

CITY OF FREDERICK

Zoning Ordinance



Adopted February 6, 1986 Ordinance G-86-1

Printing includes Amendments
Through October 17, 2002

INDEX TO ZONING TEXT AMENDMENTS

Amendments in Second Printing:

<u>Case</u>	<u>Section</u>	<u>Passed</u>	<u>Ordinance</u>
FTA-86-1	2.02(121)	May 1986	G-86-8
FTA-86-1	5.04(36)	May 1986	G-86-9
FTA-86-1	15.03(2) & (3)	May 1986	G-86-10
FTA-86-1	15.06(4)	May 1986	G-86-11
FTA-86-1	15.02(6)	May 1986	G-86-12
FTA-86-2	4.02(3)3	June 1986	G-86-6
FTA-86-2	5.04(37)	June 1986	G-86-7
FTA-86-3	5.04(21)	August 1986	G-86-15
FTA-86-3	4.02(3) (6)	August 1986	G-86-14
FTA-86-5	12.06	April 1987	G-87-4
FTA-87-1	4.02(1)	July 1987	G-87-7
FTA-87-1	4.02(3) (7)	July 1987	G-87-8
FTA-87-1	4.03	July 1987	G-87-12
FTA-87-1	4.04(3)	July 1987	G-87-13

Amendments in Third Printing:

<u>Case</u>	<u>Section</u>	<u>Passed</u>	<u>Ordinance</u>
FTA-87-2	16.07(2)	January 1988	G-88-1
FTA-87-2	16.13	January 1988	G-88-1
FTA-88-1	4.02(3) (8)	March 1988	G-88-5
FTA-88-1	4.04(4)	March 1988	G-88-5
FTA-88-4	15.06(1)	September 1988	G-88-14
FTA-88-5	16.13(1)	September 1988	G-88-15
FTA-88-3	2.02(70.1)	September 1988	G-88-17
FTA-88-3	4.02(3) (7)	September 1988	G-88-18
FTA-88-3	5.04(38)	September 1988	G-88-19

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<u>Case</u>	<u>Section</u>	<u>Passed</u>	<u>Ordinance</u>
FTA-89-1	3.01	July 13, 1989	G-89-5
FTA-89-1	3.02(4)	July 13, 1989	G-89-6
FTA-89-1	4.02(3)	July 13, 1989	G-89-7
FTA-89-1	4.03	July 13, 1989	G-89-8
FTA-89-1	4.04(8)	July 13, 1989	G-89-9
FTA-89-1	5.04(9) (10)	July 13, 1989	G-89-10
FTA-89-1	6.06(1)	July 13, 1989	G-89-11
FTA-89-1	15.05(7)	July 13, 1989	G-89-12
FTA-89-3	8.02(a)(b)	July 13, 1989	G-89-13
FTA-89-4	4.03	July 13, 1989	G-89-14
FTA-89-4	5.04(3)	July 13, 1989	G-89-15
FTA-89-4	18.08	July 13, 1989	G-89-16

Amendments in Fifth Printing

<u>Case</u>	<u>Section</u>	<u>Passed</u>	<u>Ordinance</u>
FTA-90-1	10.04(d)	April 5, 1990	G-90-4
FTA-90-1	10.06 (1a) (1b)	April 5, 1990	G-90-4
FTA-90-2	12.06	April 5, 1990	G-90-5
FTA-90-5	21.03(5)	August 22, 1990	G-90-15
FTA-90-4	4.04 (3) (d)	November 1, 1990	G-90-56
FTA-90-3	2.01 (12)	December 13, 1990	G-90-57
FTA-90-3	6.06 (2)	December 13, 1990	G-90-58
FTA-90-3	6.14	December 13, 1990	G-90-59
FTA-90-3	12.08 (2)	December 13, 1990	G-90-60
FTA-90-3	20.09	December 13, 1990	G-90-61
FTA-90-3	21.01	December 13, 1990	G-90-62
FTA-90-3	21.03 (1 – 7)	December 13, 1990	G-90-63

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FTA-90-3	21.05 (2-5)	December 13, 1990	G-90-65
FTA-91-1	5.04(18.1 & 2)	January 17, 1991	G-91-2
FTA-91-1	4.02(3) (5)	January 17, 1991	G-91-2A
FTA-91-2	5.04(40)	May 2, 1991	G-91-9
FTA-91-4	2.02	November 21, 1991	G-91-20
FTA-91-4	4.02(3) (3)	November 21, 1991	G-91-22
FTA-91-4	4.03	November 21, 1991	G-91-23
FTA-91-4	4.04(9)	November 21, 1991	G-91-24
FTA-91-4	12.09(1)	November 21, 1991	G-91-25
FTA-91-3	4.04(3)	January 9, 1992	G-92-1
FTA-91-3	4.04(3) (d)	January 9, 1992	G-92-1
FTA-91-3	4.04(3) (e)	January 9, 1992	G-92-1
FTA-91-3	4.04(3) (f)	January 9, 1992	G-92-1
FTA-92-1	2.02(59)	May 21, 1992	G-92-12
FTA-92-1	18.05	May 21, 1992	G-92-13
FTA-92-2	3.01	May 21, 1992	G-92-14
FTA-92-2	3.06	May 21, 1992	G-92-15
FTA-92-2	4.01	May 21, 1992	G-92-16
FTA-92-2	4.04(10)	May 21, 1992	G-92-17
FTA-92-3	4.04(6)	May 21, 1992	G-92-18
FTA-92-3	8.02(c)	May 21, 1992	G-92-19
FTA-92-3	8.04	May 21, 1992	G-92-20

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FTA-92-3	13.01(3)	May 21, 1992	G-92-22
FTA-92-3	14.08	May 21, 1992	G-92-23
FTA-92-5	2.02(35) (35A)	October 1, 1992	G-92-45
FTA-92-5	4.02(3) (4)	October 1, 1992	G-92-46
FTA-92-5	5.04(14)(14A)	October 1, 1992	G-92-47
FTA-92-5	14.04	October 1, 1992	G-92-48
FTA-92-7	2.02(59A)(59B)	December 3, 1992	G-92-54
FTA-92-7	6.12	December 3, 1992	G-92-55
FTA-92-7	7.04(7)	December 3, 1992	G-92-56
FTA-92-7	8.05(2)	December 3, 1992	G-92-57
FTA-92-7	11.02	December 3, 1992	G-92-58
FTA-92-7	11.10	December 3, 1992	G-92-59
FTA-92-7	12.05	December 3, 1992	G-92-60
FTA-92-7	14.14	December 3, 1992	G-92-61
FTA-92-7	16.03(4)	December 3, 1992	G-92-62
FTA-92-7	17.04	December 3, 1992	G-92-63
FTA-92-7	18.09(5)	December 3, 1992	G-92-64
FTA-92-7	19.03(15)	December 3, 1992	G-92-65
FTA-92-7 All ordinances were passed December 3, 1992 but effective January 1, 1993.			
FTA-92-8	2.02(35)	March 18, 1993	G-93-2
FTA-92-8	5.04(14)	March 18, 1993	G-93-2
FTA-92-6	2.02(53.A)	April 15, 1993	G-93-4
FTA-92-6	2.02(108)	April 15, 1993	G-93-5
FTA-92-6	2.02(110)	April 15, 1993	G-93-6

FTA-92-6	4.02(3) (6)	April 15, 1993	G-93-7
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<u>Case</u>	<u>Section</u>	<u>Passed</u>	<u>Ordinance</u>
FTA-92-6	4.04(6) (c)	April 15, 1993	G-93-8
FTA-92-6	5.04(41)	April 15, 1993	G-93-9
FTA-92-6	14.04	April 15, 1993	G-93-10
FTA-93-1	22.01	June 17, 1993	G-93-15
FTA-93-1	22.02	June 17, 1993	G-93-15
FTA-93-1	22.03	June 17, 1993	G-93-15

Additional Amendments in Sixth Printing

<u>Case</u>	<u>Section</u>	<u>Passed</u>	<u>Ordinance</u>
FTA-94-1	2.02(105A)	June 16, 1994	G-94-16
FTA-94-1	4.02(3) (6)	June 16, 1994	G-94-17
FTA-94-1	5.04(42)	June 16, 1994	G-94-18
FTA-94-1	14.04	June 16, 1994	G-94-19
FTA-94-2	2.02(11.1)	September 15, 1994	G-94-62
FTA-94-2	10.07	September 15, 1994	G-94-63
FTA-94-3	2.02(102)	October 6, 1994	G-94-64
FTA-94-3	2.02(110)	October 6, 1994	G-94-65
FTA-94-3	2.02(115A)	October 6, 1994	G-94-66
FTA-94-3	4.04(11)	October 6, 1994	G-94-67
FTA-94-4	6.12	October 20, 1994	G-94-81
FTA-95-1	14.01	June 15, 1995	G-95-11
FTA-95-1	14.02	June 15, 1995	G-95-12
FTA-95-1	14.04	June 15, 1995	G-95-13
FTA-95-1	14.10(1)	June 15, 1995	G-95-14
FTA-95-1	16.10(9)	June 15, 1995	G-95-15

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<u>Case</u>	<u>Section</u>	<u>Passed</u>	<u>Ordinance</u>
FTA-95-3	2.02(7)	August 17, 1995	G-95-36
FTA-95-3	2.02(7)(A)	August 17, 1995	G-95-36
FTA-95-3	2.02(28)(A)	August 17, 1995	G-95-36
FTA-95-3	4.02(3)(4)	August 17, 1995	G-95-37
FTA-95-3	5.04(13)(a-j)	August 17, 1995	G-95-38
FTA-95-4	2.02(108)	October 5, 1995	G-95-42
FTA-95-5	4.04(2)(d)	October 5, 1995	G-95-43
FTA-95-2	5.04(43)	November 16, 1995	G-95-47
FTA-95-2	4.02(3)(6)	November 16, 1995	G-95-47
FTA-95-6	6.07(1)(2)(4)	January 18, 1996	G-96-11
FTA-95-6	6.08(1)(2)(3)	January 18, 1996	G-96-12
FTA-95-6	6.09(1)(2)	January 18, 1996	G-96-13
FTA-96-1	2.02(35)	April 4, 1996	G-96-17
FTA-96-1	5.04(14)	April 4, 1996	G-96-18

Additional Amendment in Seventh Printing

<u>Case</u>	<u>Section</u>	<u>Passed</u>	<u>Ordinance</u>
FTA-96-3	14.04	January 16, 1997	G-97-3

Amendments to the Eighth Printing:

<u>Case</u>	<u>Section</u>	<u>Passed</u>	<u>Ordinance</u>
ZTA-97-4	2.02(2)(A)	August 21, 1997	G-97-19C
PC01-128TXT	2.02(69.1)	May 17, 2001	G-01-17
PC01-28TXT	2.02(113)	June 21, 2001	G-01-25
PC00-105TXT	3.01	September 14, 2000	G-00-19
PC00-105TXT	3.04 (1 & 2)	September 14, 2000	G-00-20
PC00-172TXT	4.01(3)	January 4, 2001	G-01-7
PC01-028TXT	4.02(3)(3)	June 21, 2001	G-01-26
PC00-172TXT	4.02(3)(4)	January 4, 2001	G-01-8
PC00-128TXT	4.02(3)(5)	June 3, 1999	G-99-8
ZTA 97-3	4.02(3)(6)	August 21, 1997	G-97-24
ZTA 97-2	4.03	September 11, 1997	G-97-28
PC01-128TXT	4.03	May 17, 2001	G-01-19
PC00-105TXT	4.03	September 14, 2000	G-00-21
PC01-128TXT	4.03	May 17, 2001	G-01-20
PC00-105TXT	4.03	September 14, 2000	G-00-21
ZTA 97-01	4.04(7)	September 11, 1997	G-97-26
ZTA 97-04	4.04(12)	August 21, 1997	G-97-19B
ZTA 99-06	4.04(13)	September 2, 1999	G-99-56
PC00-172TXT	4.04(14)	January 4, 2001	G-01-9
PC00-143TXT	5.04(13)	January 4, 2001	G-01-5
ZTA 97-04	5.04(20)	August 21, 1997	G-97-19A
PC00-097TXT	5.04(40)	August 17, 2000	G-00-18
ZTA 97-03	5.04(44)	September 11, 1997	G-97-25
PC00-128TXT	5.04(45)	May 17, 2001	G-01-27
PC01-28TXT	5.04(46)	June 21, 2001	G-01-27
ZTA 99-03	7.05(6)	April 15, 1999	G-99-13
PC00-143TXT	10.02	January 4, 2001	G-01-6
ZTA 99-05	10.04(e)	July 15, 1999	G-99-14
ZTA 99-07	11.0(5)(b)(3)	October 7, 1999	G-99-58
ZTA 99-02	14.04	June 3, 1999	G-99-12
PC00-128TXT	14.04	May 17, 2001	G-01-22
ZTA 99-08	14.08	February 3, 2000	G-00-01
ZTA 97-01	15.05(1)	September 11, 1997	G-97-27
ZTA 99-06	18.09	September 2, 1999	G-99-55
PC00-105TXT	20	September 14, 2000	G-00-22
PC00-105TXT	23	September 14, 2000	G-00-23
PC00-105TXT	23.01	September 14, 2000	G-00-24
PC01-220TXT	23.01	March 15, 2001	G-01-12
PC00-105TXT	23.02	September 14, 2000	G-00-25
PC00-105TXT	23.03	September 14, 2000	G-00-26
PC01-220TXT	23.03	March 15, 2001	G-01-13
PC00-105TXT	23.04	September 14, 2000	G-00-27
PC01-220TXT	23.04.2(a)	March 15, 2001	G-01-14
PC00-105TXT	23.05	September 14, 2000	G-00-28

PC01-220TXT	23.05.2(b)	March 15, 2001	G-01-15
PC00-105TXT	23.06	September 14, 2000	G-00-29
PC00-105TXT	23.07	September 14, 2000	G-00-30
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PC00-105TXT	23.11	September 14, 2000	G-00-34
PC00-105TXT	23.12	September 14, 2000	G-00-35
PC01-051TXT	2.02(17.1)(151)(151.1)	August 16, 2001	G-01-35
PC01-051TXT	4.03	August 16, 2001	G-01-36
PC01-051TXT	10.06	August 16, 2001	G-01-34
PC01-051TXT	11.04	August 16, 2001	G-01-37
PC01-051TXT	11.05(3)	August 16, 2001	G-01-38
PC01-051TXT	11.05(5)	August 16, 2001	G-01-39
PC01-051TXT	11.10	August 16, 2001	G-01-40
PC01-051TXT	14.09	August 16, 2001	G-01-41
PC01-068TXT	10.06(5)	August 16, 2001	G-01-42
PC02-155TXT	2.02(23A)	October 17, 2002	G-02-32
PC02-155TXT	2.02(27A)	October 17, 2002	G-02-33
PC02-155TXT	2.02(91)	October 17, 2002	G-02-34
PC02-155TXT	2.02(103)	October 17, 2002	G-02-35
PC02-155TXT	14.03	October 17, 2002	G-02-36
PC02-155TXT	14.04	October 17, 2002	G-02-37
PC02-188TXT	2.02(122)	October 17, 2002	G-02-21
PC02-188TXT	2.02(123A)	October 17, 2002	G-02-22
PC02-188TXT	2.02(124)	October 17, 2002	G-02-23
PC02-188TXT	2.02(125)	October 17, 2002	G-02-24
PC02-188TXT	2.02(126)	October 17, 2002	G-02-25
PC02-188TXT	2.02(126A)	October 17, 2002	G-02-26
PC02-188TXT	2.02(126B)	October 17, 2002	G-02-27
PC02-188TXT	15.03	October 17, 2002	G-02-28
PC02-188TXT	15.04	October 17, 2002	G-02-29
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SECTION 1. LEGISLATIVE PROVISIONS

1.01 Title

These regulations shall be known and may be cited as the FREDERICK CITY ZONING ORDINANCE. The ordinance includes both the text of the regulations and the Official Zoning Map, which is located in the Planning Department, City Hall, Frederick, Maryland.

1.02 Legislative Authority

These regulations are established in accordance with the provisions of Article XV, Section 175 of the Charter of the City of Frederick and the provisions of Article 66B of the Annotated Code of Maryland.

1.03 Statement of Legislative Intent

1. These regulations are adopted with the intent that they will implement the policies of the Comprehensive Plan; will control congestion in the streets; will secure the public safety; will promote health and the general welfare; will provide adequate light and air; will promote the conservation of natural resources; will prevent environmental pollution; will avoid undue concentration of population; and will facilitate the adequate provisions of transportation, water, sewerage, schools, recreation, soil conservation, landscaping, parks and other public facilities and services.
2. These regulations are made with reasonable consideration of, among other things, the character of the City, the suitability of its various areas for particular uses; the desire to enhance the value of buildings and encourage the orderly development; and the most appropriate use of land throughout the jurisdiction.

1.04 Jurisdiction

These regulations shall apply to all properties within the corporate limits of the City of Frederick, Maryland.

1.05 Separability

In case it shall be judicially determined that any word, phrase, clause, item, sentence, paragraph, or section, or the application thereof to any property, person or circumstance is invalid, the remaining provisions and the application of such provisions to other properties, persons, or circumstances shall not be affected thereby.

1.06 Interpretation of Terms and Provisions

1. The terms of this Ordinance shall be applied to promote the intent as found in Section 1.03 above.
2. Where this Ordinance imposes a greater restriction than is imposed or required by other provisions of law, or by other rules, regulations or ordinances or by private restrictions, covenants, by-laws, or declarations, the provisions of this Ordinance shall control, except where specifically stated herein.
3. Where a provision of this Ordinance is in conflict or otherwise imposes a different requirement than another provision of this Ordinance the stricter provision shall control.
4. The provisions of this Ordinance are minimum requirements and, where necessary to ensure public health, safety, and welfare, reasonable and specific requirements may be applied to carry out the intent of this Ordinance.
5. For the purpose of these regulations, the R-1 District is the most restrictive and the M-2 District is the least restrictive.

1.07 Conformance Required

Except as hereafter specified, no land, building, structure or premises shall be used, no building or part thereof or other structure shall be located, erected, reconstructed, extended, enlarged, converted or altered except in conformity with the regulations specified for the district in which it is located and with the regulations pertaining to all districts as set forth herein.

1.08²³⁴ Water Allocation Ordinance Consistency, Stay of Expirations

In accordance with Sections 25-33.7(e) and 25-33-8(l) of the Water Allocation Ordinance development review plans reviewed and approved by the City as of and after the effective date of Executive Order No.1-02, February 8, 2002, will not expire during the pendency of the Water Allocation Ordinance. Such stay of expiration of approvals shall apply to Sections 6.11, 19.08, and 23.12 of this

²³⁴ Section 1.08 added December 18, 2003, Zoning Text Amendment Case PC03-1135TXT, Ordinance G-03-19.

Ordinance. The stay of expiration does not apply to a development approval that has not met all conditions imposed on that approval.

SECTION 2. RULES OF CONSTRUCTION AND DEFINITIONS**2.01 Rules of Construction**

The following rules of construction apply to the text of these regulations:

1. The particular will control the general.
2. In case of any difference of meaning or implication between the text of these Regulations and any caption, illustration, summary table, or illustrative table, the text will control.
3. The words shall and will are always mandatory and not discretionary. The word may is permissive.
4. Words used in the present tense include the future; words used in the singular number include the plural; the plural includes the singular; words of the masculine gender will include the feminine and the neuter gender will refer to any gender as required, unless the context plainly indicates the contrary.
5. A building or structure includes any part thereof.
6. The phrase used for includes arranged for, designed for, intended for, maintained for, or occupied for.
7. The word person includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
8. Unless it is plainly evident from the context that a different meaning is intended, a regulation which involves two or more items, conditions, provisions, or events connected by the conjunction and, or, or either/or, the use of the conjunction is defined as follows:
 - (a) And means that all the connected items, conditions, provisions and events apply together and not separately.
 - (b) Or means that the connected items, conditions, provisions, or events apply separately or in any combination.
 - (c) Either/or means that the connected items, conditions, provisions or events shall apply separately but not in combination.

9. The word includes does not limit a term to the specified examples, but is intended to extend the term's meaning to all other instances or circumstances of like kind or character.
10. When a term defined in the City Subdivision Regulations or the City Building Code occurs in these Regulations, it has the meanings specified in the Subdivision Regulations or Building Code, unless specifically defined in these Regulations.
11. The word City means the City of Frederick Maryland. The word State means the State of Maryland. The term City Boundary means any exterior boundary of the City.
12. The terms Mayor, Board of Aldermen, Board of Zoning Appeals, Director of Planning, Planning Commission, City Attorney, City Engineer, Zoning Administrator, Director of Permits and Code Management, Building Inspector, Historic District Commission, and Sediment Control Inspector mean the respective council, boards, and officers of the City. Zoning Administrator, Planning Staff, and Planning Department shall be considered synonymous.
13. Throughout these Regulations, all words, other than the terms specifically defined above and below, have the meaning inferred from their context in these Regulations or the ordinarily accepted definitions as defined in the current edition of Webster's Ninth New Collegiate Dictionary.
14. Ordinance means the Frederick City Zoning Ordinance and all amendments and revisions made thereto, unless the context clearly requires otherwise.

2.02 Definitions

In this Ordinance, the following specific terms are used as defined unless otherwise apparent from the context:

¹ Section 2.01(12) amended December 13, 1990, Zoning Text Amendment Case 90-3, Ordinance G-90-57.

DEFINITIONS

- (1) Accessory Building, Structure or Use: A subordinate building structure, or use which is located on the same lot as the principal building, structure, or use.
- (2) Acre, Gross: A commonly referred to measure of gross area. One acre equals 43,560 square feet.
- (2)(A)² Adult Bookstore and/or Adult Entertainment Center: An entity or establishment that, as its principal business purpose, offers for sale, rental, exhibition, or viewing, any printed, recorded, digitally analogued, or otherwise viewable matter; any kind of sexual paraphernalia or any kind of entertainment or exhibition, that depicts, describes or relates to sexual conduct, as defined in Section 2.02(115)(A) of this Ordinance.
- (3) Aged: Individuals who are 62 years of age or older.
- (4) Agricultural Activity: Land used exclusively as a bonafide agricultural operation by the owner or tenant. The use of land for agricultural purposes including farming silva culture, viticulture, fish culture, animal and poultry husbandry, and the necessary accessory uses for packing, treating, or storing the produce, provided that the operation of the accessory use is clearly incidental to the agricultural activity. The business of garbage feeding of hogs, fur farms, or the raising of animals for use in medical or other tests or experiments is excluded (see "Laboratory Research").
- (5) Alley: A public or private way affording secondary means of access to abutting property.
- (6) Amend or Amendment: Any repeal, modification, or addition to a regulation; any new regulation; any change in the number, shape, boundary, or area of a zone; or any repeal or abolition of any map, part thereof, or addition thereto.
- (7)³ Antenna, Communications: A device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, and omni directional antennas, such as whip antennas.
- (7)(A)⁴ Antennas, Residential Accessory: Any device used to transmit or receive radio or television waves of any kind.
- (8) Apartment: A dwelling unit within a multiple-family dwelling structure.
- (9) Arcade, Commercial Amusement: Any place of business using five or more controlled video devices or pinball machines and the like.
- (10) Area, Gross: All the area within a lot tract or parcel.

² Section 2.02(2)(A) amended August 21, 1997, Zoning Text Amendment Case 97-4, Ordinance G-97-19C.

³ Section 2.02(7) amended August 17, 1995, Zoning Text Amendment Case 95-3, Ordinance G-95-36.

⁴Section 2.02(7)(A) added August 17, 1995, Zoning Text Amendment Case 95-3, Ordinance G-95-36.

- (11) Area, Net: Areas within a tract or parcel exclusive of dedicated streets, floodplain or other land unsuitable for development.
- (11.1)⁵ Automatic Teller Machine: A self-operating bank machine powered by electricity but with no human operator, typically located in an enclosure at a permanent service location ancillary to other use(s), and providing for the deposit, transfer and withdrawal of funds in connection with a credit, deposit, or convenience account.
- (12) Automobile Filling and Service Station: Any building, structure, or area of land that is used for the retail sale of motor vehicle fuels, oils, and accessories and where repair service is incidental.
- (13) Automobile Parking Structure: A building or part thereof, whether public or private, designed and used for the parking of motor vehicles, whether for compensation or not. Such building or part thereof not to be used for the storage of dismantled or wrecked vehicles, parts thereof, or junk.
- (14) Automobile Repair or Service Shop: Any building or lot used for major automobile repair or bodywork and painting.
- (15) Automobile Sales and Service Center: A lot, parcel, or structure used for the sales and complete servicing of automobiles or trucks under one ton capacity including painting, body and fender repairs.
- (16) Automobile Sales Lot: A lot designed or used for the storage or display for sale of any motor vehicle or any unoccupied trailer, and not used for repair work or service other than minor incidental repairs to vehicles or trailers displayed or sold on the premises, and not used for the storage of whole or parts of dismantled or wrecked motor vehicles.
- (17) Bed and Board: A facility that serves the traveling public with sleeping rooms and breakfast or lunch in a setting reflecting a residential rather than commercial character. Such facility is not a home occupation.
- (17.1)²⁰⁵ Berm: A landscaped earthen mound intended to screen, buffer, and generally shield views of parking areas, or storage areas, particularly from adjacent land uses and public streets.
- (18) Board: The Frederick City Board of Zoning Appeals.
- (19) Building: A structure other than a tent or travel trailer, which has one or more stories and a roof, and is designed primarily for the permanent shelter, support, or enclosure of persons, animals, or property of any kind.

⁵ Section 2.02(11.1) added September 15, 1994, Zoning Text Amendment Case 94-2, Ordinance G-94-62.

²⁰⁵ Section 2.02(17.1) added August 16, 2001, Zoning Text Amendment Case PC01-051TXT, Ordinance G-01-35.

