



**BERLIN MAYOR AND COUNCIL**  
**Meeting Agenda**

**Berlin Town Hall**  
**10 William Street**  
**Monday, November 26, 2018**

**7:00 PM      REGULAR SESSION – Council Chambers**

1. Approval of the Minutes for:
  - a. Executive Session of 11/13/18
  - b. Statement of Closure for Executive Session of 11/13/18
  - c. Regular Session of 11/13/18
  
2. Public Hearings: – Planning and Zoning Director David Engelhart
  - a. Ordinance 2018-05: Ordinance amending Chapter 108, Article I, Section 108-5, entitled “Definitions,” by adding a definition of “Group Home.”
  - b. Public Hearing: Ordinance 2018-06: Ordinance permitting a Group Home to be allowed as a conditional use subject to approval by the Board of Zoning Appeals in the B-1 Zoning District subject to area limitations
  
3. Departmental Reports:
  - a. Finance Director – Natalie Saleh
  - b. Administrative Services Director – Mary Bohlen
  - c. Electric – Tim Lawrence
  - d. Chief – Arnold Downing
  - e. Planning – Dave Engelhart
  - f. Economic and Community Development – Ivy Wells
  - g. Managing Director – Jeff Fleetwood
  
4. Town Administrator’s Report – Managing Director Jeff Fleetwood on behalf of Laura Allen
  
5. Comments from the Mayor
  
6. Comments from the Council
  
7. Comments from the Public
  
8. Comments from the Press
  
9. Adjournment

Anyone having questions about the meetings mentioned above or needing special accommodations should contact Laura Allen, Town Administrator at (410) 641-4144. Written materials in alternate formats for persons with disabilities are made available upon request.

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**BERLIN MAYOR AND COUNCIL**  
**Meeting Minutes**  
**Tuesday, November 13, 2018**

**7:00 PM REGULAR SESSION – Berlin Town Hall Council Chambers**

**Present:** Mayor Gee Williams, Councilmembers Thom Gulyas, Zackery Tyndall, Dean Burrell, and Troy Purnell.

**Absent:** Vice-President Elroy Brittingham.

**Staff Present:** Town Administrator Laura Allen, Managing Director Jeff Fleetwood, Administrative Services Director Mary Bohlen, Finance Director Natalie Saleh, Water Resources/Public Works Director Jane Kreiter, Police Chief Arnold Downing, Electric Utility Director Tim Lawrence, Planning Director Dave Engelhart, Economic and Community Development Director Ivy Wells, Town Attorney David Gaskill, and Town Clerk Kelsey Jensen.

Following the Lord’s Prayer and Pledge of Allegiance, Mayor Williams called the meeting to order at approximately 7:00 PM.

1. Approval of the Minutes for:

a. Executive Session of 10/22/18:

Councilmember Gulyas noted a correction in paragraph three that organizations should be changed to faith-based organizations. Councilmember Tyndall said the same should be noted in the statement of closure. Councilmember Burrell said the first paragraph should include Vice-President Brittingham.

On the motion of Councilmember Gulyas, the Executive Session minutes of October 22, 2018 with the corrections noted were approved by the following vote:

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Elroy Brittingham, VP					X
Dean Burrell	X				
Troy Purnell	X				
Thom Gulyas	X				
Zackery Tyndall	X				
<i>Voting Tally</i>	4				1

b. Statement of Closure for Executive Session of 10/22/18:  
 Mayor Williams read the Statement of Closure.

c. Regular Session of 10/22/18:

On the motion of Councilmember Gulyas, the Regular Session Minutes of October 22, 2018 were approved by the following vote:

Name	Counted toward Quorum				
	Aye	No	Abstain	Recused	Absent
Elroy Brittingham, VP					X
Dean Burrell	X				
Troy Purnell	X				
Thom Gulyas	X				

