 10-607. Public Meetings

All decisions of the Planning Commission and the Brookeville Commissioners as to any application under this Zoning Ordinance for a use permit, site plan approval or subdivision approval shall be reached after notification to adjacent property owners of the application and any proposed conditions, and a public meeting.

Section 10- 608. Zoning map and text amendments

Any proposed modification or amendment to the text of this zoning ordinance and any proposed changes in the boundaries of the zones established by the Town must be first submitted to the Planning Commission for review and comment. The Town Commissioners shall not adopt any changes in this zoning ordinance or in the boundaries of any zone established by the Town without holding at least one public hearing at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of the public hearing, together with a summary of the proposed regulation, restriction or boundary shall be published in at least one newspaper of general circulation in the Town once each week for two successive weeks with the first publication of notice appearing at least 14 days prior to the hearing. Any change in the text of the zoning ordinance or zoning boundaries shall not become effective until at least 10 days after such public hearing.

Section 10-609. Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance which shall remain in full force and effect, and for this purpose, the provisions of this Ordinance are hereby declared to be severable.

Section 10-610.

In any instance where any provision of this Ordinance conflicts with any other provision of law, that provision which is more restrictive or imposes a higher standards shall govern. Such determination shall be made by the Brookeville Planning Commission.

Article VII. Violations

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Section 10-701. Violations

A violation of this Ordinance may be prosecuted as a municipal infraction in the District Court of Maryland, subject to a fine of \$1000.00 or imprisonment for six (6) months, or both.

In addition or as an alternative, the Commissioners of Brookeville may seek an injunction in the District Court of Maryland to prevent or terminate a violation of this Ordinance, as provided by the laws of the State of Maryland.