- (20) Building Frontage: The architecturally designed front of a building where the principle use faces; where the public is invited to enter.
- (21) Building, Height of: The height of any building or structure shall be measured from the average ground at the building restriction line to the highest point of such building or structure except for allowed projections as specified by this ordinance.
- (22) Building Restriction Line: The line beyond which the foundation walls or an enclosed porch, vestibule or other enclosed portion of a building or structure may not project. The depth of such line will be no less than depth required for the particular yard for the district in which the lot is located. The handle of a panhandle lot will not be considered in determining the location of the building line.
- (23) Bulk Plant: That portion of a property where flammable or combustible liquids are received from bulk shipping systems, including tank vessels, pipe lines, tank cars, or tank vehicles, and are stored or blended in bulk for the purpose of distributing such liquids by bulk shipping systems including tank vessels, pipe lines, tank cars, tank vehicles, or container to retail or wholesale customers. This definition does not include Automobile Filling and Service Stations or Automobile Repair and Service Shops.
- (23A)²¹⁷ Business Office: Any building or part of a building in which one or more persons are employed in the management or direction of an agency, business, or organization, but excludes such uses as retail sale, manufacture, assembly or storage of goods, places of assembly, places of amusement, banks, and credit unions.
- (24) Carport: A protective structure to cover vehicles using non-walled supports.
- (25) Cemetery: A place for the permanent interment of dead human or animal bodies or the cremated remains thereof. It may be either a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments, or a combination of one or more thereof.
- (26) Child: An individual under the age of 16 years.
- (27) Church: A place of worship or assembly used by a religious society or congregation of any sect, order, or denomination.
- (27A)²¹⁸ Clinic, Dental, Medical, Veterinary: An establishment where patients are accepted on an outpatient basis for specialized study and/or treatment by medical, dental, and veterinary physicians practicing medicine together.
- (28) Commission: The Planning Commission of Frederick City, unless otherwise noted.
- (28)(A)⁶ Communications Tower: A structure designed and intended to support antennas. This term includes lattice-type structures, either guyed or self-supporting, monopoles, which

²¹⁷ Section 2.02(23A) added October 17, 2002, PC02-155TXT, Ordinance G-02-32.

²¹⁸ Section 2.02(27A) added October 17, 2002, PC02-155TXT, Ordinance G-02-33.

are self-supporting, pole-type structures tapering from base to top and supporting an apparatus designed to hold one or more antennas.

- (29) Comprehensive Plan: A composite of mapped and written text the purpose of which is to guide the systematic physical development of the City, which is adopted by the Mayor and Board of Aldermen and includes all changes and additions thereto made under the provision of Article 66B of the Annotated Code of Maryland. The Comprehensive Development Plan includes a Land Use Plan, a Transportation Plan, a Community Facility Plan, a Recreation Plan, and other facility plans.
- (30) Construction: The combining of labor or material into any portion of the structure, or the site thereof.
- (31) Convenience Store: A retail business engaged in selling groceries, "carry out" prepared food and drink, and personal household items. Customer service area shall be no more than 2,500 square feet. Fast food restaurants are not considered as a convenience store.
- (32) Corner Lot: See Lot Types.
- (33) Court: An open area other than a yard which admits unobstructed light and air to a building or a group of buildings located on the same lot.
- (34) Cul-de-sac: A secondary street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.
- (35)^{7, 8, 9} Child Day Care Center: A public or private institution, agency, or establishment that is licensed by the State and provides care to 9 or more children younger than 16 years of age in a facility located outside the home of the child's parents or legal guardianship for all or part of a 24 hour day on a regular basis and at least twice a week.
- (35)(A)¹⁰ Adult Day Care Facility: A public or private institution, agency or establishment that is licensed by the State, and provides nonresidential day care to five (5) or more health impaired individuals over the age of sixteen (16) years, in a facility located outside of the home of the adult's families. Days and hours of operation shall conform with the requirements set forth in COMAR Section 10.12.04.05N.
- (36) Density, Gross: The total number of dwelling units per gross area of a subdivision or land development.
- (37) Density, Net: The total number of dwelling units per net area of a subdivision or land development.

⁶ Section 2.02(28)(A) added August 17, 1995, Zoning Text Amendment Case 95-3, Ordinance G-95-36.

⁷ Section 2.02(35) amended October 1, 1992, Zoning Text Amendment Case 92-5, Ordinance G-92-45.

⁸ Section 2.02(35) amended March 18, 1993, Zoning Text Amendment Case 92-8, Ordinance G-93-2.

⁹ Section 2.02(35) amended April 4, 1996, Zoning Text Amendment Case 96-1, Ordinance G-96-17.

¹⁰ Section 2.02(35)(A) added October 1, 1992, Zoning Text Amendment Case 92-5, Ordinance G-92-45.

- (38)²²⁰ Development: Any activity, other than normal agricultural activity, which materially affects the existing condition or use of land or structure. See definition number 106A for “Redevelopment.”
- (39) Department: The Frederick City Department of Planning.
- (40) District or Zone: Area within the City within which certain uniform regulations or requirements apply under this Ordinance.
- (41) Domiciliary Care: Means services that are provided to aged or exceptional persons in a protective, institutional or home-type environment including some or all of the following: Shelter, housekeeping services, board, personal surveillance or direction in activities for daily living such as bathing, dressing, mobility continence, toileting and eating.
- (42) Dwelling: A building or structure, or portion thereof, containing one or more dwelling units, and used principally for residential purposes.
- (43) Dwelling, Detached: A building which contains one or more dwelling units and is surrounded on all sides by yards or other open space.
- (44) Dwelling, Attached: A building which contains one or more dwelling units and which is attached to another building.
- (45) Dwelling, Multiple Family: A building containing three or more dwelling units.
- (46) Dwelling, Single Family: A dwelling designed for and used exclusively by one family.
- (47) Dwelling, Duplex: Two dwelling units arranged or designed to be located on abutting and separate lots and separated from each other by a continuance vertical party wall, without openings from the lowest floor level to the highest point of the roof which lies along the dividing lot line, and such dwelling is separated from any other structure by yards or other green areas on all sides.
- (48) Dwelling, Two-Family: A dwelling which is located on a single lot and which contains two dwelling units which are arranged one above the other or side-by-side. No more than one family occupies either dwelling unit.
- (49) Dwelling, Townhouse: One of a series of three or more attached dwelling units separated from one another by continuous party walls which are without openings from lowest floor level to the highest point of the roof.

²²⁰ Section 2.02(38) amended February 20, 2003, Zoning Text Amendment Case PC03-018TXT, Ordinance G-03-5.

- (50) Dwelling Unit: A room or group of rooms forming a single residential unit with facilities for living, sleeping and cooking purposes which are exclusively used for the family living therein.
- (51) Educational Institution (Private School): An educational or training institution which offers a program of college, professional, preparatory, primary or secondary education instruction, or any combination thereof, or any other program of trade, technical, or artistic instruction, but such term does not include any educational institution of the County Board of Education.
- (52) Electrical Repair (Light): Repair work on any household appliance including home furnace, washing machines and the like.
- (53) Electrical Repair (General): Any electrical repair work on any electrical systems or components.
- (53.1)¹¹ Entertainment: A public presentation (live or synthetic), or recreational activity, such as, but not limited to: theater, dancing, musical performances, where dancing is allowed and other similar activities.
- (54) Essential Services: All those facilities wherever located which are erected, constructed, altered or maintained as part of an integrated system or program which is designed and used to furnish services reasonably necessary to the health, safety, or convenience of the public. Such public systems include water, electric, gas, communication, steam or sewer lines and all facilities, which are necessary parts of those systems. Such facilities include wires, poles, towers, pipes, alarm or emergency devices, traffic signals, fire hydrants, or similar apparatus as are used to provide a public service. An essential service may be provided by public utilities, local governments, or other competent parties. Structures or land used for storage, repair or processing of equipment or material; or substations for transforming, boosting, or switching purposes which are located at or above ground level, are not included in this definition and shall be subject to Planning Commission site plan review.
- (55) Exceptional Person: An individual who by virtue of his/her limited cognitive, behavioral or physical functions require personal assistance or guidance for daily activities.
- (56) Family: A person living alone, or two or more persons living together as a single housekeeping unit, but not including a group of persons occupying a rooming house, tourist home, motel, hotel, group home, nursing home, fraternal or similar living arrangement.
- (57) Farm: A parcel of land on which an agricultural activity, as herein defined, is being principally and actively conducted.

¹¹ Section 2.02(53.1) amended April 15, 1993, Zoning Text Amendment Case 92-6, Ordinance G-93-4.

- (58) Floor Area of Building: The total number of square feet or floor area in building. All horizontal measurements shall be made between exterior faces of walls, including halls, stairways, elevator shafts, escalator areas, attached garages and enclosed porches.
- (59)¹² Floodplain: Lands typically adjacent to a body of water with ground surface elevations that are inundated by the base flood, i.e. the 100-year frequency flood event.
- (59)(A)¹³ Forest Stand Delineation: means the methodology for evaluating the existing vegetation on a site proposed for development, as provided in the City of Frederick Forest Conservation Technical Manual.
- (59)(B)¹⁴ Forest Conservation Plan: means a plan approved pursuant to the Frederick City Forest Conservation Ordinance.
- (60) Gross Leasable Floor Area: The gross area designed for tenant occupancy and exclusive use, including mezzanines, and upper floors.
- (61) Group Home: A State licensed facility for the care of exceptional persons in a home type environment under the supervision of trained professionals and which is operated by a public agency or a non-profit organization.
- (62) Hazardous Material: Any of the following: liquid or gaseous petroleum, explosives, pathogenic or toxic substances, radioactive materials or any other substance that when mixed with water or exposed to air becomes explosive in nature or reacts in such a way as to release a toxic gas or liquid.
- (63) Health Club or Spa: An operation that allows participants to use exercise equipment, steam baths, and the like.
- (64) Heliport: A facility which conforms to Federal Aviation Administration rules and regulations that provides for helicopter landing and take-off movements and further provides for long-term helicopter parking and related services.
- (65) Helistop: A facility which conforms to Federal Aviation Administration rules and regulations that provides for helicopter landing and take-off movements only.
- (66) Home Occupation: Full or part-time occupational or business use within a dwelling when authorized by the Board as a Special Exception.
- (67) Hospital: Any institution which receives in-patients and provides medical, psychological, surgical, or similar services.

¹² Section 2.02(59) amended May 21, 1992, Zoning Text Amendment Case 92-1, Ordinance G-92-12.

¹³ Section 2.02(59)(A) added December 3, 1992, Zoning Text Amendment Case 92-7, Ordinance G-92-54, effective January 1, 1993.

¹⁴Section 2.02(59)(B) added December 3, 1992, Zoning Text Amendment Case 92-7, Ordinance G-92-54, effective January 1, 1993.

- (68) Hotel: Any building which contains five (5) or more guest rooms and where lodging or meals are provided for compensation to five (5) or more guests. This definition does not include fraternity or sorority houses, school or college dormitories, tourist homes, motels, or rooming houses.
- (69) House, Tenant Farm: A dwelling located on a farm that is used either for occupancy by immediate members of the family owning the farm or by full-time employees working on the farm.
- (69.1)¹⁵Indoor Sports Complex: A fully enclosed indoor facility that combines playing field(s) for team and individual sporting activities, training areas for personal fitness, offices for sports-related professional businesses, and ancillary support services for patrons of the Indoor Sports Complex. An Indoor Sports Complex shall have a minimum floor area of 40,000 square feet and contain at least one (1) playing surface or field, with a minimum of 25,000 square feet of playing surface, and designated areas for teams, coaches, and spectators. Team and individual sports that may be played at an Indoor Sports Complex shall include, but not be limited to, soccer, lacrosse, field hockey, roller hockey, ice hockey, flag football, volleyball, basketball, badminton, weight lifting, roller skating, squash, handball, racquetball, track and field events and functionally similar sporting activities. The combined playing surface(s), coaches and spectator areas shall encompass at least seventy percent (70%) of the total useable square feet of the Indoor Sports Complex. Areas for personal fitness shall encompass no more than fifteen percent (15%) of the total useable square feet of the Indoor Sports Complex, and may include areas for weight training, aerobic conditioning, and other fitness development regimens. Offices for sports-related professional businesses shall encompass no more than seven and one-half percent (7.5%) of the total useable square feet of the Indoor Sports Complex, and may include offices for personal trainers, coaches, sports medical professionals, sports associations and functionally similar users. Ancillary support services shall encompass no more than seven and one-half percent (7.5%) of the total useable square feet of the Indoor Sports Complex, and may include food service, sports retailers, sports-related entertainment and similar related uses. Paid spectator's events at an Indoor Sports Complex shall be permitted only by special exception.
- (70)¹⁶ Industrial Park: A tract of land which is subdivided and/or developed according to an overall plan for occupancy by a group of industries and is provided with streets and necessary utilities.
- (71) Institutional Use: A public or private, profit or non-profit use designed to advance the knowledge or application of educational, religious, health, cultural or other similar objectives, unless otherwise specifically defined herein.
- (72) Junk Car, including salvage yards and auto wrecking yards and auto parts recycling center: Any land or structure which is used for the abandonment, sale, storage, keeping,

¹⁵ Section 2.02(69.1) amended May 17, 2001, Zoning Text Amendment Case PC01-128TXT, Ordinance G-01-17.

¹⁶ Section 2.02(70) amended September 1988, Zoning Text Amendment Case 88-3, Ordinance G-88-17.

collecting, or bailing of materials including paper, rags, scrap metal, other scrap or discarded materials, or used for the abandonment, demolition, dismantling, storage, or salvaging or sale of machinery including motor vehicles which are not in running condition.

- (73) Kenel, Commercial: Any land or structure used for the sale, rental, boarding, breeding, or training for profit of domestic animals, but does not include riding stables.
- (74) Laboratory, Dental: A place where dental bridgework and orthodontic appliances are made.
- (75) Laboratory, Medical: A place for the conquering and classification of human disease at the request of a physician for a particular patient.
- (76) Laboratory, Research: A place used for experimental study in a science for testing and analysis. This use includes the humane raising or experimentation on animals.
- (77) Landscaping: Some combination of grass, trees, hedges, shrubs, vines, ground covers, or flowers planted and maintained to enhance the appearance of a property including, but not limited to, fountains, reflecting pools, art works, screens, berms, walls, fences, and benches.
- (78) Loading Space: An off-street space used only for the parking of a vehicle while loading or unloading goods or materials.
- (79) Lot: Means a contiguous area of land separated from other areas of land by separate description including a recorded deed, a subdivision plat, or record of survey map, or by metes and bounds, for purpose of sale, lease, transfer of ownership, or separate use.
- (80) Lot Area: The total horizontal area of a lot as determined by the closure of the rear, side and front lot lines, but does not include area lying within a street right of way.
- (81) Lot Depth: The horizontal distance between the front and rear lot lines of a lot.
- (82) Lot Frontage, Minimum: The minimum width of a lot line abutting a street, as measured along such lot line.
- (83) Lot Lines: The lines bounding a lot as herein defined.
- (84) Lot Line, Front: A lot line which abuts a street. However, the handle of a panhandle lot is not used to compute the front line. In such cases the front lot line is that line determined to be most parallel to a street on which the lot has frontage. On a corner lot, the side or sides abutting either street may be considered as the front lot line provided that the side selected as the front has the required minimum lot frontage and in no case shall a lot front on a denied access street.

- (85) Lot Line, Rear: The lot line determined to be opposite and most parallel to the front lot line. If the rear lot line is less than 10 feet long or the lot comes to a point at the rear, the rear lot line is assumed to be a line not less than 10 feet long, which lies wholly within the lot and is parallel to the front lot line. The rear lot line is parallel to the chord of the arc of the lot's front lot line.
- (86) Lot Line, Side: Any lot line other than a front lot line or a rear lot line as herein defined.
- (87) Lot of Record: Any lot legally recorded in the Land Records of Frederick County as of the effective date of this Ordinance. A lot of record must have satisfied all Zoning and Subdivision Regulation requirements in effect at the time the lot was recorded.
- (88) Lot Types:
- (a) Corner Lot: Means a lot located at the intersection of two or more streets and/or parking areas. A lot abutting on a curved street or streets is considered a corner lot, if straight lines drawn from the foremost points of the side lot lines to the foremost points of the lot meet at an interior angle of less than 135 degrees.
 - (b) Interior Lot: Means a lot with only one frontage on a street other than an alley.
 - (c) Out lot: Means a parcel of land within a subdivision not designated as a buildable lot. Out lots shall be allowed only to provide access to abutting property for storm water management structures or open space.
 - (d) Panhandle Lot: A lot with the appearance of a "frying pan" or "flag and staff" in which the handle is most often used as a point of access to a street or road. The "handle," when less than the minimum width for a building lot in the zoning district in which it is located, is not to be used in computing the minimum required lot area or delineating the minimum required "building envelope."
 - (e) Reversed Corner: A corner lot the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.
 - (f) Through Lot: A lot other than a corner lot with frontage on more than one street other than an alley.
- (89) Lot Width Minimum: The minimum permissible width of a lot as measured horizontally along the front building restriction line.
- (90) Major Street Plan: The official plan of streets, pedestrian and bikeways adopted by the Mayor and Board of Aldermen as the Transportation Plan of the Comprehensive Plan.
- (91)²¹⁹ Deleted.

²¹⁹ Section 2.02(91) deleted October 17, 2002, PC02-155TXT, Ordinance G-02-34.

- (92) Mobile Home: A portable dwelling unit which is designed and built to be towed on its own chassis, including frame and wheels and to be connected to utilities. A mobile home is designed without a permanent foundation for year-round living. A unit may contain parts that can be combined, folded, collapsed or telescoped while towed and expanded later to provide additional cubic capacity. It must be listed by the State of Maryland as a mobile home. This does not include modular and sectional homes.
- (93) Mobile Home Park: Any site, lot or parcel which is used for the purpose of providing accommodations for two (2) or more mobile homes as living quarters and includes all structures, vehicles, accessories, and appurtenances used or intended as equipment in such a park.
- (94) Motel: Any group of rooms combined or separate which are used for the purpose of housing transient guests and each unit of which is provided with its own toilet, washroom, and off-street parking facilities.
- (94.1)¹⁷ Multi-family Housing for Elderly Persons: Housing for residents who are elderly households (62 years of age or older or handicapped person who are qualified as "elderly" under federal housing programs) which is approved and financed by, and meets the programmatic requirements of a federal, state or local government program or multi-family housing for elderly persons and which is approved by the City of Frederick Department of Housing and Community Development and the Mayor and Board of Aldermen.
- (95) Non-Conformity (Nonconforming Building, Lot, Structure, Use): A building, lot, structure, or use lawfully existing at the time of the enactment of this Ordinance, which does not conform to these regulations or amendments thereto for the district in which it is located.
- (96) Nursing Home (including Rest Homes, Convalescent Homes, or Homes for the Aged): a place devoted primarily to the maintenance and operation of facilities for the treatment and care of any person suffering from illness, disease, deformities, or injuries who do not require extensive or intensive care such as provided in a general or other specialized hospital. A nursing home provides medical, nursing, convalescent, or chronic care in addition to room and board.
- (97) Open Space: An area of land associated with and located on the same tract of land as a principal building or group of buildings in relation to which it serves to provide light and air, or scenic, recreational or similar purposes. Open space may include, but not be limited to, lawns, decorative plantings, sidewalks and walkways, active and passive recreational areas, including playgrounds, fountains, swimming pools, wooded areas, and watercourses, but shall not include loading areas, parking areas, or surfaces for the storage of vehicles.

¹⁷Section 2.02(94.1) amended November 21, 1991, Zoning Text Amendment Case 91-4, Ordinance G-91-20.

- (98) Park, Public: Public open space and/or recreational area, owned or operated by the City, the County, State, or Federal government or other public agency.
- (99) Park, Private: All other parks not identified as public.
- (100) Parking Area: All areas to meet the parking provisions of this Ordinance. Such areas include, but are not limited to, parking spaces, ingress/egress points, driveways, loading spaces, loading platforms, and turnaround areas.
- (101) Parking Space: An off-street space available for the parking of one motor vehicle on a transient basis exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct usable access to the street.
- (102)¹⁸ Private Club: An association for civic, social, cultural, religious, literary, fraternal, political, recreational, or like activities which is operated for the benefit of its members and not open to the general public. Private clubs shall not permit, or include entertainment which includes or involves sexual conduct, as defined in Section 2.02(115A), nudity or obscenity. Alcohol may be consumed in private clubs only if the establishment holds a valid liquor license issued by the Frederick County Liquor License Commission.
- (103)²²⁰ Professional Office: Buildings used as the office by a member of any recognized profession, including doctors, dentists, lawyers, accountants or engineers and including medical, dental, and veterinary clinics.
- (104) Property Owners Association: A non-profit organization operating under recorded land agreements meeting the provisions of Section 17 herein.
- (105) Public Way: A right-of-way dedicated and accepted for public use.
- (105A)¹⁹ Reception Facility: A fixed facility or establishment meant solely for banquets, wedding receptions, recitals, corporate functions, non-profit organization fund raisers, bar mitzvahs, anniversary celebrations and the like; by reservation only, with food and beverage, brought on site or prepared in an approved kitchen on site. Entertainment may be permitted as an accessory use to the principal functions cited above.
- (106) Recreation Vehicles and Equipment: Mobile apparatus specifically designed for recreational activities including travel trailers, pickup campers, motorized dwellings, tent trailers, boats, boat trailers, houseboats, snowmobiles, or storage containers used for transporting recreational equipment.

¹⁸ Section 2.02(102) amended October 6, 1994, Zoning Text Amendment Case 94-3, Ordinance G-94-64.

²²⁰ Section 2.02(103) amended October 17, 2002, PC02-155TXT, Ordinance G-02-35.

¹⁹ Section 2.02(105A) added June 16, 1994, Zoning Text Amendment Case 94-1, Ordinance G-94-16.

- (106A)²¹⁷ Redevelopment: Means the expansion of existing improvements that increases the total Gross Floor Area of all buildings on a lot or site, or changes the use of property, or intensifies development on the site.
- (107) Religious/Social Mission: Means any non-profit place used to provide food, clothing and/or shelter on a temporary basis for people in need.
- (108)^{20,21} Restaurant, General: Any place or establishment merchandising or dispensing food or food and drink for consumption on the premises by at least 90% of its customers within the principal building. No entertainment provided to the general public shall take place in this establishment unless a one-day permit is issued by the Zoning Administrator or his or her designee, upon written application. No more than three such one-day permits shall be issued in a year.
- (109) Restaurant, Fast Food: Any place or establishment merchandising or dispensing food or drink at which more than 10% of its customers are served:
- (a) While sitting in an automobile or other motor vehicle, or
 - (b) Through an interior or exterior sales window, counter, or serving area and at which the food or drink served is packaged to facilitate its consumption outside the structure in which the food or drink is dispensed.
- (110)^{22,23} Restaurant, with Entertainment: An establishment for the accommodation of public equipped with a dining room for the service of food and drink and a kitchen for the preparation of food within the building and where entertainment is permitted as an accessory use by Special Exception. Alcohol in Restaurants with Entertainment may be consumed only if the establishment holds a valid liquor license issued by the Frederick County Liquor License Commission. Restaurants with Entertainment shall not permit or include entertainment which includes or involves sexual conduct, as defined in Section 2.02(115A), nudity, or obscenity.
- (111) Road Classification: The classification of any road shall be as set forth in the Major Street Plan, the Transportation Plan of the Comprehensive Plan.
- (112) Roadside Stand: A seasonal or limited duration use or property which is adjacent to a street for the purpose of selling food or merchandise to passersby.

²¹⁷Section 2.02(106A) added February 20, 2003, Zoning Text Amendment Case PC03-018TXT, Ordinance G-03-5.

²⁰ Section 2.02(108) amended April 15, 1993, Zoning Text Amendment Case 92-6, Ordinance G-93-5 and G-93-6.

²¹ Section 2.02(108) amended October 5, 1995, Zoning Text Amendment Case 95-4, Ordinance G-95-42.

²² Section 2.02(110) amended April 15, 1993, Zoning Text Amendment Case 92-6, Ordinance G-93-6 and G-93-5.

²³ Section 2.02(110) amended October 6, 1994, Zoning Text Amendment Case 94-3, Ordinance G-94-65.

- (113)²⁴ Rooming House: A dwelling in which, for compensation, lodging will be provided and meals may be provided to no more than two (2) permanent lodgers. The individual rooms may not contain any cooking facilities and shall not contain more than one (1) lodger per room. A lodger as described in this definition shall be any lodger who resides for four (4) or more months. A rooming house is a residential accessory use, not a home occupation or a group home. The property owner shall reside at the subject property.
- (114) Self Storage Center: A building or group of buildings divided into separate compartments to be used for temporary storage space by individuals or businesses.
- (115) Setback: The minimum distance required between a property line and a principal building or structure as established by the yard requirements for various districts by this Ordinance.
- (115A)²⁵ Sexual Conduct: Any and all acts or conduct which include, involve, or which display, exhibit, or simulate the following:
- (a) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;
 - (b) The touching, caressing, and/or fondling of the breast, buttocks, anus, or genitals; and/or
 - (c) The displaying of the breasts, buttocks, pubic hair, anus, vulva or genitals.
- (116) Sheltered Workshop: A place of employment and/or training for exceptional persons, as defined herein, working in a protected environment.
- (117) Shopping Center: A group of retail stores, service establishments and other similar uses which are designed as an integrated unit.
- (118) Sign: Any structure, part thereof, or device attached thereto or painted or represented thereon or any material or thing, illuminated or otherwise, which displays or includes any numeral, letter, work, model, banner, pennant, emblem, insignia, device, trademark, or other representation used as, in the nature of, an announcement, advertisement, direction, or designation of any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise, or industry which is located upon any land, or any building.
- (119) Sign, Billboard or Outdoor Advertising: A sign identifying any activity, advertisement, person, group of people, or thing not located on the same premises as the sign.
- (120) Sign, Business: Any device used for advertising any commercial activity, person, group of people, or thing located on the same premises as the sign.

²⁴ Section 2.02(113) amended June 21, 2001, Zoning Text Amendment Case PC01-28TXT, Ordinance G-01-25

²⁵ Section 2.02(115A) added October 6, 1994, Zoning Text Amendment Case 94-3, Ordinance G-94-66.