Zackery Tyndall	X				
<i>Voting Tally</i>	4				1

2. Proclamation 2018-12: Proclaiming November to be Municipal Government Works Month  
Town Administrator Laura Allen read Proclamation 2018-12 proclaiming November as Municipal Government Works Month.
3. Local Government Insurance Trust (LGIT) Law Enforcement Body Camera grant award presentation  
LGIT Executive Director Tim Ailsworth presented the Town with a check for the Body Cams Grant and thanked the Town for their membership. Chief Downing thanked Mr. Ailsworth for the support.
4. Motion 2018-31: Motion accepting the Non-profit Grant Awards as recommended in the staff report  
Town Administrator Laura Allen explained the policy and the reasoning behind creating the policy and asked that the Council approve the recommendations in the staff report. All of the recommended organizations were present except for Berlin Arts and Entertainment.  
On the motion of Councilmember Burrell, Motion 2018-31 was approved by the following vote:

Name	Counted toward Quorum			Recused	Absent
	Aye	No	Abstain		
Elroy Brittingham, VP					X
Dean Burrell	X				
Troy Purnell	X				
Thom Gulyas	X				
Zackery Tyndall	X				
<i>Voting Tally</i>	4				1

5. Public Hearing: Ordinance 2018-01: Ordinance repealing in its entirety Chapter 2, Article II entitled Ethics Provisions, and enacting Chapter 2, Administrative Article II, Ethics Provisions in its place  
Mayor Williams explained that the purpose of the Ordinance change is to comply with State regulations. Mayor Williams opened the public hearing at 7:20 PM. With no comments, the public hearing closed at 7:21 PM.  
On the motion of Councilmember Purnell, Ordinance 2018-01 was approved by the following vote:

Name	Counted toward Quorum			Recused	Absent
	Aye	No	Abstain		
Elroy Brittingham, VP					X
Dean Burrell	X				
Troy Purnell	X				
Thom Gulyas	X				
Zackery Tyndall	X				
<i>Voting Tally</i>	4				1

6. First Reading: Ordinance 2018-05: Ordinance amending Chapter 108, Article I, Section 108-5, entitled "Definitions," by adding a definition of "Group Home."  
Planning and Zoning Director David Engelhart explained the Ordinance. The Public Hearing will be at the Mayor and Council Meeting on November 26, 2018.

7. First Reading: Ordinance 2018-06: Ordinance permitting a Group Home to be allowed as a conditional use subject to approval by the Board of Zoning Appeals in the B-1 Zoning District subject to area limitations  
 Planning and Zoning Director David Engelhart explained the Ordinance. The Public Hearing will be at the Mayor and Council Meeting on November 26, 2018.

8. Resolution 2018-03: Resolution affirming master services agreement for wholesale electric purchases and authorizing the Mayor and Town Administrator to execute schedules and confirmations thereunder within certain parameters  
 Town Administrator Laura Allen explained the purpose of the resolution and said it will be on an annual basis and voted on each spring.  
 On the motion of Councilmember Tyndall, Resolution 2018-03 was approved by the following vote:

Name	Counted toward Quorum			Recused	Absent
	Aye	No	Abstain		
Elroy Brittingham, VP					X
Dean Burrell	X				
Troy Purnell	X				
Thom Gulyas	X				
Zackery Tyndall	X				
<i>Voting Tally</i>	4				1

9. Departmental Reports:

a. Finance Director – Natalie Saleh

Ms. Saleh received the PKS audit and they will be discussing the report on Thursday. They will then present the information to the Mayor and Council at the December Meeting. Friday the Finance Department will be at a conference at Salisbury University.

b. Administrative Services Director – Mary Bohlen

Ms. Bohlen reported that the Fall Just Walk event had 31 walkers. After Just Walk the Ribbon Cutting took place for the Tennis Courts. Ms. Bohlen and Mayor Williams thanked Public Works, Water Resources, and the Electric Department for the services they provided in-kind.

c. Water Resources/Public Works Director – Jane Kreiter

Ms. Kreiter said single stream recycling has begun. The dumpster is located on the old Rayne’s property; it will be replaced with a shorter dumpster. That service is open to commercial and residential properties. Public Works will still be picking up recycling from homes, but that still needs to be sorted. Tomorrow Water Resources will be repairing a hydrant on West Branch Street and residents will have their water shut-off from 8 AM-1 PM. Councilmember Burrell asked that she take a look at the Flower Beds in Henry Park.

d. Electric Utility Director – Tim Lawrence

Mr. Lawrence reported that they have installed the downtown Christmas lights. They received the tree today, will set it tomorrow and hopefully decorate it on Thursday or Friday. They are currently doing tree trimming and assisting Public Works with bulk pick up. Mayor Williams asked when the Christmas street lights come on; Mr. Lawrence said when they light the tree on Friday, November 23<sup>rd</sup>. Ms. Wells stated that the tree lighting will be at 6 PM and the event will begin at 5:30 PM.

e. Police Chief – Arnold Downing

Chief Downing explained the purpose of “No Shave November”; he encouraged men to be screened. AGH will be offering free scans tomorrow.

f. Planning and Zoning Director – David Engelhart

Mr. Engelhart said there was a fire at Apple Drug over the weekend. The drive thru is still operational, but if you are filling a new prescription they encourage that you use the Fruitland or Salisbury location. Planning Commission meets tomorrow at 6 PM to discuss the proposed BBQ restaurant. On Monday and Tuesday next week he will attend the Maryland Climate Academy along with Ms. Allen, Ms. Wells, and Ms. Pfaller.

g. Economic and Community Development Director – Ivy Wells

Ms. Wells said they are in full Christmas mode. During the tree lighting event the shops will stay open later and the road will be closed. She thanked the casino for doing the ice carving again this year, and Burley Tavern for their donation from the cornhole tournament for new decorations. The small business Saturday hashtag will be #shopsmallgivebig. She will be attending two conferences in the next week. Mayor Williams thanked everyone who took part in the Comcast promotional video; it will be posted on the Berlin Main Street page.

h. Managing Director – Jeffrey Fleetwood

Mr. Fleetwood will be attending a resume workshop at Salisbury tomorrow. Friday, he and Mr. Wheaton will be attending the Lower Shore Safety Meeting.

10. Town Administrator's Report – none.

11. Comments from the Mayor – none.

12. Comments from the Council – none.

13. Comments from the Audience:

Sandy Sipes (Worcester G.O.L.D.), Shea Wise (Worcester County Commission on Aging), and Mark Cerbo (Worcester County Developmental Center) all thanked the Mayor and Council for their support and gave a brief explanation of their organizations purpose.

Residents Carol Rose, Ernest Gerardi, Jeremy Blackford, Kim Halloway, and Summer Frederick all expressed concerns with 114 N. Main Street obtaining a liquor license. They will be requesting approval from the County in Snow Hill on Monday, November 19<sup>th</sup> at 1:10 PM. Nicole Brushmiller encouraged residents with concerns to contact them for open communication at [vikingtreesberlin@gmail.com](mailto:vikingtreesberlin@gmail.com). Councilmember Gulyas asked Town Attorney David Gaskill to explain the process of obtaining the license. Mr. Gaskill said approval comes from the County, the Town is responsible for ensuring that standards are met. Bryan Brushmiller said the reasoning behind their decision is to benefit the community with tourism. Ms. Halloway said her concern is that the Town needs better control of the streets; Mayor Williams encouraged her to contact the Police Department if she sees something concerning.

14. Comments from the Press – none.

15. Adjournment:

On the motion of Councilmember Burrell, the Mayor and Council meeting was adjourned at approximately 8:05PM.

Name	Counted toward Quorum			Recused	Absent
	Aye	No	Abstain		
Elroy Brittingham, VP					X
Dean Burrell	X				
Troy Purnell	X				
Thom Gulyas	X				
Zackery Tyndall	X				
<i>Voting Tally</i>	4				1

Respectfully Submitted,



Kelsey Jensen  
Town Clerk

**ORDINANCE 2018-05**

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, MARYLAND, A MARYLAND MUNICIPAL CORPORATION, AMENDING ARTICLE VI, CHAPTER 108, ARTICLE I, SECTION 108-5, ENTITLED "DEFINITIONS," BY ADDING A DEFINITION OF "GROUP HOME."