- (121)²⁶ Sign, Off Site Directional: A sign identifying a business, residential area, or other activity; which indicates the direction to the location and which is not on the premises identified by the sign.
- (122)²²¹ Sign, construction site: A sign which is located on the site during construction denoting the architect, engineer, contractor, subcontractor, builder, financing agency, etc.
- (123) Sign, Political: Any sign advocating any issue or the candidacy of any person for Federal, State, County, or City elected positions, whether for primary or general elections.
- (123A)²²² Sign, Portable/Trailer: A sign which is not permanently affixed to the ground or a building and constructed of solid materials such as wood, metal, plastic and possibly mounted on wheels or signs on vehicles used as an advertising platform.
- (124)²²³ Sign, Real Estate : A sign promoting the active sale, lease, rental of any interest in real property that may be erected until the property is sold, leased, or rented.
- (125)²²⁴ Sign, Real Estate Directional: A sign directing motorists to the sale or lease of a certain property and/or subdivision.
- (126)²²⁵ Sign, Real Estate Subdivision: A sign advertising the sale, lease, rental or development of a subdivision of 10 or more lots.
- (126A)²²⁶ Sign, Sandwich Board: A sign designed in an A-frame or other fashion, made of wood or other durable material, having back-to-back sign faces which is used to identify businesses, and is displayed only during hours of operation.
- (126B)²²⁷ Sign, Temporary: A sign constructed of durable and/or non-durable materials, such as cloth, canvas, fabric, wood, metal or plastic, with or without a structural frame, displayed for a limited period of time and advertising goods or services. This includes but is not limited to banners, streamers, pennants, freestanding signs, air and gas filled balloons and figures. Streamers, pennants, and balloons are limited by the requirements of Section 15.09(5).
- (127) Signal: An object placed to give notice or warning.

²⁶ Section 2.02(121) amended May 1986, Zoning Text Amendment Case 86-1, Ordinance G-86-8.

²²¹ Section 2.02(122) amended October 17, 2002, PC02-188TXT, Ordinance G-02-21, effective November 15, 2002.

²²² Section 2.02(123A) added October 17, 2002, PC02-188TXT, Ordinance G-02-22, effective November 15, 2002.

²²³ Section 2.02(124) amended October 17, 2002, PC02-188TXT, Ordinance G-02-23, effective November 15, 2002.

²²⁴ Section 2.02(125) amended October 17, 2002, PC02-188TXT, Ordinance G-02-24, effective November 15, 2002.

²²⁵ Section 2.02(126) amended October 17, 2002, PC02-188TXT, Ordinance G-02-25, effective November 15, 2002.

²²⁶ Section 2.02(126A) added October 17, 2002, PC02-188TXT, Ordinance G-02-26, effective November 15, 2002.

²²⁷ Section 2.02(126B) added October 17, 2002, PC02-188TXT, Ordinance G-02-27, effective November 15, 2002.

- (128) Special Exception: A grant of a specific use that would not be appropriate generally or without restriction and is based upon a finding by the Board that certain conditions governing special exceptions as detailed in the Zoning Ordinance exist and that the use conforms to the Comprehensive Development Plan and is compatible with the existing neighborhood.
- (129) Street: A public right-of-way, 50 feet or more in width or 26 feet or more in the case of townhouse developments with dedicated streets, which provides a means of public access to an abutting property, or any public or private right of way not less than 30 feet in width which existed prior to the enactment of this Ordinance. The term "street" shall include road, avenue, drive, circle, highway, parkway, place, court, or similar term.
- (130) Street, Center Line of: A line established as a center line or a street by any State, County, City or other official agency or governing body having jurisdiction thereof and shown as such on officially adopted or legally recorded map, or, if there be no official center line of a street, the center line shall be the line lying midway between street or right of way lines thereof. When the street lines are indeterminate and pavement of a well-defined traveled way exists, the center line shall be assumed to be a line midway between the edges of such pavement or traveled way.
- (131) Structural Alteration: Any physical change to a structure including an addition to it.
- (132) Structure: An assembly of materials forming a construction, or intended to form a construction, for any occupancy or use. The words "use," "building," or "structure" are definitionally interchangeable.
- (133) Subdivide: The act of creating a subdivision, as herein defined.
- (134) Subdivision: The division of a lot, tract or parcel of land into two or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, for transfer of ownership or building development of the land or territory subdivided. This definition includes the resubdivision of two or more lots into one, correction plats, and any other form of dividing land area for recordation.
- (135) Swimming Pool, Accessory: A swimming pool and/or wading pool, including buildings necessary or incidental thereto, conducted as an accessory use maintained and operated by any of the following:
- (a) The management of any residential development.
 - (b) The management of a hotel or motel for the use of patrons thereof.
 - (c) Any industry for exclusive use of employees of such industry.
 - (d) A bona fide club located on a site for exclusive use of members of such club and their guests.

- (e) An individual or group of less than five (5 individuals or families for the sole use of the owner(s) and guests of the owner(s), without charge for admission, and not for the purpose of profit or in connection with any business operated for profit, located on a lot as an accessory use to a residence.
- (136) Swimming Pool, Non-Accessory: Any swimming pool not meeting the definition of an Accessory Swimming Pool.
- (137) Tourist Home: A dwelling in which, for compensation, lodging only is provided or offered to not more than nine transient guests. A tourist home is not a home occupation.
- (138) Tract: An area of land with definite or ascertainable boundaries.
- (139) Transient: A person who resides in a dwelling no longer than four (4) months.
- (140) Travel Trailer: Either a self-propelled or a drawn vehicle which people use for living or sleeping quarters on a temporary basis and is designed to be operated with or without utility connections.
- (141) Use: The principal purpose for which a lot or the main building thereon is designed, arranged, or intended, and for which it is or may be used, occupied, or maintained.
- (142) Use, Change of: Any change of principal use.
- (143) Use, Permitted: A use of land permitted as a matter of right or by Special Exception anywhere within the zone.
- (144) Use, Prohibited: A use of land not permitted as a matter of right or by Special Exception anywhere within the zone.
- (145) Use, Seasonal or Limited Duration: The use of a building or lot permitted a specified period of time during a calendar year by this Ordinance.
- (146) Use, Special Exception: A use of land permitted in a zone only by Special Exception authorized by the Board.
- (147) Use, Temporary: A use which does not conform to the requirements of this Ordinance for the district in which it is located permitted for a fixed period of time by the Board.
- (148) Variance: A modification only of density, bulk or area requirements of the Zoning Ordinance where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property, and not the result of any action taken by the applicant, a literal enforcement of this Ordinance would result in unnecessary hardship.

- (149) Veterinarian Office: A facility staffed by at least one veterinarian duly licensed by the State of Maryland for the medical treatment and care of animals and the keeping and boarding of animals incidental thereto.
- (150) Warehousing: The storage of goods, wares, and merchandise which will be processed, sold, or otherwise disposed of off the premises.
- (151)²⁰⁶ Yard: Open space on a lot or parcel extending between the principal building or group of buildings and the lot or parcel lines. Yards shall be open and unoccupied so as to allow light and air to buildings, but may contain accessory buildings and allowed projections as provided in this Ordinance and parking areas necessary to satisfy requirements of this Ordinance. However, if the yard contains a buffer yard area, then structures, loading, parking, outside storage, dumpsters, outside display areas and other activities specifically associated with the business conducted on the subject lot are prohibited from the buffer area of the yard.
- (151.1)²⁰⁷ Yard, Buffer: An area on a lot or parcel that parallels the side and/or rear property lot line(s) that extends into the lot from the property line, and which is included within the building setback line. The buffer yard is an area that may contain a berm, wall, or natural growth, or a combination thereof, which shall serve as barrier to vision, light, or other nuisances between adjoining properties, wherever required by this Ordinance. Whenever used for screening or buffering purposes, “natural growth” shall be taken to mean coniferous or deciduous trees, bushes and shrubbery. Buffer yards may include, but are not limited to walkways, openings that are needed for access, earth berms, wooded or afforested areas; however, buffer yards shall not include structures, loading, parking, and/or outside storage areas, dumpsters, outside display areas, and other activities specifically associated with the business conducted on the subject lot. Buffer yards may, however, include fences or walls, which are designated by this Ordinance and/or the Planning Commission or Department to mitigate activities on industrially zoned land when adjacent to residential districts.
- (152) Yard, Front: Open space extending across the full width of a lot between the front lot line and the principal building or group of buildings or any enclosed portion thereof. The depth of such yard shall be the shortest horizontal or radial distance between the front lot line or proposed front street line and the nearest point of the building or any enclosed portion thereof. Front yards in an irregularly shaped lot fronting on a cul-de-sac shall be defined as that area measured from the front line arc to an interior arc connecting the side lot line the required setback distance.
- (153) Yard, Rear: Open space extending across the full width of a lot between the rear line of the lot and the principal building or group of buildings or any enclosed portion thereof. The depth of the rear yard shall be the shortest horizontal distance between the rear lot

²⁰⁶ Section 2.02(151) amended August 16, 2001, Zoning Text Amendment Case PC01-051TXT, Ordinance G-01-35.

²⁰⁷ Section 2.02(151.1) added August 16, 2001, Zoning Text Amendment Case PC01-051TXT, Ordinance G-01-35.

line and the nearest point of the building. When the rear lot line is less than ten (10) feet long or if the lot comes to a point in the rear, the depth of the rear yard is measured to an assumed rear lot line, as defined under "Lot Line, Rear."

- (154) Yard, Side: Open space between side lot line, not a street, or proposed street line, and a principal building or group of buildings or enclosed portion thereof, extending from the front yard to the rear yard, or, in the absence of either of such yard, to the front lot line or rear lot line. The width of a side yard shall be the shortest distance between the side lot line and the nearest point of the building or enclosed portion thereof.

- (155) Yard, Street Side: Open space between a side lot line which is adjacent to a street, proposed street, alley or parking area and a principal building or enclosed portion thereof, extending from the front yard to the rear yard or in the absence of such yard to the front lot line or rear lot line, the width of a street side lot line and the nearest point of the building or enclosed portion thereof.

SECTION 3 ZONING DISTRICTS**3.01^{27,28,29} Establishment of Districts**

For the purposes of this Ordinance, the incorporated territory of the City of Frederick, Maryland is hereby divided into the following districts:

A-1	Agriculture
R-1	Low Density Residential
R-2	Low Density Residential
R-3	Medium Density Residential
R-4	Medium Density Residential
R-5	High Density Residential
R-6	High Density Residential
R-7	High Density Residential
R-O	Residential - Office
B-O	Office Commercial
B-1	Neighborhood Commercial
B-3	General Commercial
DR	Downtown Residential
DR-B	Downtown Residential Limited Commercial
DB-O	Downtown Office Commercial
DB	Downtown Commercial/Residential
M-1	Limited Employment (Mixed-Use Employment Development in accordance with Section 23)
M-2	General Employment (Mixed-Use Employment Development in accordance with Section 23)
M-O	Planned Industrial

3.02 Purpose: Residential Districts**1. Low Density Residential, R-1 and R-2**

The R-1 and R-2 districts are intended to reserve areas for low density, single-family detached residential dwellings within the density range established in the Comprehensive Plan's low-density residential classification (1 to 5 dwelling

²⁷ Section 3.01 amended July 13, 1989, Zoning Text Amendment Case 89-1, Ordinance G-89-5.

²⁸ Section 3.01 amended May 21, 1992, Zoning Text Amendment Case 92-2, Ordinance G-92-14.

²⁹ Section 3.01 amended September 14, 2000, Zoning Text Amendment Case PC00-105TXT, Ordinance G-00-19.

units/acre). The district is further intended to maintain large open areas; to limit alteration of natural vegetation and topography so that storm run-off and erosion are minimized; to provide a gradual transition from a rural residential to an urban residential environment; to limit the intensity of development in moderately sensitive natural areas; and to provide housing of a type and density to maintain the housing balance prescribed in the Comprehensive Plan.

2. Medium Density Residential, R-3 and R-4

The R-3 and R-4 districts provide for dwellings within the density range established in the Comprehensive Plan's medium density residential classification (5 to 11 dwelling units/acre). The district is further intended to make practical the provision of recreational facilities, schools, and other public buildings of a residential orientation and character.

3. ²³⁵High Density Residential, R-5, R-6, and R-7

The R-5, R-6, and R-7 districts are intended to provide areas for multifamily and other high density residential activities outside the Downtown area within the density range established in the Comprehensive Plan's high density residential classification (11 to 30 dwelling units/acre). The districts are further intended to allow certain limited commercial activities of a compatible design, scale, and orientation as well as certain institutional activities of a residential orientation and character. Additionally, increased housing density for the elderly may be deemed appropriate for the R-5, R-6 and R-7 districts pursuant to Section 4.04(9) of this Ordinance.

4.³⁰ R-O Residential Office

The R-O district is intended to provide for the option of converting dwellings to professional office uses, in predominantly low and medium density residential areas where neither commercial zoning nor high density residential zoning is appropriate, and on sites that because of adjacent commercial activity, heavy vehicular traffic, or other similar factors negatively impacting the economic feasibility of residential use of the site, are in transition and can no longer reasonably be restricted solely to uses allowable in low and medium density residential districts. It is intended that buildings and uses in the R-O district with appropriate restrictions, be highly compatible with the present or future uses of nearby residential property and that existing principal buildings and structures be retained. It is not the R-O district's purpose to accommodate a substantial part of the demand for office space, which

²³⁵ Section 3.02(3) amended November 4, 2004, Zoning Text Amendment Case 04-577, Ordinance G-04-26.

³⁰ Section 3.02(4) amended July 13, 1989, Zoning Text Amendment Case 89-1, Ordinance G-89-6.

should be met primarily in other commercial districts. It is intended that the R-O districts be located only along roads that are designated as arterials under the Frederick City Comprehensive Plan.

3.03 Purpose: Commercial Districts

1. Office Commercial, B-O.

The B-O district is intended to set aside areas outside of Downtown for the development of professional and business offices. Residential uses are permitted in a secondary manner only. Retail activities are appropriate only in a very limited number of supporting activities. The district will serve as a buffer between general commercial or industrial districts and residential zones.

2. Neighborhood Commercial, B-1

The B-1 district is intended to provide areas for limited, small-scale commercial activities of a service or retail nature and of a neighborhood orientation.

3. General Commercial, B-3

The B-3 district is intended to provide areas for major retail, service and other business activities that will serve the general commercial needs of the community at large. Special care must be taken in development review to minimize the impacts of high-traffic and other potentially disruptive activities.

3.04³¹ Purpose: Employment Districts

1. Limited Employment, M-1

The M-1 district is intended to provide for offices and those industrial activities which do not require special measures to control odor, dust or noise and which do not involve hazardous materials and whose environmental impacts are contained within the property limits. Residential uses are not appropriate for this zone. The M-1 district may, if approved by the Board of Aldermen, be developed pursuant to the MXE Mixed-Use Employment Center Development floating zone, pursuant to the provisions of Section 23 of this Ordinance.

³¹ Section 3.04(1 & 2) amended Sept 14, 2000, Zoning Text Amendment Case PC00-105TXT, Ordinance G-00-20.

2. General Employment, M-2

The M-2 district is intended to permit general or heavy industrial activities not able to meet the criteria applicable in the M-1 districts. General retail and residential uses are not appropriate for this zone. The M-2 district may, if approved by the Board of Aldermen, be developed pursuant to the MXE Mixed-Use Employment Center Development floating zone, pursuant to the provisions of Section 23 of this Ordinance.

3. Planned Industrial District, M-O

The M-O district is intended to provide a park-like setting for a community of industries wishing to mutually maintain aesthetically pleasing appearances and operations having no nuisance factors as a means of protecting investments within the district and reducing the impact of industrial uses on surrounding districts. Tracts within the district are to be planned, promoted, and developed for industries wishing the protection of performance standards. The tracts are often large and generally open to constant and extensive public viewing in "showcase locations".

Though leeway is provided concerning the type of industry permitted within the district, the appearance and means of operation shall be scrutinized and compared to the performance standards provided herein.

3.05 Purpose: Downtown Districts

The downtown districts are intended to provide a mixture of residential and commercial uses, maintain the unique character and pedestrian scale of the downtown area, and reduce the number of unnecessary nonconforming uses.

1. Downtown Residential District, DR

The DR district is intended to provide a mix of single-family and multi-family dwellings.

2. Downtown Residential, Limited Commercial District, DR-B

The DR-B district is intended to provide for dwellings and offices; however, to assure a balanced mix, there is a limit on the percentage of nonresidential buildings per block.

3. Downtown Office Commercial District, DB-O

The DB-O district is intended for professional and business offices with a limited number of supporting retail commercial activities. High-density residential activities are allowed as well.

4. Downtown Commercial/Residential District, DB

The DB district is intended to encourage the development of the center City's commercial areas. It allows most office and retail activities as well as high density residential uses. To encourage the implementation of this objective, certain parking requirements shall be relaxed for developments or redevelopments in this district (see Parking Requirements Section 14).

3.06³² Purpose: Agricultural District

The purpose of the Agricultural District (A-1) is to preserve productive agricultural land in rural sparsely developed sections of the City until such time as roads and infrastructure are upgraded to support more intense development.

³² Section 3.06 amended May 21, 1992, Zoning Text Amendment Case 92-2, Ordinance G-92-15.

SECTION 4. DISTRICT REGULATIONS

4.01³³ Generally

- (1) Except for the A-1 District, uses permitted within the various zoning districts are listed in a table entitled "District Uses" which is Section 4.02(3) of this Ordinance. For uses permitted in the A-1 zone see Section 4.04(10) Supplementary District Provisions: A-1 Agricultural Zone.
- (2) Except for the A-1 District, minimum lot area, area per dwelling, minimum lot width, required yards and maximum height requirements for permitted building uses or structures in the various districts are listed in a table entitled "Development Regulations" which is Section 4.03 of this Ordinance. For area, yard and height requirements for A-1 see Section 4.04(10) Supplementary District Provisions, A-1 Agricultural Zone.
- (3)³⁴ Supplementary district regulations set forth in Section 4.04 are additional specific requirements pertaining to the following: outdoor business activities and storage, shopping centers, performance standards for industrial activity in the M-O district, retail sales as an accessory activity in the M districts, height limitations in the DB district, adult bookstores, cluster development, multi-family housing for the elderly, telecommunication antenna(s) and seasonal or limited duration uses permitted by this Ordinance. Supplementary District regulations for the A-1 Agricultural district are also set forth in Section 4.04.

4.02 Use Regulations

- (1)³⁵ Permitted uses are listed in the table which follows. The following symbols are used:

"P" indicates that a use is permitted as of right in the district.

"P*" indicates uses within the M-O district permitted only within a Planned Employment Development (see Section 4.04(3)(9)).

"P**" indicates uses permitted in the M-O district subject to industrial performance standards (see Section 4.04(3) (h)).

³³ Section 4.01(1-3) amended May 21, 1992, Zoning Text Amendment Case 92-2, Ordinance G-92-16.

³⁴ Section 4.01(3) amended January 4, 2001, Zoning Text Amendment Case PC00-172TXT, Ordinance G-01-7

³⁵ Section 4.02(1) amended July 9, 1987, Zoning Text Amendment Case 87-1, Ordinance G-87-7.

4.03^{61,62,63,64}**Development Regulations: Residential Districts**

	<u>Min. Lot Area Area per Dwelling Unit</u>	Minimum Lot Width	Required Yards	Maximum Building Height
⁶⁵R-O Residential Office				
Single-Family detached dwelling	<u>10,000 sf.</u> 10,000 s.f.	50 ft.	30 ft. front 10 ft. each side 20 ft. street side 40 ft. rear	40 ft.
Single-Family detached dwelling converted to office use	None	50 ft.	20 ft. front 15 ft. each side (if adjacent to any R, DR district, except R-O district) 10 ft. each side (if adjacent to any other district) 20 ft. street side 40 ft. rear	40 ft.
R-1 Low Density				
Single-Family detached dwelling	<u>15,000 sf.</u> 15,000 sf.	90 ft.	30 ft. front 15 ft. each side 20 ft. street side 40 ft. rear	40 ft.
Other permitted uses in R-1	2 acres	200 ft.	50 ft. front 25 ft. each side 50 ft. street side 50 ft. rear	40 ft.
R-2 Low Density				
Single-Family detached dwelling	<u>10,000 s.f.</u> 10,000 s.f.	70 ft.	30 ft. front 10 ft. each side 20 ft. street side 40 ft. rear	40 ft.
Other permitted uses in R-2	1 acre	200 ft.	30 ft. front 25 ft. each side	40 ft.

²³⁶ Section 4.03 amended November 4, 2004, Zoning Text Amendment Case 04-577, Ordinance G-04-27

⁶¹ Section 4.03 amended July 13, 1989, Zoning Text Amendment Case 89-1, Ordinance G-89-8.

⁶² Section 4.03 amended July 9, 1987, Zoning Text Amendment Case 87-1, Ordinance G-87-12.

⁶³ Section 4.03 amended July 13, 1989, Zoning Text Amendment Case 89-4, Ordinance G-89-14.

⁶⁴ Section 4.03 amended November 21, 1991, Zoning Text Amendment Case 91-4, Ordinance G-91-23.

⁶⁵ Section 4.03 amended September 11, 1997, Zoning Text Amendment Case 97-2, Ordinance G-97-28.

	<u>Min. Lot Area Area per Dwelling Unit</u>	<u>Minimum Lot Width</u>	<u>Required Yards</u>	<u>Maximum Building Height</u>
			50 ft. street side 50 ft. rear	
R-3 Medium Density				
Single-Family detached dwelling	<u>6,000 s.f.</u> 6,000 s.f.	60 ft.	25 ft. front 8 ft. each side 15 ft. street side 30 ft. rear	40 ft.
Duplex dwelling	<u>6,000 s.f.</u> 6,000 s.f.	60 ft.	25 ft. front 12 ft. one side 15 ft. street side 30 ft. rear	40 ft.
Two-Family detached dwelling	<u>12,000 s.f.</u> 6,000 s.f.	60 ft.	25 ft. front 12 ft. each side 15 ft. street side 30 ft. rear	40 ft.
Other permitted uses in R-3	20,000 s.f.	100 ft.	25 ft. front 20 ft. each side 25 ft. street side 30 ft. rear	40 ft.
R-4 Medium Density				
Single-Family detached dwelling	<u>6,000 s.f.</u> 6,000 s.f.	60 ft.	25 ft. front 8 ft. each side 15 ft. street side 30 ft. rear	40 ft.
Duplex dwelling	<u>3,500 s.f.</u> 3,500 s.f.	35 ft.	25 ft. front 12 ft. one side 15 ft. street side 30 ft. rear	40 ft.
Two-Family detached dwelling	<u>7,000 s.f.</u> 3,500 s.f.	50 ft.	25 ft. front 12 ft. each side 15 ft. street side 30 ft. rear	40 ft.
Townhouse	<u>1,400 s.f.</u> 3,500 s.f.	14 ft.	15 ft. front 10 ft. side (end unit) 15 ft. street side 30 ft. rear	40 ft.

Additional townhouse development regulations: Lots may be clustered provided the remaining 2,100 s.f. is open space maintained by a Property Owners Association. Maximum units in a building is 10. Maximum units with a continuous front is 6.

SECTION 4

Multiple-Family dwelling	<u>10,890 s.f.</u> 3,630 s.f.	50 ft.	25 ft. front 20 ft. each side 25 ft. street side 40 ft. rear	40 ft.
Other permitted uses in R-4	10,000 s.f.	60 ft.	25 ft. front 10 ft. each side 20 ft. street side 30 ft. rear	40 ft.
R-5 High Density				
Single-Family detached dwelling	<u>5,000 s.f.</u> 5,000 s.f.	50 ft.	20 ft. front 5 ft. each side 15 ft. street side 30 ft. rear	45 ft.
Duplex dwelling	<u>3,500 s.f.</u> 3,500 s.f.	35 ft.	20 ft. front 12 ft. one side 15 ft. street side 30 ft. rear	45 ft.
Two-Family detached dwelling	<u>5,000 s.f.</u> 2,500 s.f.	45 ft.	20 ft. front 12 ft. each side 15 ft. street side 30 ft. rear	45 ft.
Townhouse	<u>1,400 s.f.</u> 3,000 s.f.	14 ft.	15 ft. front 10 ft. side (end unit) 15 ft. street side 30 ft. rear	45 ft.

Additional townhouse development regulations: Lots may be clustered provided the remaining 1,600 s.f. is open space maintained by a Property Owners Association. Maximum units in a building is 10. Maximum units with a continuous front is 6.

Multi-Family dwelling	<u>7,260 s.f.</u> 2,420 s.f.	50 ft.	20 ft. front 10 ft. each side 20 ft. street side 30 ft. rear	60 ft.
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²³⁷Increased densities for multifamily housing for elderly persons may be permitted pursuant to Section 4.04(9) of this Ordinance.

Other permitted uses in R-5	5,000 s.f.	50 ft.	20 ft. front 5 ft. each side 15 ft. street side 30 ft. rear	40 ft.
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²³⁷ Section 4.03 amended November 4, 2004, Zoning Text Amendment Case 04-577 , Ordinance G-04-28.

SECTION 4

R-6 High Density				
Single-Family detached dwelling	<u>5,000 s.f.</u> 5,000 s.f.	50 ft.	20 ft. front 5 ft. each side 15 ft. street side 30 ft. rear	45 ft.
Duplex dwelling	<u>3,500 s.f.</u> 3,500 s.f.	35 ft.	20 ft. front 12 ft. one side 15 ft. street side 30 ft. rear	45 ft.
Two Family detached dwelling	<u>5,000 s.f.</u> 2,500 s.f.	45 ft.	20 ft. front 12 ft. each side 15 ft. street side 30 ft. rear	45 ft.
Townhouse	<u>1,400 s.f.</u> 3,000 s.f.	14 ft.	15 ft. front 10 ft. side (end unit) 15 ft. street side 30 ft. rear	45 ft.

Additional townhouse development regulations: Lots may be clustered provided the remaining 1,600 s.f. is open space maintained by a Property Owners Association. Maximum units in a building is 10. Maximum units with a continuous front is 6.

Multi-family dwelling	<u>5,445 s.f.</u> 1,815 s.f.	50 ft.	20 ft. front 10 ft. each side 20 ft. street side 30 ft. rear	60 ft. 70 ft. by Spec. Exc. (See Sec. 5.05)
Other permitted uses in R-6	5,000 s.f.	50 ft.	20 ft. front 5 ft. each side 15 ft. street side 30 ft. rear	40 ft.