NOW THEREFORE, BE IT ENACTED by the Mayor and Council of the Town of Berlin that Chapter 108, Article I, Section 108-5 be amended as follows:

Section 108-5 - Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accessory building* means a structure subordinate to an existing principal building on the same lot and serving a purpose customarily incidental to the use of the principal building or land use.

*Accessory living quarters* means an accessory building used solely as the temporary dwelling of guests of the occupants of an existing principal use; such dwelling having no kitchen facilities and not rented or otherwise used as a separate dwelling unit.

*Accessory use* means a use conducted on the same lot as the primary use of the structure to which it is related; a use which is clearly incidental to, and customarily found in connection with such primary use.

*Agriculture* means the use of land for agricultural purposes, including field cropping, pasturing, aquaculture, horticulture, floriculture, viticulture, forestry, tree farming and the necessary accessory uses for packing, treatment or storing the produce thereof; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agriculture activities and provided further that the above uses shall not include the business of keeping poultry or garbage feeding of hogs or other animals, or fur farms, or the raising of such animals as rats, mice, monkeys, reptiles and the like.

*Alley* means a public or private way affording secondary means of access to abutting property, having a width more than ten feet, but less than 16 feet in width, which has been dedicated or deeded to the public for public use.

*Basement* means a story where the floor is more than 12 inches, but not more than one-half of its story height, below the average level of the adjoining ground.

*Bed-and-breakfast* means a dwelling or part thereof, where meals and/or lodging is provided for compensation for transient persons and designed for or used exclusively as the primary residence of one family.

*Billboards and signs.*

- (1) *Billboard* means any off-premises structure or portion thereof, situated on private premises, on which lettered, figured or pictorial matter is displayed for commercial advertising purposes other than the name and occupation of the user of such premises or the nature of the business conducted thereon or the principal products sold or manufactured thereon.
- (2) *Combination sign* means a sign incorporating any combination of the features of pole, projecting, wall and roof signs.
- (3) *Display surface* means the area made available by the sign structure for the purpose of displaying the advertising message.
- (4) *Electric sign* means any sign containing electrical wiring, but not including signs illuminated by an exterior light source.
- (5) *Ground sign* means a billboard or similar type of sign which is supported by one or more uprights, poles or braces in or upon the ground other than a combination sign or pole sign, as defined by this chapter.
- (6) *Marquee* means a permanent roofed structure attached to and supported by the building and projecting over public or private property.
- (7) *Pole sign* means a sign wholly supported by a sign structure in the ground.
- (8) *Portable display surface* means a display surface, temporarily fixed to a standardized advertising structure, which is regularly moved from structure to structure.
- (9) *Projecting sign* means a sign other than a wall sign which projects from and is supported by a wall of a building or structure.
- (10) *Real estate sign* means a sign advertising for sale or rent the premises on which it is located.
- (11) *Roof sign* means a sign erected upon or above a roof or parapet of a building or structure.
- (12) *Sidewalk sign* means an accordion-type sign which may be placed on the sidewalk, displaying only the name and nature of the business.
- (13) *Sign* means any sign, including its structure and component parts, which is used or intended to be used to attract attention to the subject matter for advertising purposes other than paint on the surface of a building.
- (14) *Sign structure* means any structure, which supports or is capable of supporting a sign as

defined by this chapter.

- (15) *Temporary sign* means any sign, banner, pendant valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, wood or other light materials, with or without frames, intended to be displayed for a limited period of time.
- (16) *Wall sign* means any sign attached to or erected against the wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of said wall.

*Board* means the board of appeals established hereunder.

*Boardinghouse* means a dwelling containing not more than six guest rooms or suites of rooms, where lodging is provided with or without meals, for compensation for persons not transients.

*Building* means any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals or chattels, and any tent, cabin or mobile house. When such a structure in single ownership is divided by one or more unpierced walls extending from the ground up, it shall be considered one building for the purpose of applying the provisions of this chapter.

*Building, height of,* means the vertical distance from the average finished grade at the building line to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

*Cellar* means a story having more than one-half of its height below average finished grade. A cellar is counted as a story for the purpose of height regulations only if used as a separate dwelling.

*Comprehensive plan* means the long-range plan for desirable use of land, as approved by the planning and zoning commission and officially adopted by the Mayor and Council and as amended from time to time, the purpose of such plan being, among other purposes, to serve as a guide in zoning and progressive changes in the zoning of land to meet changing community needs, in the subdividing and use of undeveloped land and in the acquisition of rights-of-way or sites for such public facilities as streets, parks, schools and public buildings.

*Conditional use* means a use which may be permitted in a district through the granting by the board of appeals of a special exception as defined in Md. Ann. Code art. 66B, § 1.00, as amended upon a finding by the board that it meets specified conditions.

*Construction, start of,* means the combining of labor and material into any portion of the structure on the site thereof.

*Court* means an open, unoccupied and unobstructed space, other than a yard, on the same lot with a building or group of buildings.

*Day-care center* means a nursery school or child-care facility providing adult supervision and care for not fewer than five persons not members of the caregiver's family in the caregiver's home or in a building outside of the home.

*Day-care, residential,* means a dwelling unit in which daytime adult supervision is provided for up to eight children not members of caregiver's family under the age of 21 and in which the dwelling is the primary residence of the caregiver.

*District* means a designated geographical area of the town within which certain uniform regulations and requirements, or various combinations thereof, apply under the provisions of this chapter. The term "R District" shall mean any R-1, R-2, R-3 and R-4 District; the term "B District" shall mean any B-1, B-2, and B-3 District; the term "M District" shall mean any M-1 and M1-A District; the term "H District" shall mean any H-1 District.

*Domiciliary care unit* means any institution, which admits four or more non-related aged or disabled persons, maintains the necessary facilities and provides a protective institutional or home-type environment to persons of advanced age or mental or physical disability. This shall not include "limited dwellings."

*Dwelling* means any building or portion thereof occupied or intended to be occupied exclusively for the residence purposes, but not including a tent, cabin, recreational vehicle or mobile home or a room in a hotel or motel.

- (1) *Dwelling, single-family,* means a detached building designed for or used exclusively for residence purposes by one family or housekeeping unit.
- (2) *Dwelling, two-family,* means a detached building designed for or used exclusively for residential purposes by not more than two families or housekeeping units.
- (3) *Dwelling, multifamily,* means a detached building designed for or used exclusively for residence purposes by more than two families or housekeeping units.
- (4) *Dwelling, townhouse ,* means a single-family attached dwelling unit with one dwelling unit from ground to roof, two points of independent outside access, at least two other dwellings built in conjunction therewith and any portion of one or two unpierced party walls in common with an adjoining dwelling and having yards on at least two sides.
- (5) *Dwelling, limited,* means a dwelling unit consisting of no more than two rooms, exclusive of bath facilities, designed or intended for retirement living or temporary

assisted living, including nursing homes, assisted living facilities and retirement housing having shared dining and recreational facilities.

*Essential services* means facilities owned or maintained by public utility companies or public agencies, located in public ways or in easements provided for the purpose or on a customer's premises and not requiring a private right-of-way, and reasonably necessary for the furnishing of adequate water, sewer, gas, electric, communication or similar services to adjacent customers, but not including any building or any yard, station or facility requiring a site in excess of 400 square feet and not including any cross-country pipeline or transmission line on towers or any line requiring a private right-of-way.

*Family* means a person living alone or two or more persons living together as a single housekeeping unit, but not including a group of persons occupying a boardinghouse, lodginghouse, hotel, dormitory or institution.

*Farm* means a parcel of land not less than five acres in size used for agricultural purposes as defined in this chapter.

*Fence* means a fixed structure designed to define a designated area or property.

*Flag lot* means a polygonal-shaped lot that has the appearance of a flag with staff or panhandle in which the handle or staff is used as the point to a street or road. The term "flag lot" and "panhandle" are synonymous.