R-7 High Density				
Single-Family detached dwelling	<u>5,000 s.f.</u> 5,000 s.f.	50 ft.	20 ft. front 5 ft. each side 15 ft. street side 30 ft. rear	45 ft.
Duplex dwelling	<u>3,500 s.f.</u> 3,500 s.f.	35 ft.	20 ft. front 12 ft. one side 15 ft. street side 30 ft. rear	45 ft.
Two-Family detached dwelling	<u>5,000 s.f.</u> 2,500 s.f.	45 ft.	20 ft. front 12 ft. each side 15 ft. street side 30 ft. rear	45 ft.
Townhouse	<u>1,400 s.f.</u> 3,000 s.f.	14 ft.	15 ft. front 10 ft. side (end unit) 15 ft. street side 30 ft. rear	45 ft.
Additional townhouse development regulations: Lots may be clustered provided the remaining 1,600 s.f. is open space maintained by a Property Owners Association. Maximum units in a building is 10. Maximum units with a continuous front is 6.				
Multi-Family dwelling	<u>4,356 s.f.</u> 1,452 s.f.	50 ft.	20 ft. front 10 ft. each side 20 ft. street side 30 ft. rear	60 ft. 70 ft. by Spec. Exc. (See Sec. 5.05)
Other permitted uses in R-7	5,000 s.f.	50 ft.	20 ft. front 5 ft. each side 15 ft. street side 30 ft. rear	40 ft.

	Minimum Lot Area	Minimum Lot Width	Required Yards	Maximum Building Height
B-O Office Commercial				
Dwellings	Permitted by Special Exception with the same development as for R-4 above.			
All B-O Uses		None	25 ft. front and streetside 15 ft. side and rear if adjacent to any R, DR district 6 ft. side and rear if adjacent to any other district	45 ft.

B-1 Neighborhood CommercialAutomobile Filling &
Service Stations60 ft. 25 ft. front and streetside 20 ft.
40 ft. side and rear if
adjacent to R or DR
district8 ft. side and rear if
adjacent to any other
district

Other B-1 Uses

40 ft. 25 ft. front and streetside 40 ft.
20 ft. side and rear if
adjacent to R or DR
district6 ft. side and rear if
adjacent to any other
district**B-3 General Commercial**Automobile, truck or
other vehicle salesAutomobile, truck or
fuel sales60 ft. 20 ft. front and streetside 60 ft.
60 ft. side and rear if
adjacent to R or DR
district8 ft. side and rear if
adjacent to any other
districtIndoor Sports
Complex⁶⁶

4 acres

100 ft. 50 ft. for any property 90 ft.*

line adjacent to a
residential zoning district;
and 150 ft. from any
dwelling unit. Otherwise
20 ft. front and streetside;
6 ft. side or rear if
adjacent to any other
district*90 feet
permitted
however for
buildings over
60 feet; 1 foot of
setback per foot
of building
height is
required.

Other B-3 Uses

50 ft. 20 ft. front and streetside 90 ft.; buildings
50 ft. side or rear if
adjacent to R or DR
district
6 ft. side or rear if
adjacent to any other
district
over 60 ft.
should be set
back from all
property lines 1
ft. for each foot
of building
height.⁶⁶ Section 4.03 amended May 17, 2001, Zoning Text Amendment Case PC 01-128TXT, Ordinance G-01-19.

	Minimum Lot Area	Minimum Lot Width	Required Yards	Maximum Building Height
M-O Planned Industrial				
All permitted uses except industrial	1 acre	50 ft.	30 ft. front and streetside 30 ft. each side if adjacent to commercial or employment district and 100 ft. if adjacent to any other district or an Interstate Highway unless modified by Sec. 4.04(3)(c)	60 ft. permitted however if over 40 ft., 1 ft. of setback per foot of building height is required except for motel/hotel for which M-1 height restrictions apply
All industrial permitted uses	2 acres	50 ft.	30 ft. front and streetside 30 ft. each side if adjacent to commercial or employment district and 100 ft. if adjacent to any other district or an Interstate Highway unless modified by Sec. 4.04(3)(c)	60 ft. permitted however if over 40 ft., 1 ft. of setback per foot of building height is required except for motel/hotel for which M-1 height restrictions apply
*M-1 Limited Employment^{67, 208239}				
All permitted uses**	None	50 ft.	30 ft. front** 30 ft. sum of both sides with least side of 10 ft. 10 ft. rear 50 ft. side or rear yard if adjacent to any R district in accordance with Section 11.04	90 ft. permitted however for bldgs. over 60 ft., 1 ft. of setback per foot of bldg. height is required.**

⁶⁷ Section 4.03 amended Sept 14, 2000, Zoning Text Amendment Case PC00-105TXT, Ordinance G-00-21.

²⁰⁸ Section 4.03 amended August 16, 2001, Zoning Text Amendment Case PC01-051TXT, Ordinance G-01-36.

²³⁹ Section 4.03 amended September 2, 2004, Zoning Text Amendment Case 04-474TXT, Ordinance G-04-15.

⁶⁸ Indoor Sports Complex	4 acres	100 ft.	50 ft. for any property line adjacent to a residential zoning district; and 150 ft. from any dwelling unit. Otherwise 30 ft. front; 30 ft. sum of both sides with least side of 10 ft.; 10 ft. rear.	90 ft.* *90 feet permitted however for buildings over 60 feet; 1 foot of setback per foot of building height is required.
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*The requirements set forth above for the M-1 district may be modified upon Planning Commission approval for projects developed under the MXE Mixed-Use Employment Center Development floating zone.

** Uses within the Carroll Creek Overlay District shall comply with § 22.07 in lieu of the front setback established here.

*M-2 General Employment⁶⁹, ²⁰⁹				
All permitted uses	None	50 ft.	30 ft. front 30 ft. sum of both sides with least side 10 ft. 10 ft. rear 50 ft. side or rear yard if adjacent to any R district in accordance with Section 11.04	90 ft. permitted however for buildings over 60 ft., 1 ft. of setback per foot of building height is required.

*The requirements set forth above for the M-2 district may be modified upon Planning Commission approval for projects developed under the MXE Mixed-Use Employment Center Development floating zone.

⁶⁸ Section 4.03 amended May 17, 2001, Zoning Text Amendment Case PC01-128TXT, Ordinance G-01-20.

⁶⁹ Section 4.03 amended Sept 14, 2000, Zoning Text Amendment Case PC00-105TXT, Ordinance G-00-21.

²⁰⁹ Section 4.03 amended August 16, 2001, Zoning Text Amendment Case PC01-051TXT, Ordinance G-01-36.

	Min. Lot Area Area per Dwelling Unit	Minimum Lot Width	Required Yards	Maximum Building Height
DB-O Downtown Offices & DB Downtown Businesses ²⁴⁰	See Section 18.08 for the minimum building area per dwelling unit which shall determine the number of dwelling units permitted within an existing building to be converted to accommodate dwellings in the DB district only. Uses within the Carroll Creek Overlay District shall comply with the front setbacks established by § 22.07 in addition to the setbacks established here.			
Single Family	<u>2,000 sq. ft.</u> 2,000 sq. ft.	20 ft.	3 ft. one side 20 ft. rear	45 ft.
Two Family	<u>3,000 sq. ft.</u> 1,500 sq. ft.	15 ft.	3 ft. one side 20 ft. rear	45 ft.
Townhouse	<u>1,500 sq. ft.</u> 1,500 sq. ft.	10 ft.	3 ft. end units 20 ft. rear	45 ft.
Multi-Family	<u>3,000 sq. ft.</u> 1,500 sq. ft.	15 ft.	3 ft. one side 20 ft. rear	75 ft. unless modified by Sec. 4.04(1)
Mixed use: Dwelling/Commercial	<u>3,000 sq. ft.</u> 725 sq. ft. *	None	10 ft. if adjacent to R or DR otherwise NONE	75 ft. unless modified by Sec. 4.04(1)
Other permitted uses in DB-O and DB	None	None	10 ft. if adjacent to R or DR otherwise NONE	75 ft. unless modified by Sec. 4.04(1)

725 sq ft per dwelling unit allowed in the Carroll Creek Overlay District, unless requirements outlined in Section 22.04 are met, then 580 sq ft allowable. In DB/DB-O areas outside of the Carroll Creek Overlay, 1,500 sq ft for multi family and 1,000 sq ft for mixed use must be met.

DR Downtown Residential & DR-B Downtown Residential, Limited Offices	In the DR district, increased densities for multi-family housing for elderly persons may be permitted pursuant to Section 4.04(9)(G) of this Ordinance.			
Single Family	<u>2,000 sq. ft.</u> 2,000 sq. ft.	20 ft.	3 ft. one side 20 ft. rear	45 ft.
Two Family	<u>3,000 sq. ft.</u> 1,500 sq. ft.	15 ft.	3 ft. one side 20 ft. rear	45 ft.
Townhouse	<u>1,500 sq. ft.</u> 1,500 sq. ft.	10 ft.	3 ft. end units 20 ft. rear	45 ft.
Multi-Family	<u>3,000 sq. ft.</u> 1,000 sq. ft.	15 ft.	3 ft. one side 20 ft. rear	45 ft.
Any other permitted use in DR or DR-B	1,500 sq. ft.	10 ft.	3 ft. one side 20 ft. rear	45 ft.

²⁴⁰ Section 4.03 amended September 2, 2004, Zoning Text Amendment Case 04-474, Ordinance G-04-15

4.04 Supplementary District Regulations

(1) Buildings within the specified DB district

Within an area enclosed by All Saints Street and Commerce Street to the south, Wisner Street to the east, Church Street to the north, and Bentz Street to the west; buildings within the DB district only may exceed the 75 ft. maximum height limitation provided that no building exceed an elevation of 365 ft. above mean sea level.

(2)²¹⁸ Shopping Center Provisions

A shopping center shall be permitted only after submission to and approval by the Planning Commission of a site plan as required by Section 6 of this Ordinance and general building plans, architectural elevations and specifications as may be required for the purpose of administering these regulations. Redevelopment or reconstruction of an existing shopping center shall be subject to the same approval. The Planning Commission may modify redevelopment of shopping centers in accordance with subsection 4.04(2)(d). No shopping center shall be approved unless it is found by the Planning Commission to meet the following requirements:

- (a) Each shopping center shall consist of one or more buildings of integrated and harmonious design, with common parking and service areas or facilities, all in a single ownership or under unified control so as to be operated as a single unit.
- (b) All business and services shall be conducted within buildings except for the sale of automotive fuels, oils, and other fluids at service stations, or unless specifically authorized by the Commission in connection with site plan approval.
- (c) Goods sold or stored shall be limited to those which are not objectionable or hazardous by reason of odor, dust, smoke, steam, cinders, gas, fumes, noise, vibration, fire, explosion, radiation, refuse matter, or water carried waste.
- (d)⁷⁰²¹⁹ Except in the DB District, the building coverage of all buildings, excluding common areas, shall not exceed 25 percent of the lot area for undeveloped sites. However, the Planning Commission may modify the percentage of building in shopping center redevelopment projects, upon condition that all

²¹⁸Section 4.04(2) amended February 20, 2003, Zoning Text Amendment Case PC03-018TXT, Ordinance G-03-6.

⁷⁰Section 4.04(2)(d) amended October 5, 1995, Zoning Text Amendment Case 95-5, Ordinance G-95-43.

²¹⁹Section 4.04(2)(d) amended February 20, 2003, Zoning Text Amendment Case PC03-018TXT, Ordinance G-03-6.

other requirements of Section 4.04(2) are met. Within this section “common areas” shall mean all enclosed building square footage that is not intended to be leased on a permanent basis or sold to an individual commercial retail tenant, such as but not limited to walkways, equipment rooms, public restrooms, elevators and stairwells.

- (e) Paved parking and loading areas shall be provided as required by Section 14 of this Ordinance.
- (f) All exterior signs shall be of a compatible design and harmonious with the buildings and shall meet the size and location requirements for shopping center signs set forth in Section 15 of this Ordinance.
- (g) In addition to yards required for principal buildings within the district, all parking areas shall be 25 ft. from adjacent street right-of-ways and 10 ft. from all other lot lines with the intervening area landscaped and well maintained.
- (h) Floodlights or spotlights shall not be mounted more than 20 feet above ground and shall be shaded to protect adjacent residential areas and the passing public from all avoidable glare. No lights shall be permitted that simulate or conflict with any traffic, police, safety, or emergency lights.
- (i) The site plan shall make adequate provision for the effective separation and protection of pedestrians from traffic on sidewalks, islands, and otherwise; for well-defined entrances and exits with proper consideration for traffic controls and movement; and for effective drainage lighting, directory signs, landscaping, and all other pertinent features of a thoroughly well-designed, safe, and attractive shopping center.

(3)^{71,72} M-O District Provisions

The following supplementary provisions shall apply to all development or redevelopment of land within the M-O district. They are intended to assure development which is aesthetically pleasing and compatible with neighboring development and which provides employment opportunities with no nuisance effects and which furthers the objectives of the Comprehensive Plan.

The primary purpose of the M-O district is to provide for large users of 3,000 or more sq. ft. of gross leasable area (GLA). Smaller users will be permitted in accordance with the provisions of this section. Such users are subject to restricted signage requirements applicable to the M-O district and to the parking requirements of Section 14.04 for the particular use.

⁷¹ Section 4.04(3) amended July 9, 1987, Zoning Text Amendment Case 87-1, Ordinance G-87-13.

⁷² Section 4.04(3) amended January 9, 1992, Zoning Text Amendment Case 91-4, Ordinance G-92-1.

- (a) Maximum building coverage on any lot in the M-O district shall be 30 percent.
- (b) Minimum landscaped area on any lot in the M-O district shall be 20 percent.
- (c) Minimum yards and building heights for all development in the M-O district shall be as specified by Section 4.03 Development Regulations; however, the 100 ft yard requirement of that section may be modified to 50 ft. if the Planning Commission approves a landscaping plan which, in the Commission's opinion, provides an adequate buffer for adjacent property.
- (d)^{73,74} Business and professional offices shall be permitted provided that in a single building having less than 24,000 sq. ft. of GLA not more than 15% of the GLA of such building may be leased to single users occupying less than 3,000 sq. ft., and further provided that consumer/retail oriented professional offices shall be permitted only within exclusive office complexes.
- (e)⁷⁵ All buildings shall be constructed so as to present an aesthetically pleasing and finished appearance from all sides. Loading docks, service areas or other similar features shall be screened from view from all public streets and under no circumstances shall outdoor material storage areas be permitted in the M-O district. Screening in the M-O district confronting any R district shall be at a minimum, Level II screening. The Planning Commission must approve the landscaping plan and may require screening above the level of Level II screening depending on the type of development within the 100 ft. yard and adjacent land uses. To ensure aesthetically pleasing development compatible with adjacent or neighboring buildings, all applications for site plan approval in the M-O district shall include architectural renderings or other information concerning the design and materials of the proposed building.
- (f)⁷⁶ Parking spaces shall be provided as required by Section 14.04 for a commercial, professional and institutional uses and for any user occupying less than 3,000 sq. ft. of GLA in the M-O district. For business offices and permitted manufacturing uses, the following parking requirements apply:
 - 1. For buildings designated exclusively office, parking shall be based upon one space per 250 square feet of gross usable building area

⁷³ Section 4.04(3)(d) amended November 1, 1990, Zoning Text Amendment Case 90-4, Ordinance G-90-56.

⁷⁴ Section 4.04(3)(d) amended January 9, 1992, Zoning Text Amendment Case 91-4, Ordinance G-92-1.

⁷⁵ Section 4.04(3)(e) amended January 9, 1992, Zoning Text Amendment Case 91-4, Ordinance G-92-1.

⁷⁶ Section 4.04(3)(f) amended January 9, 1992, Zoning Text Amendment Case 91-4, Ordinance G-92-1.

and shown on the approved site plan. For non-exclusive office buildings (e.g., R&D, loading dock capable, etc.), parking shall be based upon one space per 333 square feet of gross rentable building area, as shown on the approved site plan. However, if parking based upon the actual use is less (if a specific user is known at the time of site plan approval), then only that area need be paved. The remaining area may be graded and seeded for future parking expansion.

2. Parking based upon use shall include one space per employee plus one designated visitor space per every 100 employees plus one space for every company vehicle used in the business.
- (g) Uses marked "P*" in Section 4.02 shall be permitted only within a Planned Employment Development in an M-O district.

The following criteria shall apply to a Planned Employment Development (PED):

1. A PED master development plan must be submitted to and approved by the Frederick City Planning Commission.
2. Minimum tract size is 50 acres. The tract may be subdivided according to the approved master plan. Minimum lot area and frontage shall be as required in Section 4.03 Development Regulations.
3. The PED must have access from an arterial classification road as shown on the Frederick City or County Comprehensive Plan and must be a self-contained employment development. If adjacent to any B-1 or B-3 zoned land, the Commission may disapprove a plan with retail or other support service uses in the PED.
4. Uses marked "P*" in Section 4.02 may comprise no more than 10 percent of the gross leasable floor area in a PED. No such use can develop until 15 percent of the gross floor area in the PED has developed with office or industrial use. Such uses shall be shown on the PED master plan which must be approved by the Commission. They must be internal to the PED and located and designed primarily for use by the business in the Development.
5. All signage within a PED shall be pursuant to a comprehensively prepared and approved signage program, submitted with the site plan. Industrial park identification signs shall be permitted by Section 15.06.

(h) Uses marked "P**" in Section 4.02(3)(g) shall be permitted in any M-O district subject to the following review procedures and performance standards:

- (1) APPLICATION: In addition to a site plan as required by Section 6 of this Ordinance, all applications for development or redevelopment of industrial uses (marked "P**" in Section 4.02) in the M-O district must be accompanied by a description of the proposed processes and operations to be undertaken and a description of all machinery processes and products used along with a description of all measures and techniques employed to restrict omissions of dangerous, or potentially objectionable elements. The application must include certification by a registered professional engineer or other competent expert that the performance standards set forth below can be complied with at all times.

The above information shall be submitted to the Planning Commission for their review simultaneously with the site plan if the industry or user of the building has been determined at the time. If no specific user is determined and site plan approval is sought for a speculative development building, then the Commission may approve the site plan with review of certification or performance standard compliance for each user or tenants to be made by the Planning Department and other City, County, and State Departments as required. No zoning certificate shall be issued for any industrial user or tenant until the above-mentioned performance criteria certification has been approved.

If it deems necessary the Commission or Department may secure the advice of one or more experts qualified to advise whether or not a proposed use will conform to all applicable performance standards. The cost of an expert consultant's opinion shall be paid by the applicant. If the advice of the expert is deemed necessary, then the Commission may secure a consultant who shall report to the Commission without undue delay. The Commission may continue a case for up to 60 days in order to secure such expert advice from an independent expert.

If the Commission or Department finds that the performance standards will be complied with, then the site plan shall be approved for that specific use or operation. However, any change in use, processes, or operation will require additional approval by the Commission.

(i) PERFORMANCE STANDARDS:

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

(2) Noise.

All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency, or shrillness. Noise levels shall not exceed the following sound levels dB(A). The sound pressure level shall be measured at the property line with a sound level meter.

<u>Sound Measured In:</u>	<u>DAY</u> <u>7 A.M. - 6 P.M.</u>	<u>NIGHT</u> <u>6 P.M. - 7 A.M.</u>
M-O, M-1, M-2	89 dB(A)	89 dB(A)
B, DB, DB-O	70 dB(A)	60 dB(A)
R, DR	65 dB(A)	55 dB(A)

(3) Air pollution, smoke, dust, fumes, and particulate matter.

No smoke, dust, fumes, or articulate matter shall be perceptible at any lot line. Further, the regulations and standards governing the control of air pollution shall be the same as those adopted by the State of Maryland.

- (4) Odors. No operation shall result in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interfere with the comfort of the public.

- (5) Fire and Explosion. All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety and fire-fighting devices.

- (6) Radioactive Materials. The handling of radioactive materials shall be in conformance with the regulations of the United States Nuclear Regulatory Agency and all applicable regulations of the State.
- (7) Glare and Heat. No direct or sky-reflected glare, whether from floodlights or from high temperature processes, such as combustion or welding or otherwise, so as to be visible at the lot line, shall be permitted. There shall be no emission or transmission of heat or heated air so as to be discernible at the lot line.
- (8) Liquid or Solid Wastes. There shall be no discharge into any public or private sewage disposal system or stream, or into the ground, of any liquid or solid waste materials, except in accordance with the City of Frederick Sewerage Pretreatment Ordinance, the regulations of the County Health Department, and the Department of Water Resources and the Department of Health of the State, as applicable.

(4)⁷⁷ Accessory Retail Sales in the M-O, M-1 & M-2 Districts

Accessory retail sales may be permitted for any industrial manufacturing, processing, assembly, warehouse, or distribution center in the M-1 and M-2 districts and for any industrial manufacturing, processing and assembly use in the M-O district provided articles sold are:

- (a) Products manufactured, assembled, or processed on site
- (b) Parts or accessories to products manufactured, assembled, or processed on site.
- (c) Articles stored or distributed by a warehouse or distribution center; however, this use shall be permitted only in the M-1 and M-2 districts, and not the M-O district.

In no event shall more than 10 percent or 1,000 square feet of the floor area, whichever is less, for any one M-O district user, and no more than 25 percent of the floor area in the M-1 and M-2 districts, of a building which is used for manufacturing, processing, assembly, storage or distribution of products, be used for retail sales. Service facilities likewise are limited to repair of and or service of products manufactured, processed, assembled, stored or distributed by the principle use. In the M-O district, no outside retail signs, no outside retail advertising, no outside retail show windows, and no other exterior evidence of retail sales shall be allowed.

⁷⁷ Section 4.04(4) amended March 3, 1988, Zoning Text Amendment Case 88-1, Ordinance G-88-5.

Nothing herein contained shall be construed to permit the operation of general retail sales businesses in the M-O, M-1, M-2 districts other than as provided in this Section.

Off-street parking for accessory retail sales shall be provided according to requirements for retail sales of Section 14 of this Ordinance.

(5) Seasonal or Limited Duration Use Regulations

Any use identified in Section 4.02(3) as a seasonal or limited duration use shall be permitted subject to the following specific limitations:

- (a) Roadside stands may be permitted in the R-1, all B districts and in the M-1 and M-2 districts provided all products sold are locally grown or produced, adequate parking is provided for two customer vehicles, no permanent structures are used and the stand is operated for no more than 3 months in any year.
- (b) A carnival or circus may be permitted in any R, B-1, B-3, M-1 or M-2 district for a maximum of 15 days in any one year provided that adequate off-street parking is available and a stabilized driveway to the parking must be provided.
- (c) Christmas tree sales may be permitted in any district for a maximum period of 30 days.

(6)⁷⁸ Commercial, Industrial Use Supplementary Regulations

- (a) Goods processed, stored or sold shall be limited to those which are not hazardous or objectionable by reason of odor, dust, smoke, steam, cinders, gas, fumes, noise, vibration, fire, explosion, radiation, refuse matter or water carried waste.
- (b) In the B-1, B-3 and DB districts, the storage of flammable materials shall be in accordance with the State Fire Marshal and Maryland Department of the Environment regulations.
- (c)⁷⁹ [This section was deleted April 15, 1993, Ordinance G-93-8.]
- (d) In all districts all business and services shall be conducted within completely enclosed buildings except for the following activities:

⁷⁸ Section 4.04(6) amended May 21, 1992, Zoning Text Amendment Case 93-3, Ordinance G-92-18.

⁷⁹ Section 4.04(6)(c) deleted April 15, 1993, Zoning Text Amendment Case 92-6, Ordinance G-93-8.

1. Automobile or other vehicle sales.
- 2.⁸⁰ Outdoor storage of material awaiting sales, delivery, or further processing shall be permitted only in the B-3, M-1 and M-2 districts provided: (a) such storage areas are in a side or rear yard no closer than 50 ft. from a property in a district other than B-3, M-1, or M-2 and screened as required by Section 11; (b) such storage areas are in a side or rear yard no closer than 10 ft. from a property in a B-3, M-1 or M-2 district and screened as required by Section 11; (c) such storage areas are in a front yard for panhandle lots shall be adjacent to and no closer than 10 ft. from a property in a B-3, M-1 or M-2 district and screened as required by Section 11; (d) such storage areas are no closer than 50 ft. from a street right of way.
3. Outdoor display of merchandise open to the public and being actively marketed and to which the public has free access shall be permitted in the B-1, B-3, DB and M-1 districts.
4. Seasonal uses permitted by this Ordinance (see Section 4.04(5)) may be conducted outside of an enclosed building.
5. Motor vehicle fuel sales only at approved automobile filling and service stations.

(7)⁸¹ Downtown Residential/Limited Business District Provisions

Offices may be established within existing buildings in the DR-B district, provided that within any block no more than 40% of the buildings on either side of the street shall be used for nonresidential use. For the purpose of this section, public buildings and churches shall be considered nonresidential uses.

- (a) No remodeling shall be permitted in the DR-B zone for display windows or other nonresidential looking changes; and no signs, other than those permitted by Section 15.05(1)(b), shall be erected or placed so as to be seen from neighboring properties or public right-of-way.
- (b) Parking areas shall be screened and shall be situated on the lot so as to minimize impact on adjoining residential neighbors and preserve the residential nature and appearance of the lot and the dwelling thereon.
- (c) All office uses, located in converted dwelling units, that increase the parking requirement above the residential requirement cited in Section

⁸⁰ Section 4.04(6)(d)(2) amended October 7, 1999, Zoning Text Amendment Case 99-07, Ordinance G-99-57.

⁸¹ Section 4.04(7) amended September 11, 1997, Zoning Text Amendment Case 97-01, Ordinance G-97-26.

14.04 by a factor greater than 100% must conform to the access design requirements of Section 13.01(1) of this Ordinance and the parking space and drive dimension requirements of Section 14.08. All other off-street parking areas utilized for office use shall be designed with an appropriate means of vehicular access to a street or preferably an alley, in a manner which will least interfere with traffic movement and which are designed so that traffic entering or leaving parking areas at a public way is clearly visible for a reasonable distance by pedestrians and other vehicular traffic.

(8)⁸² Residential - Office Provision

Professional offices may be established only within existing buildings in the R-O district. Parking within the R-O zone shall be provided as required by Section 14.04, as determined by the given residential or professional office use. If used both as a residence and a professional office, the requirements for the specific professional office use shall be met. Parking areas shall be totally screened or fenced and shall be situated on the lot so as to minimize impact on adjoining residential neighbors and preserve the residential nature and appearance of the lot and the dwelling thereon.

- (a) No remodeling shall be permitted in the R-O zone for display windows or other nonresidential looking changes.
- (b) Common entrances should be encouraged in the R-O zone where possible.
- (c) Twenty-four feet (24') wide entrances with a depth of one (1) car length shall be provided for two (2) way traffic entrances. One (1) way in and one (1) way out access shall be permitted with a minimum fourteen (14') feet wide entrances. Access drives may be permitted to narrow down to ten feet (10') in width in the front yard and side yard leading to the parking area at the discretion of the Planning Commission, in the interest of preserving the residential appearance of the lot and dwellings.
- (d) Unimproved properties as of the effective date of this Ordinance that meet the criteria and requirements for the R-O district, shall be permitted to be improved with a new structure and converted to professional office use provided it complies with the purpose and intent of the R-O district and is compatible with existing residential uses in the area, and is similar in character, appearance and size to other properties in the area.
- (e) Professional offices may not be established in a detached garage located on the property.

⁸² Section 4.04(8) amended July 3, 1989, Zoning Text Amendment Case 89-1, Ordinance G-89-9.

(9)⁸³ Multifamily Housing for Elderly Persons in the DR District

Multifamily housing for elderly persons may be established in the DR Zoning District only after submission to, and approval by, the Planning Commission of a site plan as required by Section 6 of this Ordinance. In addition, no such site plan for multifamily housing for elderly persons shall be approved unless it is found by the Planning Commission to meet with the following requirements:

- (a) At least fifteen percent (15%) of the total lot area on which multifamily housing for elderly persons is established must be devoted to open space. Additionally, one-half of one percent of the total project cost for new buildings shall be devoted to open space amenities over and above landscaping.
- (b) Parking shall be provided as follows: 1 per 2 dwelling unit, with 10% of the total number of parking spaces being designated as handicapped parking spaces.
- (c) Public water and sewer systems shall be available and have capacity adequate to accommodate the site, as determined by the City Engineer.
- (d) All walkways, parking lots, dumpsters and site amenities shall be handicapped accessible according to ANSI requirements.
- (e) Parking lots, dumpsters and open space areas shall be in close proximity to the dwelling units.
- (f) A letter of concurrence from the Director of the City of Frederick Department of Housing and Community Development stating that the site on which multifamily housing for elderly persons is to be established meets the site evaluation criteria set forth in the Maryland Department of Housing and Community Development, Community Development Administration Rental Housing Programs handbook.

⁸³ Section 4.04(9) Added November 21, 1991, Zoning Text Amendment Case 91-4, Ordinance G-92-24.

- (g) The following increased densities for multifamily housing for elderly persons may be permitted in the DR district, provided that the requirements set forth in (a) through (f) are satisfied.

DR Downtown Residential	
minimum lot area:	3,000 sq. ft.
minimum area per dwelling unit:	650 sq. ft.

²³⁸ R-5, R-6, R-7 Districts	
minimum lot area:	46,350 sq. ft.
minimum area per dwelling unit:	650 sq. ft.

(10)⁸⁴ A-1 Agricultural District Provisions

- (a) Permitted uses in the A-1 Agricultural District
1. Agricultural Activity
 2. Roadside stands as seasonal use subject to provisions of Section 4.04(5)(a)
 3. Forestry
 4. Farm tenant dwelling-dwelling occupied by persons employed on the farm.
 5. Single family detached dwellings
 6. Public parks, public golf courses, public schools, public safety uses (police, fire, rescue)
 7. Cemeteries
 8. Carnival or circus as a seasonal use subject to provision of Sections 4.04(5)(b).
- (b) The following lot area, yard and height requirements apply in the A-1 Agricultural District.
1. Minimum tract area - none.

²³⁸ Section 4.04(9) amended November 4, 2004, Zoning Text Amendment Case 04-577, Ordinance G-04-29.

⁸⁴ Section 4.04(10) amended May 21, 1992, Zoning Text Amendment Case 92-2, Ordinance G-92-17.

2. Minimum lot area and yards and maximum height for a single-family dwelling or farm tenant dwelling; same as R-1 (See Section 4.03).
 3. Minimum area per each dwelling unit: 50 acres.
 4. Minimum yards for all farm structures: including accessory structures (except fences): 50 ft. (See Section 10.03).
 5. Maximum height for all structures: notwithstanding Section 10.03, height limits in the A-1 District shall be the same as M-1.
 6. Minimum lot area, yards and maximum height for all uses other than agricultural activity and dwellings: same as R-1.
- (c) Supplementary District Regulations & Exemptions pertaining to A-1 Agricultural District.
1. Provisions for Section 6, site plan review shall not apply to construction or alteration to farm buildings or structures, however, a zoning certificate is required per Section 21 and all setbacks must be observed.
 2. Farm structures and accessory structures except for fences, may not be placed in required yards. Fences may be located in any yard notwithstanding Section 10.04 and 10.06 provided visibility at a public road intersection is not obstructed.
 3. A farm may be identified by a sign no larger than 20 sq. ft.
 4. In the A-1 Agricultural District the preferred use is agriculture. The operation of any machinery used in farming procedures and all customary agricultural procedures shall be permitted and shall have preference over all other uses.

(11)⁸⁵ Restaurants, Restaurants With Entertainment, Private Clubs-Consumption of Alcohol and Prohibition on Nudity, Sexual Conduct, and Obscenity.

Within all establishments serving food and/or drink, including but not limited to, Restaurants, Restaurants With Entertainment and Private Clubs, alcohol may be consumed only if the establishment holds a valid liquor license issued by the Frederick County Liquor License Commission. Any and all activity which includes

⁸⁵ Section 4.04(11) added October 6, 1994, Zoning Text Amendment Case 94-3, Ordinance G-94-67.

or involves nudity, sexual conduct, as defined in Section 2.02(115A), and/or obscenity shall be prohibited.

(12)⁸⁶ Adult Bookstores AND/OR Adult Entertainment Centers

as defined in Section 2.02(2)(A), may be permitted in the B-3 district provided that all of the following conditions can be met:

- (1)(a) No such establishment shall be located within one thousand (1,000) feet of the nearest property line of any institutional use or district, residential use or district, or public park or playground.
- (b) There shall be no evidence visible to pedestrians or motorists that adult only material is being offered for sale, rental, exhibition or viewing. No advertisement display or promotional material for adult material shall be visible to the public. All windows and entrances shall be located so as to prevent a view into that portion of the store or entertainment center in which adult material is displayed or activity is taking place.
- (c) No adult bookstore or adult entertainment center shall be located within one thousand (1,000) feet of another adult bookstore and/or adult entertainment center. The distance between any two such businesses shall be measured in a straight line, without regard to intervening structures or objects, from structure to structures in which the adult businesses are located.
- (d) Each application submitted for the uses herein, must be accompanied by a site plan or other documentation to assure compliance with distance requirements. The application must list a description of all adult uses on the premises and include a floor plan to assure compliance with Section 4.04(12)(1)(b). The applicant shall submit a notarized statement attesting that the adult entertainment enterprise complies with the requirements set forth herein above. Any violation of the conditions herein may cause the zoning certificate to be revoked.
- (e) Only persons eighteen (18) years of age or older shall be permitted on the premises of any adult bookstore or adult entertainment business.
- (f) The hours of operation shall not include any time periods between 12:00 p.m. and 6:00 a.m.
- (g) Any material of an adult nature that is brought into or removed from the display or activity area shall be wrapped or otherwise covered to prevent its adult nature from being evident.

⁸⁶ Section 4.04(12) added August 21, 1997, Zoning Text Amendment Case 97-04, Ordinance G-97-19B.

(13)⁸⁷ Modifications to Lot Sizes (Cluster Development Option)

The purpose of the cluster development option is to allow flexibility in the design of residential development by permitting some variation in lot sizes and required yards but without an increase in density of development. The cluster development option allows home buyers a choice of lot sizes according to their needs while preserving green space, tree cover, natural drainage ways, nontidal wetlands, floodplains, and open space.

- (1) Townhouses, wherever developed, may be clustered according to provisions set forth in Section 4.03. Other unit types may be clustered only in residential districts. All cluster residential developments may be on a tract of at least five (5) acres and developed as a single entity.
- (2) A preliminary plan for a cluster development must be submitted to the Commission for their approval. In addition to information required by the preliminary plan, all information for site plan approval (Section 6.07), shall be shown. The cluster development plan shall show dwelling locations on each lot and building set backs for all yards. The limits of nontidal wetlands and the one hundred (100) year floodplain shall be shown. Floodplain delineations must be based on the mapped FEMA floodplain. Other appropriate floodplain methodology may be utilized, if the preliminary plan application is submitted with an approval letter from the City Engineer and the plan meets the requirements of the Floodplain Management Ordinance.
- (3) Minimum lot area, minimum lot widths and minimum yards may be reduced so to cluster lots on the tract; however, minimum area per dwelling may not be modified so as to increase development density. Dwelling types other than those permitted in the district may not be used in a cluster development.
- (4) The land resulting from reduced lot sizes (clustering units) may not include floodplains, road or utility rights-of-way.
- (5) The land resulting from reduced lot sizes⁸⁸ shall be common area conveyed to a property owners' association as provided for by Section 17 of this Ordinance. This common area shall be improved and maintained as open space. Retained forest, areas of reforestation or afforestation areas

⁸⁷ Section 4.04(13) added September 2, 1999, Zoning Text Amendment Case 99-06, Ordinance G-99-56.

⁸⁸ This is land required by Section 4.03 in each zoning district as land required per dwelling unit; but, is not used as area to site the dwelling unit as a result of clustering.

(pursuant to the Frederick City Forest Conservation Ordinance) may be included as such open space.

- (6) All final plats for lots in an approved cluster development shall indicate that lot areas and yards have been reduced pursuant to this Section and shall bear a statement that recorded covenants and restrictions apply. The agreements concerning the ownership and maintenance of open space land shall be recorded with the final plat.

(14)⁸⁹ Telecommunication Antennas

Telecommunication antennas and related equipment for public or private use are permitted in all districts subject to the following conditions.

- (1) The antenna(s) are enclosed on all sides within an existing building or structure or are located behind and no higher than a penthouse or parapet walls or extensions thereof and are enclosed on all sides by such walls or extensions. The Historic District Commission will review and approve the proposed penthouse, parapet walls or extensions within the Historic District.
- (2) Related communications equipment is enclosed or located as set forth in subparagraph (1) above or is enclosed within a new building of three hundred sixty (360) square feet or less which matches the color of the existing building or structure housing and antennas and meets the set backs and landscaping of an accessory structure in the particular district. The Historic District Commission or planning staff will be responsible for the architectural review and approval of the color, size, location and materials of the accessory building as applicable.
- (3) The applicant shall provide a sealed statement from a structural engineer stating that the building or structure is strong enough to support the equipment proposed by the applicant and that the planned installation will be structurally sound.
- (4) The applicant shall provide a sealed statement from a licensed professional radio frequency engineer stating that the antennas proposed meet the radio frequency safety standards as established by the regulating agency for such antenna(s) licensed.
- (5) The antenna(s) and related communications equipment shall remain an accessory use of the property at all times. At such time the antenna(s) become unnecessary they will be removed by the owner of the equipment.

⁸⁹ Section 4.04(14) added January 4, 2001, Case Text Amendment PC01-172TXT, Ordinance G-01-9.

SECTION 5. SPECIAL EXCEPTIONS

5.01 Special Exceptions - Generally

The following specific conditions and requirements shall apply to uses permitted as a special exception in addition to those of Section 4.03 DEVELOPMENT REGULATIONS. They are intended to assure compatibility of certain activities not ordinarily permitted in a district with permitted uses.

5.02 Additional Conditions May be Required

The Board of Zoning Appeals may attach additional reasonable conditions to a special exception upon a specific finding that there is a unique characteristic of the activity or property which, if not addressed, would have substantial adverse impacts on adjacent properties. Any additional condition imposed shall be related to such unique characteristic and shall be the minimum necessary to deal adequately with it.

5.03 Signs for Special Exceptions

Signs for any use permitted by special exception shall be limited as follows unless otherwise specified elsewhere in this section.

- (1) In the R and DR districts, the maximum sign area permitted shall be two square feet.
- (2) In all other districts, the sign limits applicable to permitted uses shall apply to special exception uses.

5.04 Specific Conditions for Special Exceptions

- (1) Meat and poultry packing and processing may be permitted in M-2 districts provided that all of the following conditions and requirements are met:
 - (a) All activity must be within a completely enclosed building.
 - (b) All required public health approvals must be obtained prior to Board approval.
 - (c) No building or activity shall be closer than 500 ft. from a lot in a district other than an M district.

- (d) Access to the property shall be from a street designated as a collector or arterial on the Comprehensive Plan.
 - (e) The applicant must provide guarantees as deemed necessary by the Board to ensure that no hazardous or obnoxious effluent will be released into the air, water or onto the ground and that all wastes and byproducts will be disposed of in a safe and healthful manner.
- (2) Livestock sales may be permitted in the M-2 district provided that all the following conditions and requirements are met:
- (a) All sales activity must occur within a completely enclosed building.
 - (b) All buildings having animals within them must be at least 300 ft. from the property line.
 - (c) The applicant provides guarantees as deemed necessary by the Board to ensure the sanitary and humane treatment of animals and compliance with all state and federal laws which may apply.
 - (d) No building, pen or other enclosure for animals shall be closer than 500 ft. to an R, DR, DB, or DB-O district.
- (3) Mineral extraction (quarries, pits, etc.) and mineral processing (stone crushing) shall be permitted in the M-2 district provided that all the following conditions and requirements are met:
- (a) No extraction or processing operation occurs within 200 ft. of any property line and no closer than 500 ft. from a B district or 750 ft. from a R or D district.
 - (b) All other activities, including stockpiles of material, shall be set back at least 50 ft. from all property lines and no closer than 100 ft. from an R or D district.
 - (c) The property must have primary access from a street classified as an arterial on the Comprehensive Plan.
 - (d) The applicant must provide guarantees as deemed necessary by the Board that no hazardous or obnoxious situation will result from the operation and that all applicable state and federal regulations will be complied with.
 - (e) All roads within the premises, all machinery and equipment shall be maintained and operated in such a manner so as to minimize dust, noise, vibration and other adverse features.

- (f) Protective fencing shall be erected and maintained between any quarry or pit and any public road and also about any quarry where extraction operations have ceased for a period of three years. Such fencing shall be chain link at least 6 ft. in height.
 - (g) Whenever extraction operations on a premises are terminated all quarries and pits shall be fenced in a manner specified above. All fences shall be maintained in a safe and secure condition or other satisfactory arrangements shall be made for a safe and desirable continuing use or disposition of the property. The responsibility for maintaining such properties shall rest with the owner and his successors in title.
- (4) Pressure treating of wood in the M-2 zone may be permitted provided that all the following conditions and requirements are met:
- (a) All activity must be located within a completely enclosed building.
 - (b) No building or activity shall be located closer than 500 ft. from a property within a district other than another M district.
 - (c) Access to the property shall be from a street designated as a collector or arterial on the Comprehensive Plan.
- (5) Certain retail uses in multifamily developments in high density residential districts may be permitted provided that all of the following conditions and requirements are met:
- (a) Only the following types of retail or service uses shall be permitted:
 - Banks or savings and loan offices
 - Barber and beauty shops
 - Bookstores
 - Drug stores
 - Dry-cleaning and laundry pickup stations
 - Florists
 - Food and beverage stores
 - Gift shops
 - Jewelry stores
 - Laundromats
 - Newsstands
 - Doctors and dentists office
 - Restaurants
 - Variety and dry goods stores

- (b) The establishments shall be primarily for the service of the residents of the building or complex in which it is located, and no deliveries shall be made except to such residents.
 - (c) There shall be no entrances directly from the exterior to the establishments, and no signs related thereto shall be visible from the exterior
 - (d) The establishments shall not be located on any floor above the ground level, except that a restaurant may be located on a top floor or penthouse.
 - (e) The establishments shall be so located and constructed as to protect occupants of the building or complex from noise, traffic, odors, and interference with privacy.
- (6) Dwellings in the B-O district may be permitted provided that all of the following conditions and requirements are met:
- (a) R-4 development regulations shall apply.
 - (b) If dwellings are a component of a mixed-use development, parking must be provided for both commercial and residential uses and provisions made to adequately buffer residential areas.
- (7) Group homes may be permitted in any district other than an M district provided that all of the following conditions can be met:
- (a) The applicant provides guarantees as deemed necessary by the Board that the group home will not constitute a nuisance because of the number of residents, noise, increased vehicular traffic, or any other activity associated with the group homes which may be disruptive to the residential character of a neighborhood.
 - (b) The Board finds that the group home will not result in an excessive concentration of similar uses in the same general neighborhood.
 - (c) The property must be of sufficient size and shape so as to accommodate the proposed number of residents and staff, accommodate off-street parking and include adequate areas for outdoor play and recreation with appropriate play equipment if children are to reside in the group home.
- (8) Nursing homes may be permitted in all districts other than M districts provided that all of the following conditions can be met:
- (a) The applicant provides guarantees as deemed appropriate by the Board that the nursing home will not adversely effect the character of any existing

residential neighborhood nor influence the future development of a planned residential area because of the size or appearance of the building, increased traffic, noise, or other characteristic of the use which may be out of character with residential use. All buildings must be architecturally compatible with existing structure in the immediate area.

- (b) The applicant must obtain all required state approvals and licenses prior to the Board's approval of the use.
- (c) The site of the proposed use must be adequately protected from noise, traffic, air pollution or other potential hazards to the residents of the facility.
- (d) A site plan with information required by Section 6.07 must be provided for the Board's review. This plan must show the proposed facility and all future expansions.
- (e) The following density limitations shall apply:

R-1 and R-2	500 sq. ft. of lot area per bed
R-3 and R-4	400 sq. ft. of lot area per bed
All other R, DR, and B districts	300 sq. ft. of lot area per bed

(9)⁹⁰ Domiciliary care facilities may be permitted in all districts except M districts provided that all of the following conditions and requirements are met:

- (a) The applicant must provide guarantees as deemed appropriate by the Board that the domiciliary care facility will not have an adverse effect on the use or development of property in the neighborhood because of increased traffic, noise, or other activity associated with the facility which may be disruptive to the neighborhood.
- (b) The applicant must demonstrate to the Board's satisfaction that the facility will adequately meet the specialized needs of a particular group for which the facility is intended.
- (c) The site of the proposed facility must be of sufficient size and shape to accommodate the proposed number of residents and to accommodate off-street parking and adequate open space for recreation. The facility must be adequately protected from noise, traffic, air pollution or other potential hazards to the residents of the facility.
- (d) A site plan with information required by Section 6.07 must be provided for the Board's review showing the proposed facility and all future expansions.

⁹⁰ Section 5.04(9) amended July 13, 1989, Zoning Text Amendment Case 89-1, Ordinance G-89-10.

- (e) The following density limits shall apply:

R-1, R-2, R-3 and R-O districts: one residential unit per 3,000 sq. ft. of lot area

R-4 district: one residential unit per 1,500 sq. ft of lot area

R-5, R-6, R-7 districts: one residential unit per 750 sq. ft. of lot area

DR and B districts: one residential unit per 333 sq. ft. of lot area

- (f) Ancillary facilities such as dining rooms, theaters, craft workshops, and retail stores as allowed and regulated by Section 5.04(6) and serving exclusively the residents of the domiciliary care facility may be permitted provided there is no exterior evidence of such facilities.

(10)⁹¹ Accessory apartments may be permitted within certain single family detached dwellings in the R-1, R-2, R-3, and R-O districts provided that all of the following conditions are met:

- (a) Accessory apartments may be added only within single-family detached dwellings that are at least 5 years old and are in compliance with all current zoning and building code requirements.
- (b) The property owner must reside in dwelling to which an accessory apartment is to be added and must have resided in a dwelling for one year prior to the addition of an accessory apartment.
- (c) Any separate unit entrance must be on a side of the building not a street side or on the rear of the dwelling.
- (d) There must be 2 off-street parking spaces on the lot.
- (e) The following minimum lot area requirements apply:

R-1	15,000 sq. ft. lot area
R-2 and R-O	10,000 sq. ft. lot area
R-3	6,000 sq. ft. lot area

- (f) The applicant must provide guarantees deemed appropriate by the Board that addition of an accessory apartment in a particular dwelling will not result in excessive concentrations of such units within a neighborhood, that sewer and water service is adequate for that additional unit and that the

⁹¹ Section 5.04(10) amended July 13, 1989, Zoning Text Amendment Case 89-1, Ordinance G-89-10.

accessory apartment will be compatible with the existing neighborhood and not result in any activity which will detract from the residential character of a neighborhood.

- (11) Home occupations may be permitted in all R, all D and all B districts provided that all of the following conditions and requirements are met:
- (a) The applicant must provide guarantees as deemed necessary by the Board that the use of a property as a home occupation will not constitute a nuisance because of increased pedestrian or vehicular traffic, noise, or other activity associated with the use of the dwelling for business purposes which may be disruptive to the residential character of the neighborhood.
 - (b) A home occupation must be secondary to the residential use of the property and shall be conducted totally within the dwelling. Not more than 20% of the floor area of the dwelling or 300 sq. ft., whichever is greater, may be devoted to a home occupation. The business use shall be confined to one floor of a dwelling.
 - (c) Only one person who is not a resident of the dwelling may be employed in conduct of a home occupation.
 - (d) A home occupation may not result in any external evidence that a building is being used for any purpose other than a dwelling. There shall be no separate entrance designated for the home occupation.
 - (e) Except for the permitted employee who may be employed, a home occupation may result in no vehicular traffic and in no case shall result in delivery by trailer trucks.
 - (f) If deemed appropriate, the Board may permit a home occupation for a specified period of time with periodic review and approval required to ensure conformity with the conditions and requirements.
- (12) Tourist homes or bed and breakfast homes may be permitted in all districts except M districts provided all of the following conditions and requirements can be met:
- (a) The applicant must provide guarantees as deemed appropriate by the Board that the property is adequate for the proposed use and that the use of a particular property for a tourist home or bed and breakfast home will not constitute a nuisance because of increased vehicular traffic, noise, odor or any other activity associated with the use which may be disruptive to the residential character of the neighborhood.

- (b) No more than one such use shall be permitted per block or closer than 500 ft. to another such use.
 - (c) There shall be no exterior evidence that a building is being used for any purpose other than a residence except for one permitted sign of no more than 2 sq. ft.
 - (d) Off-street parking shall be provided; 1 space per guest room. In no case shall parking be provided in a front yard. All parking areas must be adequately screened as required by Section 11 of this Ordinance.
- (13)^{92,93} Communications towers and antennas may be permitted in the B-3, M-O, M-1, M-2 and DB districts or communications antennas may be permitted on existing city owned water towers or existing athletic lighting structures, over sixty (60) feet in height, on public land (including the replacement and extension of existing athletic lighting structures, over sixty (60) feet in height, on public land) in any district provided that all of the following conditions and requirements can be met.
- (a) The applicant shall provide guarantees as deemed necessary by the Board that the proposed structures will not be a hazard to adjacent properties or constitute a nuisance because of radio interference or other potentially disruptive activity associated with operation of the tower or antenna.
 - (b) All towers including extension towers added to existing structures must be set back from all property lines a distance equal to the height of the tower, including the extension, if applicable.
 - (c) Fencing may be provided to secure the site. No barbed wire or razor wire fencing is to be permitted in residential areas. All fences or other structures on the property accessory to a tower or antennas shall be no closer than fifty (50) feet to a property line. Any parking space required by Section 14.04 of the Zoning Ordinance and accessory to a tower or antennas shall be no closer than fifteen (15) feet from the street or to other property unless a residentially zoned property is adjacent to the site in which case the distance shall be twenty-five (25) feet. Screening of accessory equipment may be achieved by enclosure in a structure architecturally compatible with the area in which the site is located or by vegetative buffering. Fences and parking areas accessory to a tower or antennas shall be screened by Level I screening. Level III screening shall be used on sites that are adjacent to residentially zoned property.
 - (d) For antenna(s) and accompanying equipment cabinets, screening shall be provided as required by the Board.

⁹² Section 5.04(13) amended August 17, 1995, Zoning Text Amendment Case 95-3, Ordinance G-95-38.

⁹³ Section 5.04(13) amended January 4, 2001, Zoning Text Amendment Case PC00-143TXT, Ordinance G-01-5

- (e) No new communications towers may be established if there is a technically suitable space available on an existing communications tower within the geographic area that the new site is to serve. The applicant shall demonstrate that a diligent effort has been made to locate the proposed communications antennas in the B-3, M-O, M-1, M-2 and DB districts, and that due to valid considerations, including physical constraints and technical feasibility, no appropriate location is available in those districts. The applicant shall support this demonstration with a map acceptable to the Planning Department showing the area in which it needs to locate a tower(s), and all existing city owned water towers, other existing athletic lighting structures, over sixty (60) feet in height, on public land and communications towers within that area of sufficient height to support its antenna(s). The applicant shall also describe why those existing city owned water towers, other existing athletic lighting structures, over sixty (60) feet in height, on public land and communications towers were not appropriate.
- (f) Communications antennas to be placed on existing city owned water towers or existing athletic lighting structures, over sixty (60) feet in height, on public land shall be the color of the background tower or athletic lighting structure, in order to minimize visibility. The applicant shall minimize the visibility of antennas and equipment cabinets through careful design, siting and screening where appropriate. The applicant shall provide drawings or photographs showing existing and proposed equipment on the water tower or athletic lighting structure. Applicant shall also demonstrate that the antennas or tower will not have an adverse effect on the historic vistas of the City. No antennas or communication towers are permitted in the Historic District. A balloon test shall be taken in areas where historic vistas, gateways to the City or other significant City landmarks may be affected by the location of an antenna or tower. Photo documentation of the balloon test taken at the site shall be submitted for the Board of Zoning Appeals' review and approval. A red aviation hazard light shall be placed on top of the antenna or tower. Strobe lights are not permitted on the tower or antenna.
- (g) The applicant shall provide a sealed statement from a structural engineer stating that the water tower or athletic lighting structure is strong enough to support the equipment proposed by the applicant and that the planned installation will be structurally sound.
- (h) The applicant shall provide a sealed statement from a licensed professional radio frequency engineer stating that the antennas proposed meet the radio frequency safety standards as established by the regulating agency for such antenna(s).