*Garage, private,* means a garage intended for and used for the storage of the private motor vehicles of the families resident upon the premises.

*Garage, public,* means a space or structure other than a private garage for the storage, sale, hire, care, repair or refinishing of self-propelled vehicles or recreational vehicles.

GROUP HOME MEANS A STATE LICENSED COMMUNITY RESIDENTIAL FACILITY HOUSING AND PROVIDING HABILITATIVE SERVICES TO EIGHT OR FEWER PERSONS, NOT INCLUDING STAFF, WHO ARE DEVELOPMENTALLY DISABLED OR ARE RECOVERING FROM DRUG OR ALCOHOL ADDICTION.

*Home occupation* means a business conducted in a dwelling or a single accessory building and in accordance with the provisions of section 108-867.

*Junkyard* means any area where waste, discarded or salvaged materials are bought, sold,

exchanged, baled, parked, stored, disassembled or handled, including auto wrecking yards, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment, but not including areas where such uses are conducted entirely within a completely enclosed building and not including pawnshops and establishments for sale, purchase or storage of used furniture and household equipment, used cars in operable condition, or salvaged materials as a part of manufacturing operations.

*Lot* means any plot or parcel of land occupied or intended to be occupied by a principal building or use, or a group of buildings conforming to the regulations of this chapter and its accessory buildings and uses, including all open spaces required by this chapter, and having frontage on a street as defined herein. In the case of a farm or estate, five acres or more in size, the lot shall be deemed to be that part of the property on which the principal building and its accessory buildings and uses are located, together with the yards and other open spaces required by this chapter, and such lot need not front directly on a public road if connected therewith by a private lane or road which serves no other lot.

- (1) Lot, corner , means a lot abutting upon two or more streets at their intersection or upon two parts of the same street and, in either case, forming an interior angle of less than 135;deg;.
- (2) Lot, through, means a lot having frontage on two non-intersecting streets as distinguished from a corner lot.

*Lot depth* means the mean horizontal distance between the front and rear lot lines.

*Lot line, front,* means the line separating the lot from the street right-of-way upon which it fronts.

*Lot line, rear,* means the lot line opposite and most distant from the front lot line.

*Lot line, side,* means any lot line other than the front or rear lot line.

*Lot line, street or alley,* means any lot line separating the lot from a street or alley.

*Lot width* means the width of the lot measured at right angles to its center line at the front setback line.

*Manufactured home* means a structure that is transportable in one or more sections, built on a permanent chassis, designed for use with or without a permanent foundation when attached to the

required utilities, and constructed to the Federal Mobile Home Construction and Safety Standards and rules and regulations promulgated by the U.S. Department of Housing and Urban Development. This term also includes mobile homes, park trailers, travel trailers and similar transportable structures that are placed on a site for 180 consecutive days or longer.

**State Law reference**— Similar definition, Md. Real Property Code Ann. § 8A-101.

*Motel or hotel* means any establishment consisting of two or more guest rooms or suites, with separate outside entrances and adjacent parking spaces, designed and maintained for the accommodation of transients; or any establishment for the accommodation of transients which proclaims itself a "motel."

*Noncombustible* means, as applied to building construction material, a material which, in the form in which it is used, is either one of the following:

- (1) Material of which no part will ignite and burn when subjected to fire. Any material conforming to specifications in the building code in effect in the town and other applicable codes shall be considered noncombustible.
- (2) Material having a structural base of noncombustible material as defined in subsection (1) of this definition, with a surfacing material not over one-eighth-inch thick, which has a flame-spread rating of 50 or less.

*Nonconforming use* means an existing building, structure or premises legally devoted to or occupied by or for a use that does not conform to the use provisions of this chapter, or amendments thereto, for the district in which it is located.

*Nursing or hospice facility* means a facility, licensed by the state, to provide basic or skilled nursing care for physical, emotional, or mental diseases or disabilities to three or more individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves. The term "nursing or hospice facility" shall not include hospitals or facilities for the primary treatment of sickness or injuries or for surgical care.