- (i) The applicant shall provide a copy of the lease or a letter of intent from the owner of the property (including the appropriate authority of the City, County, State or Federal Government for the subject site if involving an existing City owned water tower or existing athletic lighting structures, over sixty (60) feet in height, on public land). The applicant shall also include the duration of the lease, if the term is not stated within the body of the lease. If the lease does not so require, the applicant shall agree to remove the tower or antenna(s) within twelve (12) months of ceasing to use that structure or equipment. If the site of the antenna or communication tower is located on City property, the project must be in conformance with the City's Antenna Policy.
- (j) All antennas must comply with the applicable local, state and federal laws, rules and regulations.
- (k) For purposes of this Section 5.04(13) the term public land means any property owned by the City, County, State or Federal governments. For purposes of this Section 5.04(13) the term athletic lighting structure means a lighting structure for an athletic facility with permanent structured seating. Applicants shall file an agent authorization letter from the responsible government agency identifying its interest in the property and granting the applicant permission to seek the special exception.
- (l) A communication tower may exceed the maximum height permitted within all R districts after a determination by the Board of Zoning Appeals that its visual profile and appearance would make no substantial change in the character of the area, provided, however, that in no event shall the maximum allowed tower height exceed 199 feet. Setbacks for a new communications tower shall be as follows: setback from all property lines shall be a distance not less than one (1) foot for every foot of tower height, but in no case less than 300 feet from any adjoining residential structure. The Board of Zoning Appeals may modify this setback distance.
- (m) For any application, the following is required:
 - 1. The applicant shall publish notice of the proposal, using a block advertisement of a size acceptable to staff, which includes a map showing the site and a 500 foot radius, in any newspaper of general circulation in the City of Frederick.
 - 2. The applicant shall hold an informational meeting in the area of the tower or athletic lighting structure within two weeks after submitting the application. Written notice of such meeting shall be provided to all abutting property owners of the property on which

the site is located and any homeowners associations within a 500 foot radius of the proposed site.

3. The applicant shall maintain the tower or athletic lighting structure in a safe condition.
 4. The tower or athletic lighting structure shall be utilized continuously for wireless communications. In the event the tower or athletic lighting structure ceases to be used for wireless communications for a period of one (1) year the approval will terminate. The applicant shall remove the tower or athletic lighting structure within ninety (90) days after termination.
 5. All communication towers shall be designed for co-location, which shall mean the ability of the structure to allow for the placement of antennae for two (2) or more carriers. The Board of Zoning Appeals may waive this provision if the co-location will have an adverse impact on the surrounding area.
 6. The applicant shall provide a justification as to why the site was selected.
 7. The applicant shall provide a study showing the service area and system coverage.
 8. The applicant shall provide photo simulations of the tower or athletic lighting structure and site including equipment areas at the base from at least two (2) directions and from a distance of no more than one (1) mile.
 9. The applicant shall provide an inventory of all existing communication towers with a one-mile radius of the proposed site and document why co-location on existing towers is not possible.
- (n) The applicant shall file an FAA Form 7460-1 Notice of Proposed Construction or Alteration where the proposed antennas or tower is within three miles of the Frederick Municipal Airport and as required by Federal Aviation Administration Regulation Part 77.13.

(14)^{94,95,96} Child daycare centers may be permitted in all R districts, B-O and all D districts provided that all of the following conditions and requirements can be met subject to the limitations set forth below.

⁹⁴ Section 5.04(14) amended October 1, 1992, Zoning Text Amendment Case 92-5, Ordinance G-92-47.

⁹⁵ Section 5.04(14) amended March 18, 1993, Zoning Text Amendment Case 92-8, Ordinance G-93-3.

- (a) The applicant must provide guarantees as may be deemed necessary by the Board that the proposed child daycare center will not constitute a nuisance nor be disruptive to the neighborhood due to the number of children being cared for, noise, traffic, or any other activity associated with the use. The Board will specifically consider existing daycares within a 500' radius of the proposed daycare in order to determine the extent of neighborhood impact. Said radius to be measured from the center point of the front building setback line.
- (b) A child daycare center may not employ more than one nonresident and must have off-street parking available for the one employee.
- (c) It must be demonstrated to the Board's satisfaction that sufficient pickup and drop-off areas are available.
- (d) Daycare centers must have a minimum lot area of no less than 1,000 square feet per child to be cared for.
- (e) Presentation of a childcare licensing certificate and inspection report from the Child Care Administration of the State of Maryland.

However, the requirements of this section shall not apply to centers operated by nonprofit groups affiliated with a religious organization if the center is in buildings regularly used as a place of worship or private parochial education. The above conditions and requirements also do not apply to public schools operated by the Board of Education.

(14A)⁹⁷ Adult day care centers may be permitted in all R districts, B-O and all D districts provided that all of the following conditions and requirements can be met subject to the limitations set forth below:

- (a) The applicant must provide guarantees as may be deemed necessary by the Board that the proposed adult day care center will not constitute a nuisance because of the number of persons being cared for, increased traffic, noise, or any other activity associated with the use which may be disruptive to the neighborhood.
- (b) The property must be appropriate for the use and of sufficient size and shape so as to accommodate the proposed number of persons to be cared for, parking, passenger pick up and drop off areas.

⁹⁶ Section 5.04(14) amended April 4, 1996, Zoning Text Amendment Case 96-1, Ordinance G-96-18 (This amendment supersedes prior amendment G-93-3).

⁹⁷ Section 5.04(14A) added October 1, 1992, Zoning Text Amendment Case 92-5, Ordinance G-92-47.

- (c) The property to be used as an adult day care center must contain no less than 100 square feet for each of the first five (5) clients being cared for, and 60 square feet for each additional client after the first five (5). Space requirements do not include office space, bathrooms, storage, examination room, but shall include dining room if it is also used for activities.
 - (d) The adult day care center shall provide day care services only on a nonresidential basis. Days and hours of operation shall conform with the requirements set forth in COMAR Section 10.12.04.05N.
- (15) Heliports may be permitted in all M districts. Helistops may be permitted in M or B districts provided that all of the following conditions and requirements are met:
- (a) The applicant must provide guarantees as deemed necessary by the Board that the use of a property will not create a hazard nor constitute a nuisance because of increased traffic, noise or other activity disruptive to the use of adjacent property or the neighborhood.
 - (b) The applicant must submit for the Board's review a site plan with information required by Section 6 of this Ordinance. In addition, this plan must indicate approach zones, landing areas, lighting, fire protection measures, windbreaks or fences, and all other relevant information concerning the proposed use.
 - (c) The applicant must provide guarantees as the Board deems necessary that the proposed heliport or helistop meets all Federal Aviation Administration requirements, that required approvals and licenses have been obtained and that the property will be constructed and continually maintained in conformance with the approved site plan.
- (16) Private business, trade, vocational or technical schools may be permitted in a B-O or DB-O district provided that all of the following conditions can be met:
- (a)²²¹ The applicant must provide guarantees as deemed appropriate by the Board that such a use of a property shall not:
 - i.²²² constitute a nuisance because of increased traffic, noise, number of students, total building occupancy or any other activity associated with the school which may be disruptive to the neighborhood; and

²²¹ Section 5.04(16) amended October 16, 2003, Zoning Text Amendment Case PC03-159TXT, Ordinance G-03-18.

²²² Section 5.04(16)(i) added October 16, 2003, Zoning Text Amendment Case PC03-159TXT, Ordinance G-03-18.

- ii.²²³ include the processing, storing or selling of goods or services which are hazardous or objectionable by reason of odor, dust, smoke, steam, cinders, gas, fumes, noise, vibration, fire, explosion, radiation, refuse matter or water carried waste.
- (b)²²⁴ The property must be appropriate for the proposed use. Total student enrollment shall not exceed 50 students.
- (c)²²⁵ All activity, including storage, must be located within a completely enclosed building.
- (d)²²⁶ Sound levels associated with the use shall be in conformance with the requirements of §§15-21 – 15-21.8 of the City Code.
- (e)²²⁷ Total student enrollment shall be limited as follows:
 - (i)²²⁸ In the B-O district student enrollment shall not exceed 50 students.
 - (ii)²²⁹ In the DB-O district student enrollment may exceed 50 students subject to the following:
 1. ²³⁰The minimum lot size for the private business, trade, vocational or technical school must be 5,000 square feet;
 2. ²³¹50 students shall be permitted for the first 5,000 square feet of gross building area used for school purposes and an additional 100 students for each additional 3,000 square feet of gross building area used for school purposes; and

²²³ Section 5.04(16)(a)(ii) added October 16, 2003, Zoning Text Amendment Case PC03-159TXT, Ordinance G-03-18.

²²⁴ Section 5.04(16)(b) amended October 16, 2003, Zoning Text Amendment Case PC03-159TXT, Ordinance G-03-18.

²²⁵ Section 5.04(16)(c) added October 16, 2003, Zoning Text Amendment Case PC03-159TXT, Ordinance G-03-18.

²²⁶ Section 5.04(16)(d) added October 16, 2003, Zoning Text Amendment Case PC03-159TXT, Ordinance G-03-18.

²²⁷ Section 5.04(16)(e) added October 16, 2003, Zoning Text Amendment Case PC03-159TXT, Ordinance G-03-18.

²²⁸ Section 5.04(16)(i) added October 16, 2003, Zoning Text Amendment Case PC03-159TXT, Ordinance G-03-18.

²²⁹ Section 5.04(16)(ii) added October 16, 2003, Zoning Text Amendment Case PC03-159TXT, Ordinance G-03-18.

²³⁰ Section 5.04(16)(1) added October 16, 2003, Zoning Text Amendment Case PC03-159TXT, Ordinance G-03-18.

²³¹ Section 5.04(16)(2) added October 16, 2003, Zoning Text Amendment Case PC03-159TXT, Ordinance G-03-18.

3. ²³²Total student enrollment shall not exceed 50 students if the use is located within 100 feet from residentially zoned property.
- (f)²³³ In addition to parking required by Section 14 of this Ordinance, there shall be two visitor spaces provided on the site.
- (17) Golf driving ranges may be permitted in the R-1, R-2 and R-3 districts provided that all of the following conditions and requirements can be met:
- (a) All structures and fences shall be at least 100 ft. from all property lines.
 - (b) All parking areas shall be at least 50 ft. from all property lines.
 - (c) All structures shall be screened with Level I screening as specified by Section 11 of this Ordinance.
 - (d) Range distances must be at least 450 ft.
 - (e) The applicant shall provide guarantees as deemed necessary by the Board that the use will not constitute a nuisance because of increased traffic, noise, or other activity associated with the use that may be disruptive to the residential character of the neighborhood.
 - (f) All lighting must be directed away from adjacent residential property.
 - (g) Hours of operation shall not extend beyond 10:00 p.m.
- (18.1)⁹⁸ Miniature golf courses may be permitted in the B-1 district provided that all of the following conditions and requirements can be met:
- (a) The applicant must provide guarantees as deemed necessary by the Board that the use of the property will not constitute a nuisance because of increased traffic, noise, light or glare, or other activity associated with the use which would be disruptive to any adjacent property situated in an R or D district.
 - (b) Lighting shall be directed towards the property and away from any adjacent property in an R or D district.

²³² Section 5.04(16)(3) added October 16, 2003, Zoning Text Amendment Case PC03-159TXT, Ordinance G-03-18.

²³³ Section 5.04(16)(f) amended October 16, 2003, Zoning Text Amendment Case PC03-159TXT, Ordinance G-03-18.

⁹⁸ Section 5.04(18.1) amended January 17, 1991, Zoning Text Amendment Case 90-6, Ordinance G-91-2.

- (18.2)⁹⁹ Golf course and club may be permitted in the B-3 district provided that all of the following conditions and requirements can be met:
- (a) The applicant must provide guarantees as deemed necessary by the Board that the use of the property will not constitute a nuisance because of increased traffic, noise, light or glare, or other activity associated with the use which would be a disturbance to any adjacent property situated in an R or D district.
 - (b) Lighting shall be directed towards the property and away from any adjacent property in an R or D district.
 - (c) Applicant must own a minimum of 50 continuous acres for a 9-hole course and a minimum of 110 continuous acres for an 18-hole course. The acreage must be comprised of land in the B-3 district or in a district permitting golf courses and clubs or a combination thereof; and in no event may the acreage set forth herein be comprised of land on which a golf course and club is not permitted by a principle permitted use or by a special exception.
 - (d) Any structure located in the B-3 zone shall be screened from adjacent residential dwelling units with Level I screening as specified in Section 11 of this Ordinance.
- (19) A commercial swimming pool (non-accessory pool) may be permitted in the R districts provided that all of the following conditions and requirements are met:
- (a) The applicant must provide guarantees as deemed appropriate by the Board that the use of the property will not constitute a nuisance because of increased traffic, noise, light, or other activity associated with the use which may be disruptive to the residential character of the neighborhood.
 - (b) Minimum lot area shall be 2.5 acres and minimum lot width 150 ft.
 - (c) The pool and all associated structures must be set back from lot lines as follows: Front 50 ft.; Rear 35 ft.; each side 25 ft.
- (20)¹⁰⁰ RESERVED.
- (21) Retail sales of goods primarily for personal use may be permitted in the B-O and DB-O districts provided that all of the following conditions and requirements are met:

⁹⁹ Section 5.04(18.2) amended January 17, 1991, Zoning Text Amendment Case 90-6, Ordinance G-91-2

¹⁰⁰ Section 5.04(20) deleted on August 21, 1997, Zoning Text Amendment Case 97-04, Ordinance G-97-19A.

- (a) Shops selling the following items may be permitted in the DB-O district: art, drafting, craft and hobby supplies, non-prescription drugs, cosmetics, cards and stationery, eyeglasses and hearing aids, handcrafted items, tobacco and tobacco products. Shops selling the items specified above plus the sale of prescription drugs and medical supplies may be permitted in the B-O district.
 - (b) In the DB-O district, customer service areas shall be limited to 600 sq. ft. or the first floor level of an existing building if an existing building is being converted to retail use, whichever is greater. In the B-O district, customer service area shall be no greater than 25% of the total floor area of a building devoted to office or another principal permitted use in the B-O district.
 - (c) The applicant shall provide guarantees as deemed necessary by the Board that the shop will not constitute a nuisance because of increased pedestrian or vehicular traffic, noise, odor or other activity associated with the use of the property for retail sales of goods which would be disruptive to the neighborhood.
- (22) Automobile sales and service centers and automobile sales lots may be permitted in the DB district provided that all of the following conditions can be met.
- (a) All repair and all servicing of cars for sale shall take place within an enclosed building.
 - (b) Level III landscaping as specified in Section 11 shall be provided around all storage areas for cars awaiting repair.
- (23) Fast food restaurants may be permitted in the DB district provided that all of the following conditions and requirements are met:
- (a) The applicant must provide guarantees as deemed necessary by the Board that the use will not constitute a nuisance because of unusual noise, odors, litter or any other activity associated with the use.
 - (b) The site must be found to be appropriate for the use proposed and will not create a traffic hazard or increased congestion because of the frequency of turning movement into and out of the site or the traffic circulation pattern associated with the use conflicting with the existing vehicular and pedestrian traffic in the neighborhood.
 - (c) Any use abutting an R or DR district must provide Level III screening as set forth in Section 11 of this Ordinance.

- (24) Automobile filling and service stations may be permitted in the M-O and DB districts provided that all of the following conditions and requirements can be met.
- (a) The property must front on and have access to a street classified as a collector or arterial street on the Comprehensive Plan.
 - (b) All repair operations shall be secondary to the sale of fuels and shall be conducted within an enclosed building. No auto body repair or painting shall be permitted.
 - (c) Maximum lot area shall be 8,000 sq. ft.
 - (d) The property must be landscaped and screened with Level III landscaping as specified in Section 11 of this Ordinance.
 - (e) No service station shall be permitted within 4 blocks or 1,200 ft. of another service station.
- (25) Greenhouses not selling trees or garden supplies may be permitted in the R districts provided that all of the following conditions and requirements are met:
- (a) All building and structures, except fences, shall be set back 20 ft. from all property lines.
 - (b) No structure shall exceed 66% of the allowed height of a single-family dwelling in the district in which it is located.
 - (c) Off-street parking shall be provided for each 300 sq. ft. of retail and customer service area.
 - (d) Signs may not exceed a total of 12 sq. ft.
- (26) Historically significant structures may be converted to certain specified commercial uses in any zoning district provided that all of the following conditions and requirements can be met:
- (a) Historically significant structures shall only be those structures listed on the National Register of Historic Places or listed as historically significant by the Maryland Historical Trust.
 - (b) The structure and accessory buildings on the same lot may be converted into a restaurant, inn, antique or gift shop, a museum, information center or business or professional offices provided that off-street parking is provided as required by Section 14 of this Ordinance.

- (c) The applicant must provide guarantees as deemed necessary by the Board that a proposed commercial use will not alter the significant historical character of the building or lot and that such use will not constitute a nuisance because of increased traffic, noise, odor or other activity associated with the commercial activity which would be disruptive to the neighborhood.
 - (d) One sign for each major entrance shall be permitted provided no sign exceeds 32 sq. ft. in size or is greater than 6 ft. in height. A rendering of all proposed signs must be approved by the Planning Department who will review them in consultation with the Sign Committee of the Historic District Commission.
 - (e) Live entertainment may be permitted in conjunction with a commercial use of such a property provided sound measured at the property line does not exceed 60 decibels (dB(A)).
- (27) Veterinarian offices may be permitted in the B-3, DB, M-1, and M-2 districts provided that all of the following conditions and requirements can be met:
- (a) All areas for animal care shall be within a completely enclosed building or shall be buffered with Level III screening as specified by Section 11 of this Ordinance.
 - (b) No building or area for animal care shall be closer than 50 ft. to any lot in an R or DR district.
 - (c) The applicant shall provide guarantees as deemed necessary by the Board that the use will not constitute a nuisance because of noise, odor, or any other activity characteristic of the use which would be disruptive to the neighborhood.
- (28) Commercial kennels may be permitted in the B-3 and M-1 districts provided that the three conditions specified above for veterinarian's offices can be met.
- (29) A private commercial parking lot or structure may be permitted in the DR, DR-B, and DB-O districts provided that all of the following conditions and requirements can be met:
- (a) Single level structures or lots providing more than 4 spaces must have a driveway access to an alley or a street that is approved by the City Engineer.
 - (b) Maximum height of a multi-level parking structure is 40 ft. or 3 levels, whichever is less.

- (30) Manufacturing or processing of chemical or plastic products may be permitted in the M-1 and M-2 district provided that all of the following conditions and requirements are met:
- (a) All activity must be within a completely enclosed building.
 - (b) All required public health approvals must be obtained prior to Board approval.
 - (c) No building or activity shall be closer than 500 ft. from a lot in a district other than an M district.
 - (d) Access to the property shall be from a street designated as a collector or arterial on the Comprehensive Plan.
 - (e) The applicant must provide guarantees as deemed necessary by the Board to ensure that no hazardous or obnoxious effluent will be released into the air, water or onto the ground and that all wastes and by-products will be disposed of in a safe and healthful manner.
- (31) Fertilizer manufacture and processing may be permitted in the M-2 district provided all of the conditions and requirements for chemical and plastic product manufacture (#30 above) can be met:
- (32) Paint and allied products manufacture and processing may be permitted in the M-1 district provided all of the conditions and requirements for chemical and plastic products manufacture (#30 above) can be met:
- (33) Paper products manufacturing may be permitted in the M-2 district provided that all of the conditions and requirements for chemical and plastic manufacture (#30 above) can be met:
- (34) Primary metal working may be permitted in the M-1 and M-2 districts provided that all of the conditions and requirements for chemical and plastics manufacture (#30 above) can be met in addition to the following sound level limitations. Sound levels as measured at the property line shall at no time exceed the following limitations:

	DAY	NIGHT
Sound Measured in:	7 A.M. - 6 P.M.	6 P.M. - 7 A.M.
M-O, M-1, M-2	89 dB(A)	89 dB(A)
B, DB, DB-O	70 dB(A)	60 dB(A)
R, DR, DR-B	60 dB(A)	55 dB(A)

- (35) Salvage yards, including automobile wrecking yards, may be permitted in the M-2 district provided all of the following conditions and requirements can be met:
- (a) All portions of the yard, all materials stored must be screened with Level III screening as set forth in Section 11 of this Ordinance.
 - (b) No structure shall be closer than 200 ft. to a property located within an R or DR district.
 - (c) The sound level limitations for primary metalworking (#35 above) must be maintained at all times.
- (36)¹⁰¹ Off Site Directional Signs: The Board may authorize, as a Special Exception, off site directional signs provided all of the following conditions and requirements are met:
- (a) The Board may permit an off site sign upon finding that signs placed on the premises do not provide adequate identification of the activity by persons traveling on the nearest arterial classification street and that the identification by the traveling public is necessary for the usual operation of the activity.
 - (b) The applicant must provide such guarantees as may be deemed appropriate by the Board that off site directional signs will be designed and located in a manner which is compatible with other signs on the lot, will not result in a cluttered or unpleasant appearance nor, in any manner, adversely affect traffic safety or operations. In addition, the applicant must provide guarantees that such signs comply with all State Highway Administration sign regulations if applicable.
 - (c) The sign shall be no further than 600 ft. from the property being identified.
 - (d) For the purpose of computing sign area allowed, an off-street directional sign shall count against the lot on which the sign is placed.
 - (e) The Board may authorize the placement of an off site directional sign for a limited and specific period of time in order to identify a temporary use or to direct traffic to a new use or activity such as the opening of a new residential area.
- (37)¹⁰² Caretaker's dwellings may be permitted by the Board as a Special Exception in the B-3 district provided the Board finds the dwellings will be accessory to a principal use which is in need of a live-in caretaker.

¹⁰¹ Section 5.04(36) amended May 1986, Zoning Text Amendment Case 86-1, Ordinance G-86-9.

(38)¹⁰³ Infectious Waste Disposal Services. Infectious waste disposal services may be permitted in the M-1 and M-2 zoning districts provided all of the following conditions and requirements are met:

- (a) The applicant must provide guarantees as the Board deems necessary that the facility complies with all state and local health regulations, that all required licenses have been obtained, and that the facility will be constructed and continually maintained in conformance with these approvals.
- (b) The Board must find the property to be appropriate for the use and located in an area where any potential hazard and threat to public health and safety are minimized.
- (c) The facility must be sized so as to collect and process only locally generated biological waste (i.e. waste generated by medical or research facilities located within Frederick County).
- (d) All operations, including loading, unloading, and storage must be conducted totally within a building the design of which a registered architect or environmental health professional certifies to be appropriate for the intended use.
- (e) No facility shall process more than 1500 lbs. of waste per day.
- (f) All waste must be held in a chlorine solution for a minimum of two (2) hours, all material must be tested for decontamination after twenty four (24) hours and forty eight (48) hours following processing before disposal. Waste may not be disposed of until determined to be decontaminated.

(39)¹⁰⁴ The ground level of buildings in the DB district which are designed for business occupancy may be converted to dwellings only upon findings by the Board that continued business use of the building is not viable or practical and that the loss of business use in the building would not be detrimental to the continued business activity of downtown.

(40)^{105,106} Funeral Homes.

¹⁰² Section 5.04(37) amended June 1986, Zoning Text Amendment Case 86-2, Ordinance G-86-7.

¹⁰³ Section 5.04(38) amended September 1988, Zoning Text Amendment Case 88-3, Ordinance G-88-19.

¹⁰⁴ Section 5.04(39) amended July 13, 1989, Zoning Text Amendment Case 89-1, Ordinance G-89-15.

¹⁰⁵ Section 5.04(40) amended May 2, 1991, Zoning Text Amendment Case 91-2, Ordinance G-91-9.

¹⁰⁶ Section 5.04(40) amended August 17, 2000, Zoning Text Amendment Case PC00-097TXT, Ordinance G00-18.

- (1) Funeral homes may be permitted in the DR District provided that all the following conditions and requirements can be met:
 - (a) Applicant provides guarantees as deemed appropriate by the Board that a funeral home will not adversely effect the character of the existing residential neighborhood due to any increased traffic or other characteristics which would be disruptive to the neighborhood.
 - (b) Funeral directing and embalming shall be permitted on premises, however, the operation of a crematorium shall not be permitted on the premises.
 - (c) Off-street parking to service the proposed facility must be sufficient to meet the requirements of Section 14 as it applies to funeral homes.
 - (d) Any service entrance to the proposed facility shall be screened in accordance with Section 11.04(3) (Level III screening).
 - (e) Parking shall be screened as required by Section 11.05.
 - (f) The Board of Zoning Appeals would be required to review any additional signage above the 2 square feet that is allowed in Section 15.05(l).
 - (g) Funeral homes must be located on at least a minor arterial or within one city block of a minor arterial street to ease traffic flow. The funeral home must have direct access to the minor arterial by a City street and not an alley.
- (2) Funeral homes may be permitted in the B-O District provided that all of the following conditions and requirements are met:
 - (a) Applicant provides guarantees as deemed appropriate by the Board that a funeral home will not adversely affect the character of the existing neighborhood due to any increased traffic or other characteristics which would be disruptive to the neighborhood.
 - (b) Funeral directing, embalming services, sales of prearranged funeral contracts and the operation of a crematorium facility constructed in compliance with all Federal and State laws and regulations including, but not limited to, those promulgated by the State of Maryland, Department of Environment Air Management Administration shall be permitted. Incidental sales of caskets,

vaults, monuments, markers and flowers shall be limited to catalog and/or display sales of these items for prearranged individual viewings or funerals. A display area of no more than 2000 square feet may be allowed within the building. Outdoor storage of incidental sales items and/or outdoor assembly of incidental sales items shall not be allowed on the premises.

- (c) Off-street parking to serve the proposed facility must be sufficient to meet the requirements of Section 14 as it applies to funeral homes.
- (d) Any service entrance to the proposed facility shall be screened in accordance with Section 11.04(3) (Level III screening). Any additional landscaping necessary to screen this use from adjacent residentially zoned properties or uses may be required by the Board of Zoning Appeals.
- (e) Parking shall be screened as required by Section 11.05.
- (f) Funeral homes must be located on at least a minor arterial street to ease traffic flow. The funeral home must have direct access to the minor arterial street by a City street and not an alley.

(41)¹⁰⁷ Restaurant, With Entertainment. Restaurants may be permitted to provide entertainment in the B-1, B-3, and DB districts providing that the operation is in compliance with applicable sections of the BOCA Code (as adopted by the City) and the following regulations.

- (a) This is intended to be a business establishment which offers for sale unpackaged food to the consumers in a ready to consume state, in individual servings, or in nondisposable containers, and where the customer consumes these foods while seated at tables located within the building.
- (b) There must be regular seating capacity at tables (not including seats at counters or bars) for at least eighty percent of the patrons.
- (c) Alcoholic beverages (excluding off premises sales alcoholic beverages) and entertainment should not constitute greater than forty percent of the total quarterly revenues.
- (d) Except as provided in the DB zone, the applicant shall be required to demonstrate that parking can be provided on site and will not have a substantial adverse impact on the adjacent neighborhood or properties.

¹⁰⁷ Section 5.04(41) added April 15, 1993, Zoning Text Amendment Case 92-6, Ordinance G-93-9.

The number of parking spaces required shall be based on the parking standards cited in Section 14.04.

- (e) Entertainment which includes sexual conduct, nudity, or obscenity shall be prohibited.
- (f) The applicant shall provide guarantees as deemed necessary by the Board that the use of a property for a restaurant with entertainment will not constitute a nuisance because of noise or other activities associated with the use. The failure of the restaurant with entertainment's owner/managers to consistently abide by all conditions, limitations, and restrictions which may be specified by the Board in granting a special exception may result in the certificate of occupancy for entertainment being revoked.
- (g) Entertainment shall not emit sounds greater than 60 dB's when measured at the rear and side lot lines or 10 ft. from the front property line.

(42)¹⁰⁸ Reception Facility: Reception facilities may be permitted and may provide entertainment as an accessory use in the B-3 and M-1 Districts providing the operation is in compliance with the applicable BOCA Code (as adopted by the City of Frederick) and with the following conditions:

- (a) Food and beverage are to be provided only for the period for which the facility is reserved.
- (b) The applicant shall be required to demonstrate that parking can be provided on site and will not have a substantially adverse impact on the adjacent neighborhood or properties. The number of spaces required shall be based on the parking standard cited in Section 14.04.
- (c) Entertainment which includes sexual contact, nudity or obscenity shall be prohibited.
- (d) No sound shall be emitted from the site that exceeds 55 db's between 6 p.m. and 7 a.m. as measured at a property line.
- (e) Provisions shall be made for traffic and crowd control and disbursement for all scheduled functions.
- (f) The applicant shall provide guarantees as deemed necessary by the Board that the use of the property for a reception facility will not constitute a nuisance because of noise or other activities associated with the use. The failure of the reception facility's owner/manager to abide by all of these conditions and other specific conditions which may be specified by the

¹⁰⁸ Section 5.04(42) added June 16, 1994, Zoning Text Amendment Case 94-1, Ordinance G-94-18.

Board in granting the special exception for the reception facility being revoked.

- (43)¹⁰⁹ Restaurant, general, in M-O. A Restaurant, general, may be permitted in the M-O Planned Industrial District provided that all of the following conditions and requirements can be met:
- (a) The minimum lot size shall be 3 acres.
 - (b) The minimum lot width shall be 100 feet.
 - (c) Parking on the M-O zoned lot shall be located no closer to the adjacent R or DR zoned tract property line than 100 feet, and shall be appropriately landscaped to provide an adequate buffer for the adjacent R or DR zoned tract.
 - (d) The Restaurant, general, building and all accessory structures shall be located at least 100 feet from any adjacent R or DR zoned tract property line. In this subsection (d), the word "structures" shall not include signs, drives and/or entrance features.
 - (e) The applicant shall provide such assurances as are deemed necessary by the Board that the Restaurant, general, will not constitute a nuisance because of increased traffic, noise, light or glare, or other activity associated with the use which would be a disturbance to any adjacent R or DR zoned property.
- (44)¹¹⁰ Stone Monuments (excludes engraving) in the B-1 District. Sales of stone monuments may be permitted in the B-1 Neighborhood Commercial District, provided that all of the following conditions and requirements can be met:
- a. There shall be no on site stone engraving.
 - b. Any outdoor storage areas must be fully enclosed by a fully opaque wood fence of with other screening materials approved by the Board. Reasonable outdoor display shall be permitted provided it is shown on a plan approved by the Board.
 - c. Loading operations shall be limited to the time period between 8 a.m. and 7 p.m.

¹⁰⁹ Section 5.04(43) added November 16, 1995, Zoning Text Amendment Case 95-2, Ordinance G-95-47.

¹¹⁰ Section 5.04(44) added September 11, 1997, Zoning Text Amendment Case 97-03, Ordinance G97-25.

(45)¹¹¹ Indoor Sports Complex in B-3 and M-1: An *Indoor Sports Complex* may be permitted in the B-3 and M-1 districts by special exception (E) provided all of the following conditions are met:

- (a) The use of the property as an *Indoor Sports Complex* will not constitute a nuisance to other adjoining properties because of the increased pedestrian or vehicular traffic, noise, or other activity associated with such use of the property. Such use of the property shall be compatible with the existing industrial uses.
- (b) In industrial zones an *Indoor Sports Complex* shall be located to assure the safety of the users of the facilities from industrial activities.
- (c) A minimum of 25,000 square feet of playing surface must be provided for the facility.
- (d) All boundaries of the *Indoor Sports Complex* adjoining a residential district use shall be screened with a minimum of Level III screening or be protected with a berm or a sound attenuation wall, if necessary, along such boundary lines as specified by Section 11 of this ordinance, and shall be screened along such other property lines as the Board of Zoning Appeals shall require.
- (e) Parking shall be provided at the rate of one (1) space for every two and two-tenths (2.2) persons based upon one-third (1/3) of the maximum occupants of the facility pursuant to the fire safety code. Additionally, a graded grassy area adjacent to the parking lot(s) shall be established for overflow parking spaces. The rate of additional overflow parking spaces shall be a minimum of twenty (20) percent of the required parking spaces. Frequent use of the public street or the overflow area for parking, as determined by the Planning Commission based on a staff report prepared by the Planning Department, shall require pavement of the overflow area.
- (f) An *Indoor Sports Complex* that will host paid spectator's events will require submittal of a traffic study that will address traffic flow and additional parking requirements. The traffic study shall be submitted with the special exception application and shall be sealed by a licensed traffic engineer.
- (g) Retail and/or concession areas may not exceed more than seven and one-half percent (7.5%) of the total square footage of the playing area.
- (h) As provided for in Section 19.11(2), the Board may terminate this special exception use if the conditions of approval are violated.

¹¹¹ Section 5.04(45) amended May 17, 2001, Zoning Text Amendment Case PC00-128TXT, Ordinance G-01-21.

- (i) The Board of Zoning Appeals may modify the fifty (50) foot building setback line to no less than twenty (20) feet if there are extenuating circumstances based on the irregular shape of the lot or other natural features that make it impractical to maintain a fifty (50) foot setback. In such cases, a sound attenuation wall, earthen berms, or additional landscaping must occupy the square footage of the area that has been modified.
- (j) The applicant must establish to the Board of Appeals that the special exception is in compliance with the definition of an Indoor Sports Complex as defined in Section 2.02(69.1).
- (k) The applicant shall be required to submit a floor plan for the Indoor Sports Complex.

(46)¹¹² Rooming houses may be permitted as a Residential Accessory Use only by Special Exception in R-1 through R-7 and B-0, DR, and DR-B Districts provided the following conditions (b-j) shall be met except as provided in subsection (a):

- (a) The provisions of this Special Exception shall not apply to lawfully established rooming houses, as documented by registration of the rooming house with the Planning Department prior to January 1, 2002. If the owner of a rooming house chooses not to inform the City of their status as a rooming house, it will be considered an illegal non-conforming use and the necessary actions will be taken in accordance with Section 21.05 Ordinance Enforcement Procedures.
- (b) The applicant must provide guarantees as deemed appropriate by the Board of Zoning Appeals that the property is adequate for the proposed use and that the use of a particular property for a rooming house will not constitute a nuisance because of increased vehicular traffic, noise, odor, or any other activity associated with the use which may be disruptive to the character of the neighborhood.
- (c) In order to maintain the character of a particular neighborhood the Board may require that no more than one such use be permitted any closer than 500 feet. For the purpose of this section, the 500 feet will be measured from the closest property line between the subject properties.
- (d) The minimum lease period is not less than four (4) months per lodger. The Board may require the applicant to provide a lease.

¹¹² Section 5.04(46) added June 21, 2001, Zoning Text Amendment PC01-28, Ordinance G-01-27

- (e) There shall be no exterior evidence that a building is being used for any purpose other than a residence.
- (f) Off-street parking shall be provided: 1 space per lodger room in addition to meeting the required single-family residential parking standard. In no case shall the additional parking be provided in a front yard.
- (g) The property owner must reside in the dwelling.
- (h) Upon receipt of written notice of a violation of the terms of this section, the Zoning Administrator or designee may inspect the property after giving a 24-hour notice.
- (i) The Board may require any landscaping to minimize the impact of a larger parking lot. Minimum lot size shall be the required minimum for the zoning district, plus an additional 1,400 square foot per lodger per room: over two rooms.
- (j) In the R-1 through R-7, DR, and DR-B zoning districts there shall be no more than two lodgers.

5.05 Increased Building Height by Special Exception

In the R-6 and R-7 districts, building heights may be authorized as provided for in Section 4.03 provided 3 additional feet of side yard setback is provided for each story in excess of three.

SECTION 6. FINAL SITE PLAN REVIEW

6.01 Purpose - Site Plan Review

The purpose of this section is to assure that property is developed in accordance with the provisions of this Ordinance and with sound planning and design principles.

6.02 When Site Plan Review is Required

A final site plan shall be submitted and approved prior to the issuance of a zoning certificate in all zoning districts for any proposed new construction, additions to existing structures, and any other development or redevelopment of a property, including alterations to topography or to a parking or other traffic circulation area.

6.03 Application and Fees

- (1) Application for a site plan approval shall be filed with the Planning Department. The application shall include a plan of the proposed construction or alteration of the property drawn to scale or accurately depicting dimensions and distances, and shall include such other information as may be required by the Department or Planning Commission necessary to adequately evaluate the proposed development.
- (2) Fees associated with the application shall be paid at the time of the filing. The Planning Department shall not accept an application until all required fees are paid in full.

6.04 Posted Sign and Newspaper Advertising Requirements

- (1) Any property for which a final site plan has been submitted for review by the Planning Commission, whether initially or upon an appeal from the decision of the Department, shall be conspicuously posted by the applicant with an approved sign no later than 15 days prior to the Commission's meeting.
- (2) The sign shall indicate the nature of the application and the date, time, and place of the hearing and shall be placed and maintained during the 15-day period in a location which is clearly visible from the street or public way upon which the property fronts.
- (3) Such sign shall be removed within five days following the Commission's final action.

- (4) All preliminary or final site plan applications shall be advertised in a newspaper of local circulation at least one time and at least 10 days prior to the public meeting and shall indicate time, place, date, and reasonable summary of request.

6.05 Withdrawal or Denial of the Application

- (1) The applicant may withdraw, in writing, his application for a site plan approval at any time prior to the decision by the Department or, if the application is before the Planning Commission, at any time prior to their decision.
- (2) If the application is denied by the Planning Department or Commission, no new application involving the same property and substantially the same development plan shall be accepted by the Planning Department within six months of the date of denial.

6.06 Application Review

- (1)¹¹³ The Commission shall review all applications requiring site plan approval as follows:

Townhouse, quadraplex/sixplex, or multi-family developments totaling 15 or more dwelling units.

Professional offices to be located in the Residential Office (R-O) district.

Commercial, institutional, or industrial expansion or new construction totaling 11,000 square feet or more of lot area.

Any component of a planned neighborhood or change thereto.

- (2)¹¹⁴ Site plans for all other developments not covered under Section 6.06(1) shall be reviewed by the Department unless, in the determination of the Zoning Administrator, such approval should be rendered by the Commission, in which case the Commission shall have final approval authority.
- (3) Preliminary site plans may be submitted for Planning Commission comments as to their acceptability at any regular meeting but in no instance shall a preliminary plan review be considered as satisfying the requirements for final site plan approval which is required prior to issuance of a building permit/zoning certificate.

¹¹³ Section 6.06(1) amended July 13, 1999, Zoning Text Amendment Case 89-1, Ordinance G-89-11.

¹¹⁴ Section 6.06(2) amended December 13, 1990, Zoning Text Amendment Case 90-3, Ordinance G-90-58.

6.07 Required Information and Review Criteria**(1)¹¹⁵ Required Information and Review Criteria**

Specific required information to be included on site plans submitted for Commission or Department approval is listed below. Each proposed site development plan shall be submitted with an application and fees.

- a. A vicinity map at a scale of one inch equals eight hundred (800) feet indicating the location of the property with respect to surrounding property and streets. The map will show all streets and highways within six hundred (600) feet of the applicant's property.
- b. The owner's, developer's and preparer's name, address and telephone number. A title block containing the name of the site plan; revisions made; location of the property; street address of property; if applicable, tax map, block and parcel; and a dated north arrow and scale used.
- c. Existing and proposed topography on the site, spot elevations, and datums used. Bearings and dimensions of all property lines and notation of adjacent property owners.
- d. Limits of the one hundred (100) year floodplain and FEMA panel, limits of nontidal wetlands, if applicable. Map of soil types with property boundary, if site is not developed.
- e. Proposed traffic circulation system: names, location, and centerline of the property fronts. The Comprehensive Plan designated right of way and existing and proposed conditions and improvement of frontage road or roads that serve the site. Proposed pedestrian circulation system with existing and proposed sidewalks and handicap access.
- f. Computations of the total area of the lot, existing and proposed buildings, percent of landscaping, and parking areas. Computations of building coverage, floor area for M-O projects; and parking space requirements.
- g. Dimensions of existing and proposed streets rights of way; sidewalks; entrances, islands, parking areas; buildings, easements or rights of ways over the property, including existing or proposed utilities; and building finish floor elevations.
- h. Required minimum building setback lines, height of buildings, screened dumpster locations, and fire hydrant locations.

¹¹⁵ Section 6.07(1) amended January 18, 1996, Zoning Text Amendment Case 95-6, Ordinance G-96-11.

- i. The location, size and type of all proposed storm water management facilities.
- j. Parking areas with parking spaces and aisles dimensioned, and showing location, angle and type of parking. In design of parking lots show minimum setback requirements for streets or alley rights-of-way and any temporary turnarounds within the parking lot. Location of truck loading areas and parking lot lighting shall be shown.
- k. The site plan shall show all existing and proposed improvements including location and proposed use; location of any outside storage; location and type of recreational facilities, proposed grading, landscaping and screening plans (at the same scale as the site plan) and buffer areas; location, size and type of all signs.
- l. Notations shall include the property's zoning classification, including the line of demarcation if the property has two or more zoning districts; description of the proposed use(s) on the property; and noted waivers or modifications or variances that have been granted to the property. The site plan application shall include a letter requesting any known waivers, modifications or variances necessary for the approval of the site plan.
- m. Such other additional information as may be reasonably required by the Planning Commission to accomplish the purposed of the site development plan regulations, including but not limited to all requirements of the site plan checklist.
- n. The application for site plan approval for shopping center and M-O projects shall include architectural elevations.
- o. A forest stand delineation and forest conservation plan shall be approved before final site plan approval, if applicable.
- p. Site plans for residential development must include a calculation of net density and the total number of dwelling units per net area of land.

(2)¹¹⁶ Site Plan Review Criteria

In the review of a site plan, the Planning Commission shall review the site plan for compliance with the provisions of this ordinance and principals of good planning and design, so as to further the intent and purpose of this ordinance and to assure development which is compatible with surrounding properties and public facilities.

The applicant must demonstrate that the site plan meets the following criteria and will not be detrimental to the public health, safety or general welfare.

- a. The development shall provide adequately for parking and for safe access to and from public streets and highways, which provides for safe and functional circulation of vehicular and pedestrian traffic.
- b. The development shall provide for open space and parkland, when required, and protect sensitive natural areas from development which minimizes natural hazards.
- c. The development shall be adequately served by public facilities and services, such as sewer, water, streetlights, sidewalks, storm water management and/or storm drains; and police, fire and refuse collection.

(3)¹¹⁷ The Commission may require any reasonable changes to the proposed site plan which is considers necessary, to comply with the requirements of this Ordinance and assure compliance with criteria of Section 6.07(2).

(4) Site plans for which storm water management and or sediment and erosion control measures are required will be reviewed by the City Engineer and Soil Conservation Service for compliance with City and State requirements. The storm water management criteria adopted by the City requires the two (2) and ten (10) year post development peak discharge rates shall be controlled and released at the respective two (2) and ten (10) year predevelopment rates. The difference between the predevelopment and post development runoffs for the two (2) and ten (10) year storms shall be retained in an approved storm water management facility. Properties located in the Carroll Creek watershed, including its tributaries, must also control the one hundred (100) year storm event.

¹¹⁶ Section 6.07(2) amended January 18, 1996, Zoning Text Amendment Case 95-6, Ordinance G-96-11.

¹¹⁷ Section 6.07(4) amended January 18, 1996, Zoning Text Amendment Case 95-6, Ordinance G-96-11.

6.08 Action by the Planning Commission

- (1) The Planning Commission shall review those applications for site plan approval described in Section 6.06(1) at a public meeting. All interested persons shall have the right to appear and speak concerning the application.
- (2)¹¹⁸ The Planning Commission or Department may require the site plan and subdivision plat to be reviewed at the same hearing. If this is impractical, the Planning Commission will review the site plan and then the subdivision plat in that order.

6.09¹¹⁹ Action by the Department

- (1) The Planning Department shall review those applications for site plan approval described in Section 6.06(2). The Department shall require the proposed site plan to meet the review criteria listed in Section 6.07(2).
- (2) The Planning Department may authorize revision to approvals after Planning Commission action, provided no change in conditions result, and no more than 10 percent of any such floor area or parking area is involved in the request. All other alterations shall be reconsidered by the Planning Commission.

6.10 Appeals

- (1) An appeal from the decision of the Planning Department on site plans described in Section 6.06(2) shall be made in writing to the Planning Commission within 30 days of such decision. The appeal shall be heard by the Commission within 45 days of the date of the filing of the appeal in accordance with the normal procedures of the Commission for reviewing applications for site plan approval.
- (2) Appeals from the decision of the Planning Commission on site plans shall be made to the Circuit Court for Frederick County pursuant to Maryland law.

6.11 Site Plan Approval Expiration

Any approval of a site plan either by the Department or the Planning Commission shall become void one year from the date of approval if no zoning certificate has been issued for development of the project. A six-month extension may be granted by the Department upon request of the owner or developer. Further extensions may be granted by the Commission.

6.12^{120,121} Modification to Requirements May be Granted by the Commission

¹¹⁸ Section 6.08(2) amended January 18, 1996, Zoning Text Amendment Case 95-6, Ordinance G-96-12.

¹¹⁹ Section 6.09 amended January 18, 1996, Zoning Text Amendment Case 95-6, Ordinance G-96-13.

At the time of site plan review, the Planning Commission or Department may consider granting a modification to the landscaping requirement in Section 11 as provided for in Section 11.06; to property access requirements in Section 13 as provided for in Section 13.02; to parking and loading requirements in Section 14 as provided for in Section 14.11; and to parkland requirements in Section 12 as provided for in Section 12.06 for a specific reason provided that there is a finding by the Commission or Department that the modification will not be contrary to the purpose and intent of the ordinance.

In granting a modification the Commission or Department may require compensating design or architectural features so as to meet overall objectives of a particular requirement.

In addition, the Commission may grant a modification in order to retain forest or protect individual trees when there is an approved Forest Conservation Plan for minimum lot areas and yards (see Section 7.04(7) and 8.05(2)); and for landscaping and screening (see Section 11.10); and for parking and loading requirements (see Section 14.14).

6.13 Phased or Staged Developments

For all site plan applications using a phased or staged development technique, the Planning Commission or Department may require that site plan indicate all requirements as they apply in each step of the phasing or staged process.

6.14¹²² Consultants May be Hired to Evaluate Development Proposals

The Planning Commission, if deemed necessary, may require the applicant to provide analysis and recommendations of experts qualified to evaluate any potentially adverse aspect of a proposed use or development. The applicant must submit the consultant's findings for review and evaluation by the Planning Department and City Engineer. The Commission shall provide the applicant with a list of qualified consultants or shall review and approve the qualifications of an expert hired by the applicant prior to acceptance of the report.

¹²⁰ Section 6.12 amended December 3, 1992, Zoning Text Amendment Case 92-7, Ordinance G-92-55, effective January 1, 1993.

¹²¹ Section 6.12 amended October 20, 1994, Zoning Text Amendment Case 94-4, Ordinance G-94-81.

¹²² Section 6.14 amended December 13, 1990, Zoning Text Amendment Case 90-3, Ordinance G-90-59.

SECTION 7. GENERAL YARD REQUIREMENTS

7.01 General Requirements

1. All yards as required by this Ordinance shall be maintained as open space and kept free of structures, fences, and other appurtenances, except as permitted elsewhere in this Ordinance.
2. No part of a yard provided for one structure in compliance with this Ordinance shall be used by another structure to comply with this Ordinance.

7.02 Yards - How Measured

1. Yards shall be measured from property lines or proposed street lines as shown on the Comprehensive Plan or other State or County road widening or location plan. The least distance between such line and any part of a building or other structure regulated by this Ordinance shall determine whether it meets yards requirements specified in this Ordinance.
2. In case of uncertainty regarding the location or width of a proposed street right-of-way, the Planning Commission shall be allowed not more than 120 days from date of application for a site plan, subdivision, or zoning certificate approval to establish such proposed street right-of-way. The maximum right-of-way widths for Comprehensive Plan highway and street classifications are:
 - a. Major arterial - 150'
 - b. Minor arterial - 80'
 - c. Collector street - 60'
 - d. Local street - 50'

A lesser right-of-way may be used for measuring required yards in primarily developed areas of the City where in the opinion of the Commission the maximum Master Highway Plan proposed right-of-way is not feasible due to preexisting lots and developments. In such cases, the right-of-way on record in the City Engineer's office may be used for the purpose of establishing required yards.

3. In case the right-of-way of the street on which the lot fronts is less than 50 feet wide, the depth of the front yard shall be the required depth for the district plus 25 feet, measured from the center line of the street.

7.03 **Required Yards for Corner and Through Lots**

1. Through lots shall be considered as having and shall provide a full front yard along each property line which abuts a street right-of-way, except that a through lot abutting the right-of-way of a denied access street as established by the Planning Commission shall be considered as having and shall provide only one front yard along the street where access is permitted. In such a case, the yard area abutting the denied access street shall be considered a rear yard, and shall be subject to the provisions of this Ordinance regarding rear yards.
2. Corner lots shall provide at least one front, side, and rear yard plus the minimum street side yard specified in Section 4.

7.04 **Yard Modifications**

1. **Modification to side yards.**

In primarily developed areas where the actual yards of abutting properties generally differ from those required by Section 4 of this Ordinance, the required yards may be modified by the Planning Department to more closely correspond with the actual yards of adjacent properties provided, however that no such modification totally cuts off access, light or air to adjacent properties or otherwise is contrary to the purpose and intent of this Ordinance.

2. **Modification to Front Yards.**

- a. The front yard required by Section 4.03 may be modified in primarily developed areas where actual front yards on a majority of the lots within the block differ from the required front yard in the district. In such cases, the front yard may be the average depth of existing front yards in the block or the average depth of the existing front yards on the two lots immediately adjoining, whichever is greater. In the case of a corner lot the average yard of adjoining lots shall be the front yard of the one lot immediately adjoining.
- b. In the case of an existing front yard for buildings so old, dilapidated, or insignificant that in the opinion of the Planning Department they should be disregarded in determining the proper front yard for a proposed building, the Planning Department shall not modify the required yards.

3. **Modification for New Developments**

In any new development on a per block basis, the front and rear yards of new dwellings within a block may be varied to provide an attractive housing

arrangement, but in no case shall any such modification exceed 20 percent of the yards normally required.

4. Yards Required for Use of Existing Lots of Record, Except M Zones

In any district where dwellings are permitted, a single-family dwelling may be located on any lot or plot of official record as of which does not own any adjacent land, irrespective of its area or width or the width of the street on which it fronts, subject to the following yard requirements:

- a. The sum of the side yard widths of any such lot or plot need not exceed 35 percent of the width of the lot, but in no case shall any one side yard be less than 15 percent of the width of the lot.
- b. The depth of the rear yard of any such lot need not exceed 40 percent of the depth of the lot, but in no case shall it be less than 20 feet.

5. Modification to Yards to Rebuild Structures in Downtown Districts

In the DB, DB-O or DR and DR-B districts, any structure existing at the effective date of this Ordinance which is destroyed to any extent by fire or other incident, may be reconstructed in kind to reflect the original bulk and architecture regardless of yard requirements specified for these districts.

6. Modification for Cluster or Planned Neighborhood Development

Yards may be modified in new developments utilizing the cluster option (see Section 4.04(13)) or Planned Neighborhood Development option (See Sec. 16).

7.¹²³ Yard Modifications

Yards specified in Section 4 of this ordinance may be modified at time of subdivision plat or site plan approval by the Planning Commission or Department in order to protect trees or retain forested areas when there is an approved forest conservation plan and subject to the following limitations.

- (a) The modification is the minimum necessary to achieve forest retention, tree protection objectives.
- (b) Compensating architectural or other measures may be required to offset the effects of reduced yards.

¹²³ Section 7.04(7) added December 3, 1992, Zoning Text Amendment Case 92-7, Ordinance G-92-56, effective January 1, 1993.

- (c) Increased density of development shall not result from yard modifications.