*Open space* means the area of a lot or parcel unoccupied by principal or accessory structures, streets, driveways or parking areas, but including areas occupied by walkways, patios, porches without roofs, playgrounds, outdoor recreation or play apparatus, gardens or trees.

*Parking lot, commercial*, means a surfaced area of one or more parking spaces designed or used for the parking of vehicles and available to the public whether for a fee or as an accommodation to clients or customers.

*Parking space* means a surfaced area either within a structure or in the open, exclusive of driveways or access drives, for the parking of one vehicle.

*Planned unit development (PUD)* means a residential and/or commercial development guided by a total design plan in which one or more of the zoning or subdivision regulations, other than use regulations, may be waived or varied by the planning and zoning commission to allow flexibility and creativity in site and building design and location in accordance with general guidelines.

*Planning and zoning commission* means the town planning and zoning commission.

*Planning director* means the planning director or an authorized representative, appointed in accordance with the provisions of division 2 of article II of this chapter.

*Recreational vehicle* means any vehicle or structure constructed in such a manner as to provide sleeping and cooking facilities or the conduct of any business, trade or occupation, or use as a selling or advertising device, and so designed that it is or may be mounted on wheels and transported over highways and streets, propelled, or drawn by its own or other power.

*Recreational vehicle park* means any park, tourist park, camp court, site, lot, parcel or tract of land which is designed, maintained or intended for the purpose of supplying a location or accommodation for two or more recreational vehicles for living purposes or upon which two or more recreational vehicles are parked or mounted for living purposes.

*Roadside stand* means a structure designed or used for the display or sale of neighborhood agricultural products or goods produced on the premises upon which a stand is located.

*Self-service storage facility* means a building or group of buildings with controlled access, containing varying sizes of individual, compartmentalized and controlled access stalls, lockers or rooms to be leased or rented for the storage of goods, wares, merchandise, substances or articles.

*Setback line* means the minimum building line along the front or rear of a lot, or along the side of a corner lot adjoining the side street, as determined by the yard requirements of this chapter or of any superior regulation.

*Sewage disposal plant* means a plant or lagoon for the treatment of sewage, which serves the town or any group of properties, as distinguished from a private septic tank or package treatment plant which is accessory to and located on the same premises with a principal use.

*Stable, private*, means a stable with a capacity of not more than two animals.

*Story* means that portion of a building, other than a cellar as defined herein, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, the space between the ceiling next above it.

- (1) *Story, ground*, means the lowest story, or ground story, or first story of any building, the floor of which is not more than 3½ feet below the average contact ground level at the exterior walls of the building, except that any basement used as a separate dwelling by other than a janitor or caretaker or his family shall be deemed a ground or first story.
- (2) *Story, half*, means a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story; provided, however, that any partial story used as a separate dwelling, other than for a janitor or caretaker and his family, shall be deemed a full story.

*Street* means a public right-of-way 50 feet or more in width which provides a means of public access to abutting property, or any such public or private right-of-way not less than 30 feet in width which existed prior to the enactment of the ordinance from which this chapter is derived. The term "street" shall include road, avenue, drive, lane, circle, square, court, highway, beach, way or similar term.

*Street line* means the right-of-way or property line.

*Street, major*, means a street or highway designated as a major street or expressway on the official major street plan of the town.

*Structural alteration* means any change in the structural members of a building, such as bearing walls columns, beams or girders or as may be defined by the building code in effect in the town.

*Structure* means anything constructed, the use of which requires a fixed location on the ground or is attached to something having such location, but not including sidewalks, driveways, curbs or essential services defined in this chapter.

*Use first permitted* means a use, which in the sequence of successively listed zoning districts, occurs as a permitted use for the first time in a special zoning district.

*Warehouse* means a building or part of a building that is used for the storage and distribution of goods, wares, merchandise, substances or articles.

*Yard, front*, means an open space extending the full width of the lot between any part of a building and the front lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified in article VII of this chapter.

- (1) *Front yard, least width*, means the shortest distance, measured horizontally, between any part of a building, other than such parts as excepted in section 108-245, and the front lot line.

*Yard, rear*, means an open space extending the full width of the lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified in article VII of this chapter.

- (1) *Rear yard, least depth*, means the shortest distance, measured horizontally, between any part of a building, other than such parts as excepted in section 108-245, and the rear lot line.

*Yard sale* means the temporary display and sale of personal property along any public or approved private road.

*Yard, side*, means an open space extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward except as herein specified in article VII of this chapter.

- (1) *Side yard, least width*, means the shortest distance, measured horizontally, between any part of a building, other than such parts as excepted in section 108-245, and the nearest side lot line.

*Zoning certificate* means a written statement issued by the planning director authorizing the use and occupancy of buildings, structures, or premises consistent with the terms of this chapter and for the purpose of carrying out and enforcing its provisions.

*Zoning map* means the zoning map of the town, dated April 5, 1966, together with all amendments thereto subsequently adopted.

(Code 1977, § 107-5; Ord. No. 2000-10, 9-25-2000; Ord. No. 2005-5, 7-25-2005; Ord. No. 2009-08, 11-24-2008; Ord. No. 2010-05, 7-12-2010; Ord. No. 2010-12, 11-22-2010)

**THIS ORDINANCE** was introduced and read at a meeting of the Town Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 2018, and thereafter a statement of the substance of the Ordinance having been published as required by law.

A PUBLIC HEARING was held and this Ordinance was adopted this \_\_\_\_ day of \_\_\_\_\_, 2018, by the Mayor and Council of the Town of Berlin, Maryland by affirmative vote of \_\_\_\_\_ in favor, to \_\_\_\_\_ opposed, with \_\_\_\_\_ abstaining.

\_\_\_\_\_  
Elroy Brittingham, Vice-President

Approved on this \_\_\_\_\_ day of \_\_\_\_\_, 2018 by the Mayor of the Town of Berlin and was therefore effective twenty (20) calendar days later on the \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Wm. Gee Williams, Mayor

\_\_\_\_\_  
ATTEST: Laura Allen, Town Administrator

**ORDINANCE 2018-06**

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, MARYLAND, A MARYLAND MUNICIPAL CORPORATION, ENACTING AN ORDINANCE PERMITTING A GROUP HOME TO BE ALLOWED AS A CONDITIONAL USE SUBJECT TO APPROVAL BY THE BOARD OF ZONING APPEALS IN THE B-1 ZONING DISTRICT SUBJECT TO AREA LIMITATIONS.

BE IT RESOLVED by the Mayor and Council of the Town of Berlin, Maryland that Article VI, entitled "District and District Regulations," Division 6, entitled "B-1 Town Center District," Section 108-441 be ENACTED as follows:

Section 108-441 - Group Homes

A Group Home as defined in Section 108-5 may be permitted as a conditional use in the B-1 Town Center District subject to the approval of such conditional use in that district by the Board of Zoning Appeals. The area in which a group home may be permitted as a conditional use shall be restricted to the area of Old Ocean City Boulevard east of U.S. Route 113 in the B-1 Town Center District.

**THIS ORDINANCE** was introduced and read at a meeting of the Town Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 2018, and thereafter a statement of the substance of the Ordinance having been published as required by law.

A PUBLIC HEARING was held and this Ordinance was adopted this \_\_\_ day of \_\_\_\_\_, 2018, by the Mayor and Council of the Town of Berlin, Maryland by affirmative vote of \_\_\_\_\_ in favor, to \_\_\_\_\_ opposed, with \_\_\_\_\_ abstaining.

\_\_\_\_\_  
Elroy Brittingham, Vice-President

Approved on this \_\_\_\_\_ day of \_\_\_\_\_, 2018 by the Mayor of the Town of Berlin and was therefore effective twenty (20) calendar days later on the \_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Wm. Gee Williams, Mayor

\_\_\_\_\_  
ATTEST: Laura Allen, Town Administrator