7.05 Projections and Encroachments into Yards

The following architectural features, structures, and other appurtenances may encroach, project, or be built in required yards as follows:

1. A cornice, eave, chimney, or bay window may project not more than three feet into any required yard.
2. An unenclosed carport, deck, open stair and landing, balcony, cellar door, fire escape, or open porch may project no more than one-third the required rear yard distance into a required rear yard and to within no less than five feet of a side lot line, except that sharing a side wall with another dwelling unit, a porch or deck may be as close as three feet from that common line and may be permitted to the common side line by written consent of the adjoining property owner.
3. Canopies and flagpoles may project into a public right-of-way no further than five feet provided no such structure is less than eight feet above grade.
4. Non-enclosed structures, including but not limited to flagpoles or canopies which are designed to be located over pedestrians shall not be placed less than eight feet above the sidewalk or average grade elevation.
5. Accessory structures and uses may be constructed or placed in yards according to the provisions of Section 10.
- 6.¹²⁴
 - a. At grade steps and walkways may encroach into the front yard setback.
 - b. Open uncovered stairways, open uncovered stoops, and handicap ramps may project into the front yard no more than one-third the required front yard, provided that these structures do not obscure site distance.
 - c. Roofed stairways and/or stoops that are cantilevered and are not enclosed may extend into the minimum required yard not more than three (3) feet.
 - d. The Planning Commission may waive Sections 7.05(6)(b) and (c) at the time of PND, preliminary plan or site plan approval if the following occurs:
 - (1) an acceptable typical stair, stoop, or handicap ramp is shown on the particular development; and

¹²⁴ Section 7.05(6) added April 15, 1999, Zoning Text Amendment Case 99-03, Ordinance G-99-13.

- (2) the structure does not obscure site distance.

7.06 Required Yards Cannot be Reduced by Subdivision

Unless otherwise stated herein, no lot shall be reduced in area so as to make any yard or any other open space less than the minimum required by this Ordinance, and if already less than the minimum required, said yard or open space shall not be further reduced.

SECTION 8. GENERAL LOT REQUIREMENTS

8.01 Multiple Structures, Uses Per Lot

Multiple buildings, structures or uses shall be permitted on a single lot only when development is in accord with an approved site plan and adequate provisions are made for vehicular access to each building or structure.

8.02^{125,126} Road Frontage Required

Except as modified below or elsewhere by this Ordinance, all parcels to be used for building purposes shall have direct frontage on a public street at least equal to the minimum lot width required in the district in which it is located.

- (a) On the "bulb" end of a cul-de-sac a wedge shaped lot may have frontage on the arc of the bulb for no less than 32 ft. provided minimum lot width is provided at the minimum building restriction line.
- (b) On a panhandle lot serving a single-family dwelling the stem may be 12 ft. in width provided provisions of Section 8.04 are met. A panhandle must provide usable access to the lot.
- (c) A panhandle serving one lot in a nonresidential development shall have sufficient width to provide adequate vehicular access and turn radii needed for the specific use of the lot but in no case shall the width provided be less than 26 feet.

Two parallel 20 feet panhandles serving two or more lots may be approved by the Planning Commission provided there are ingress/egress easements and maintenance agreements covering all the properties using the panhandle for access. A 36 ft. access drive within the combined panhandle area shall be provided unless modified by the Planning Commission at time of site plan review for a specific low traffic generator.

8.03 Right-of-Way Areas Excluded from Lot Area and Yard Requirements

Those areas of a parcel which lie in the right-of-way of a proposed or established street as indicated on the City or County Comprehensive Plan, whichever is applicable, shall not be considered part of the minimum yard requirements.

¹²⁵ Section 8.02 amended July 13, 1989, Zoning Text Amendment Case 89-1, Ordinance G-89-13.

¹²⁶ Section 8.02 amended May 21, 1992, Zoning Text Amendment Case 92-3, Ordinance G-92-19.

8.04¹²⁷ Panhandle Lots

In a residential subdivision, no more than five percent of the total lots in any development shall be panhandle lots. No panhandle stem shall exceed 80 feet in length nor be less than 12 feet in width. The lot width of a panhandle lot shall be that required minimum for the zone within which it is located, and such width shall be measured by the minimum linear distance between side lot lines tangent with the exterior front wall of the proposed building.

8.05 Lot Areas May be Modified

- (1) Minimum lot areas and widths, specified in Section 4, may be modified in new developments using the cluster option (see Section 18) and in Planned Neighborhood Developments (see Section 16).
- (2)¹²⁸ Minimum lot areas and width specified in Section 4 of this ordinance may be modified in order to protect existing trees or retain forest when there is an approved forest conservation plan subject to the following limitations.
 - (a) The modification is the minimum necessary to achieve forest retention, tree protection objectives.
 - (b) Compensating architectural or other measures may be required to off set the effect of reduced lot area.
 - (c) Increased density of development shall not result from lot area reductions.

¹²⁷ Section 8.04 amended May 21, 1992, Zoning Text Amendment Case 92-3, Ordinance G-92-20.

¹²⁸ Section 8.05 added December 3, 1992, Zoning Text Amendment Case 92-7, Ordinance G-92-57, effective January 1, 1993.

SECTION 9. NONCONFORMING LOTS, STRUCTURES AND USES**9.01 Purpose**

The purpose of this section is to permit certain legitimate nonconforming lots, structures, and/or uses to continue as established as of the effective date of this Ordinance, but not to allow any action which would increase the nonconformity or would encourage them to remain in a nonconforming situation or otherwise delay their coming into conformity with the provisions of this Ordinance.

9.02 Nonconforming Lots

- (1) A single-family dwelling and customary accessory buildings may be erected on any lot which is nonconforming by reason of insufficient lot area and/or lot width provided the district in which the lot is located permits single-family dwellings; provided that yards as specified in Section 7.04(4) are met; provided the lot has a permanent right of access to a public street; and provided the lot is in separate ownership and does not abut another lot in the same ownership.
- (2) No lot shall be used, sold, subdivided, or otherwise modified in a manner which increases or creates a nonconforming situation.
- (3) Any lot reduced in area by reason of realignment of a street, a condemnation proceeding, or other action by a governmental agency so as to cause it to not meet the lot requirements of this Ordinance shall be deemed to be a nonconforming lot of record.

9.03 Nonconforming Structures

- (1) An existing structure not conforming to maximum area per dwelling unit, yard or height requirements of this Ordinance may be continued so long as it remains otherwise lawful, provided no such structure shall be modified so as to increase its nonconformity or to make it less suitable for a permitted use in that district.
- (2) Any building within the DR, DB-O, or DB districts that is destroyed, damaged, or deteriorated may be reconstructed and restored in kind to its original appearance and site location. However, in all other districts, any building destroyed, damaged, or deteriorated by any means to the extent of 50 percent or more of its market value, or if relocated, no such structure shall be reconstructed or relocated except in conformance with this Ordinance.

9.04 Nonconforming Uses

1. A nonconforming use may be continued so long as it remains otherwise lawful. No structural alterations, expansion, extension, addition or physical alteration shall be made without Board of Zoning Appeals approvals (see Section 19) or which has the effect of more firmly establishing, furthering, or supporting the nonconforming use.
2. No lot or structure where a nonconforming use has ceased for one year or more shall again be put to a nonconforming use.
3. The Board may authorize the substitution of one nonconforming use for another nonconforming use provided the new use is of an equally or more restricted use as indicated in the district regulations in Section 4, and provided all other requirements of this Ordinance are met (see Section 19 for procedures for Board approval).
4. It shall be the responsibility of the property owner to provide clear evidence that a nonconforming use or structure was lawfully existing as of the adoption date of this Ordinance.

9.05 Repairs and Maintenance

No provision of this section shall be construed to prohibit the routine repair and maintenance of a nonconforming structure or use or the execution in order to bring to a safe condition any structure declared to be unsafe by any official charged with protecting the public safety, health, or welfare.

9.06 Prior Site Plan Approval

1. Notwithstanding any other provisions contained in this Ordinance where, prior to the date of this Ordinance, a site plan has been approved by the Planning Commission and construction of all or any part of the improvements shown on such site plan is likely to occur over a period of time which may begin after, or extend beyond, the effective date of this Ordinance, construction on the property may continue in accordance with the approved site plan, the requirements of this section, and the law/regulations under which the site plan was approved.
2. Every such site plan on which a phasing/construction schedule has been previously approved by the Planning Commission will be required to be developed in accordance with the approved phasing/construction schedule. Every such site plan on which a phasing/construction schedule has not been previously approved by the Planning Commission will be required to be developed in accordance with the approved phasing/construction schedule. Every such site plan on which a

phasing/construction schedule has not been previously approved by the Planning Commission shall, within 90 days of the effective date of this Ordinance, be resubmitted to the Planning Commission for the establishment of a phasing/construction schedule.

3. In the absence of a previously approved phasing/construction schedule, failure to seek such a phasing/construction schedule in accordance with the terms of this section will terminate said approval.
4. Any such prior approval plan in full conformance with the provisions of this section will constitute a lawful use.

SECTION 10. ACCESSORY USES AND STRUCTURES**10.01¹²⁹ Accessory Uses and Structures - General Regulations**

- (1) Accessory uses and structures which are customarily incidental to the permitted principal use or structure, which are clearly subordinate to the permitted principal use or structure and which do not significantly alter the character of the permitted principal use or structure are themselves permitted subject to the following requirements:
- (a) Accessory uses and structures shall be located on the same parcel as the permitted principal use or structure.
 - (b) Except as provided by Section 10.04, no accessory use or structure shall be located within any required front yard.
 - (c) Any accessory uses and structures located within six feet of the permitted principal use or structure or attached in any manner to the principal use or structure shall comply with the setback (yard) requirements of such permitted principal use or structure.
 - (d) Unless otherwise regulated by this Ordinance all accessory uses and structures which are separated from the principal use or structure by more than six feet shall be located at least three feet from every lot line and six feet from every street or alley right-of-way line.
 - (e) The lot coverage of accessory uses or structures shall not exceed 30 percent of the required yard area where they are being placed. Accessory residential structures in the four designated downtown zones are exempt from this requirement.
 - (f) Except as provided elsewhere in this Ordinance, no accessory structure shall exceed 50 percent of the maximum height allowed for the permitted use, except in conjunction with agriculture or industrial use.

10.02 Antenna Accessory to Residences

- (1)¹³⁰ Except for communication antennas located on existing athletic lighting poles permitted by special exception in Section 5.04(13), in any R, DR, or other district adjacent to an R or DR district, no antenna including a dish antenna serving

¹²⁹ Section 10.01 amended May 21, 1992, Zoning Text Amendment Case 92-3, Ordinance G-92-21.

¹³⁰ Section 10.02 amended January 4, 2001, Zoning Text Amendment Case PC00-143TXT, Ordinance G-01-6

residential units shall exceed ten (10) feet in length or width nor extend more than five (5) feet above the maximum allowed height for a principal use.

- (2) No amateur radio transmission antenna shall be constructed until plans for the same have been submitted to and approved by the Planning Department. The plan shall show location, height, and configuration of the equipment and, if approved, shall be constructed in such a manner as not to present any electrical hazard to any person around, near, or upon the antenna. The applicant shall also present affidavits from all property owners within 100 feet of his dwelling stating that they have no objection to such installation. This provision does not obligate the Planning Department to approve any amateur radio transmission antenna, however.

10.03 Accessory Structure for Domestic or Farm Animals

- (1) Accessory structures housing farm animals or farm equipment shall be located at least 50 feet from a street right-of-way and from an adjacent property in an R district and may be constructed to a height not greater than 50 feet.

10.04 Accessory Structures in Front Yards

- (1) Accessory structures in front yards shall be limited to the following:

- (a) Mailboxes
- (b) Driveways and parking areas
- (c) Signs as permitted by Section 15
- (d)¹³¹ Fences as permitted by Section 10.06(l) (b)
- (e)¹³² A flagpole. The flagpole must be set back from a property line one (1) foot for every foot of flagpole height. This provision does not apply to commercial flags that are utilized for advertising and identification which are provided for by Section 15 Signs.

10.05 Corner Lots

- (1) In all districts allowing residential uses, including all applicable end townhouse units, where any dwelling or structure is located on a corner lot or reverse corner lot, no accessory structure shall be located within the street side yard specified by Section 4.

¹³¹ Section 10.04(d) amended February 6, 1986, Zoning Text Amendment Case 90-01, Ordinance G-90-4.

¹³² Section 10.04(e) added July 15, 1999, Zoning Text Amendment Case 99-05, Ordinance G-99-14.

- (2) On a corner lot in any district, no structure, parking area or landscape material shall be placed in any yard that impedes visibility across the corner within 25 feet of the intersection of the street or alley right-of-way lines.

10.06 Fences, Walls and Hedges²¹⁰

- 1.¹³³ In any R or DR district a fence, wall, or hedge may be constructed only in any side or rear yard, not a front or street side yard except as provided for in subsection 2 and 5 below, provided it does not exceed at any point six feet in height.
- 2.¹³⁴ Fences may be constructed in the front or street side yards of any lots which are approved for a housing type which have no backyards, i.e. back-to-back townhouses, quadraplexes and similar housing types. To obtain approval of such fences, the applicant shall submit an overall fencing plan for all such lots which front on a particular street, such plan to be approved by the Planning Commission as a part of site plan approval for the housing units on the block, or subsequent to site plan approval. No such fencing plan shall be approved unless the development in which the lots are located shall have recorded, or shall plan to record, documents creating a Homeowners' Association which is empowered to maintain, repair, and replace all such fencing. The Department shall review such Homeowners' Association documents to ensure that the documents contain the provisions as set forth herein.
3. A fence, wall, or hedge not exceeding eight feet in height may be located in any yard of any commercial, industrial, or institutional lot in a B, DB or M-O district not abutting an R, DR or DB-O district. A fence along a lot line abutting an R, DR, or DB-O lot shall be 6 ft. in height or less.
4. In the M-1 and M-2 districts, a fence, wall, or hedge shall not exceed ten (10) feet in height when adjacent to any R district, in accordance with Section 11.04.
- 5.²¹¹ Fences, walls or hedges may be constructed in the front or street side yards of any multiple family dwelling unit project, subject to Planning Commission approval of the fencing plan as part of site plan approval or subsequent to site plan approval.
 - (a) The maximum height of any fence, wall or hedge permitted under this paragraph 5 may not exceed four (4) feet.
 - (b) For purposes of this Section and paragraph, a multiple-family dwelling unit shall be defined as having a minimum of twenty-five (25) dwelling units.

²¹⁰ Section 10.06 amended August 16, 2001, Zoning Text Amendment Case PC01-051TXT, G-01-34.

¹³³ Section 10.06(1a) amended April 5, 1990, Zoning Text Amendment Case 90-1, Ordinance G-90-4.

¹³⁴ Section 10.06(1b) amended April 5, 1990, Zoning Text Amendment Case 90-1, Ordinance G-90-4.

²¹¹ Section 10.06(5) added August 16, 2001, Zoning Text Amendment Case PC01-068TXT, G-01-42.

- (c) Fences, walls or hedges in front or street side yards of multiple-family dwelling units may be located in an R-3, R-4, R-5, R-6 or R-7 district.
- (d) Fences, walls or hedges shall not be permitted in the public right-of-way, and shall be permitted only in dedicated common open space or on property owned by the Homeowners' Association.
- (e) Fences, walls or hedges shall be designed and constructed in compliance with Sections 10.05(2) and 13.01(2) so as not to impede or obstruct visibility on any street or public way.

10.07¹³⁵ Automatic Teller Machine (ATM) Accessory to Academic Colleges

- (1) ATM shall be an accessory structure and use on an academic college campus, subject to the following:
 - (a) Site plan approval of such facility shall be sought and obtained from the Planning Commission prior to issuance of building permit.
 - (b) The site plan shall show the location of principal buildings and roadways on the site in the vicinity of the ATM; the location of the ATM on the site, its size and height; the exterior building materials to be used in the construction of the ATM; the method of lighting the ATM; and the method and nature of all signage for the ATM.
 - (c) The site plan shall be reviewed so as to essentially comply with the criteria of Section 6.07(2) of the compatibility with the adjoining residential neighborhood.
 - (d) The ATM shall have no on-site employees.
 - (e) A freestanding ATM shall not exceed 200 square feet in footprint (outside measurements), shall not exceed 11 feet in height, shall provide sufficient parking including one handicap space, shall be limited to signage only as a part of the structure, shall be located no closer than 30 feet to any exterior property line of the campus, and shall provide Level II or Level III screening designed in such a way as to be appropriate under the circumstances of the request.

¹³⁵ Section 10.07 added September 15, 1994, Zoning Text Amendment Case 94-2, Ordinance G-94-63.

SECTION 11. LANDSCAPING AND SCREENING

11.01 Purpose

1. The purpose of landscaping is to aid in reducing the harmful effects of noise, dust, glare of artificial light, and wind; to control storm water runoff, prevent soil erosion and allow surface water to be absorbed into the ground; to aid in making different land uses compatible by providing a buffer or screening effect between land uses; to enhance the natural environment by reducing the visual effect of unsightly activities; and to generally create an aesthetically pleasing appearance.
2. The purpose of screening is to provide an effective visual barrier at street level between an unsightly or distracting activity and adjacent properties or public ways to preserve property values and assure compatibility of uses.

11.02¹³⁶ Plan Required

Where landscaping or screening is required by this Ordinance, a plan shall be submitted to the Planning Department or Commission which is drawn to scale and accurately depicts location, type, and size of any existing and proposed landscaping or screening materials. In addition to landscaping plans required by this Section, forest stand delineation, forest conservation plans may be required pursuant to the Frederick City Forest Conservation Ordinance.

11.03 Minimum Standards for Landscaping

1. All evergreen trees required by this Ordinance shall be at least four feet tall at the time of planting. All deciduous trees required by this Ordinance shall have a minimum caliper of two inches at the time of planting.
2. Existing landscaping which complies with minimum standards may be used to meet the requirements of this Ordinance.
3. All trees planted within a public right-of-way must conform to the City's approved street tree list.

¹³⁶ Section 11.02 amended December 3, 1992, Zoning Text Amendment Case 92-7, Ordinance G-92-58, effective January 1, 1993.

11.04²¹² Minimum Standards for Screening

A. Levels of Screening

The following Levels I, II and III shall apply to all development when PND and/or site plans are submitted. Levels IV and V shall apply to all development where PED and site plans are submitted for property in Industrial zoning districts M-1 and M-2 that abut a residential district. Any use permitted by Special Exception shall follow the more stringent landscape requirements between Section 5 and this section. The Planned Industrial district (M-0) landscape requirements are governed by Section 4.4(3)(c).

1. Level I screening shall consist of evergreen or deciduous trees or a combination thereof planted within a 6 ft. or wider planting strip. Evergreens shall be a minimum of 4 ft. in height at time of planting. Deciduous trees shall be a minimum of 6 ft. in height and 2 in. in caliper. Maximum spacing distance shall be 20 ft. on center for evergreens and 30 ft. on center for deciduous trees if planted in a line. The on-center spacing may be modified by the Commission or Department in cases where a screening plan calls for a grouping or clustering of landscaping material provided an adequate and effective screening is achieved.
2. Level II screening shall consist of evergreen or deciduous trees or a combination thereof planted within a 6 ft. or wider planting strip. Evergreens shall be a minimum of 4 ft. in height at time of planting. Deciduous trees shall be a minimum of 6 ft. in height and 2 in. caliper. If planted in a line, maximum spacing shall be 10 ft. on center for evergreens and 15 ft. on center for deciduous trees.
3. Level III screening shall consist of either a 6 ft. wall or hedge within a 4 ft. wide landscaping strip plus evergreen trees or shrubs 4 ft. in height and spaced 10 ft. on center or evergreen trees of 6 ft. or more in height at time of planting within a 6 ft. wide planting strip and forming a solid screened tree line.
4. a. Except as provided in Sections 4b and 4c, Level IV screening shall consist of a 10 ft. wide buffer yard with a 4 ft. wide area to contain a 10 ft. high wall plus a 6 ft. wide planting strip on the side of the wall adjacent to the residential development. The 6 ft. wide planting strip shall contain evergreen trees with a minimum height of 4 ft. at planting and spaced 10 feet on center.

²¹² Section 11.04 amended August 16, 2001, Zoning Text Amendment Case PC01-051TXT, Ordinance G-01-37.

Species should include, but are not limited to:

<u>Common Name</u>	<u>Botanical Name</u>
American Holly	Llex opaca
Austrian Pine	Pinus nigra
Dark American Arborvitae	Thuja occidentalis nigra
Eastern Red Cedar	Juniperus virginiana
Norway Spruce	Picea abies
White Pine	Pinus strobes

- b. As provided in Section 4.03 Development Regulations for M-1 and M-2 districts, an industrial building may increase in height from 60 ft. to 90 ft. provided that for each additional foot of building height the setback increases by one foot. In conjunction with this, the Planning Commission may also increase the buffer yard planting minimum height as follows:

Building Height	Requires Planting Height
60 ft.	4 ft.
70 ft.	5 ft.
80 ft.	6 ft.
90 ft.	7 ft.

The appropriate tree species shall be selected for mature heights to effectively shield the industrial buildings.

- c. The Planning Commission may reduce the height of any fence or wall, at their discretion, based on the impact of a particular use on the adjacent residential property.
5. Level V screening shall consist of a 50 ft. wide buffer area, which may contain an earth berm, wall, or natural vegetative screening, or a combination thereof. Species, which would be placed in the 50 ft. wide buffer, will be deciduous and coniferous trees and shrubs and shall be developed at the time of appropriate plan submissions and approvals.
 6. Openings shall be permitted where needed for access.
 7. Any existing screening which complies with standards set forth above may be used to satisfy requirements of this Ordinance.

B. Industrial Zone Screening Requirements

The determination of appropriate screening requirements to be used in the M-1 or M-2 districts that are adjacent to R districts shall be based on the property development status as follows:

1. Any new expansion plan of an existing industrial site prior to adoption of this text amendment may be allowed to utilize the landscaping requirements prior to adoption of this text amendment for a period of two (2) years after this amendment dated August 26, 2001. After the two-year period, an existing site shall comply with either Level IV or V, as applicable, and nonconforming lots with existing uses or proposed downtown areas shall use Level IV.
2. Any existing recorded lot not developed prior to adoption of this text amendment dated August 26, 2001 shall be required to use Level V screening. However, the Planning Commission may approve Level IV screening if the associated landscape plan, in the Commission's opinion, provides an adequate buffer for the adjacent residential property.
3. Except for Sections 11.04(B)(1) and (2), all lots recorded after adoption of this amendment shall conform to all requirements set forth.

11.05 Landscaping and Screening Requirements

Site plans as required by Section 6 of this Ordinance shall include plans for landscaping and screening which meet all of the requirements set forth below:

1. General property landscaping requirements:

- a. In all R districts, B-O, DB, DB-O at least one tree of any type shall be planted on the property for each 3,000 sq. ft. of lot or part in excess of 1,000 sq. ft.
- b. In the DB district, one-half of one percent of the total project cost for new buildings shall be devoted to landscaping or other public amenities such as landscaped plazas, fountains, art works, etc.
- c. In all B districts and M-O at least one tree of any type shall be planted on the property for each 6,000 sq. ft. of lot or part in excess of 3,000 sq. ft.
- d. In the M-1 and M-2 districts at least one tree of any type shall be planted on the lot for each 10,000 sq. ft. of lot or part in excess of 5,000 sq. ft.

2. Street tree landscaping requirements:

One City approved street tree shall be provided within the abutting street right-of-way for each 100 ft. of frontage on a collector or arterial street as classified on the Comprehensive Plan.

3.²¹³ Landscape buffer and berm requirements:

- a. Landscaped berms and/or buffer with Level I screening shall be required to screen residential, commercial or planned industrial (M-0) uses from adjacent residential uses or traffic areas while permitting adequate openings for entrances and permitted advertising.
- b. Landscaped berms, screening and buffer Levels IV and V shall be required for M-1 and M-2 districts when adjacent to R districts in accordance with Section 11.04

LEVEL IV*	**Required Plant Units per 100 Lineal Feet	**Structure Required in Yard
Rear and Side Yard Buffer Width 10 Feet Minimum**	1 Canopy Tree 4 Understory Trees 6 Shrubs 10 Evergreen Trees	10' high stockade fence, providing minimum 100% opacity, or a 10' high masonry wall.

LEVEL V		
Rear and Side Yard Buffer Width 50 Feet Minimum**	7 Canopy Trees 10 Understory Trees 40 Shrubs 15 Evergreen Trees	10' high stockade fence, providing a minimum 100% opacity, or a 10' high masonry wall; OR substituted by an earth berm at a minimum of 4 ft in height with a slope not to exceed 3:1 planted with turf or ground cover material.

*For nonconforming lots with existing uses or proposed downtown areas.

**See Section 11.04 Minimum Standards for Screening

- c. Landscaped berms or Level I screening buffer areas shall be provided in the rear of all through lots and in the front of panhandle lots if adjoining the rear of another lot, except as referenced in Section 11.04.

²¹³ Section 11.05(3) added August 16, 2001, Zoning Text Amendment Case PC01-051TXT, Ordinance G-01-38.

4. Parking lot interior landscaping requirements (lots of 20 or more spaces)

- a. In DR, B-O, DB, DR-B, DB-O, and M-2 districts 5% of total parking area must be landscaped in addition to landscaping required elsewhere.
- b. All R, M-O, M-1, B-1, and B-3 districts 10% of total parking area must be landscaped in addition to landscaping required elsewhere.

5.²¹⁴ Screening requirements:

- a. Parking lots of 10 or more spaces must be screened as follows:
 - 1. Any portion of a parking lot in an R, DR, DR-B, B-O or DB-O district must be screened with Level I or Level III screening.
 - 2. Any portion of a lot in an M-0, B-1 or B-3 district that is within 25 ft. of a property line in R, B-O, DB-O or DR district must be screened with Level I screening.
 - 3. Any portion of a lot in the M-1 or M-2 district that is within 50 ft. of a property line in R or DR districts must be screened with Level IV or Level V, in accordance with Sections 11.04(B)(1) and 11.05.3(b).
- b. Outdoor storage areas must be screened as follows:
 - 1. If 50 to 100 ft. from a street right-of-way or a property in districts other than B-3, M-1, or M-2, then Level III screening is required.
 - 2. If over 100 ft. from a street right-of-way or a property in a district other than B-3, M-1 and M-2, then Level II screening is required.
 - 3.¹³⁷ If less than 50 ft. from another property in a B-3, M-1 or M-2 district, then Level III screening is required.
 - 4. If 50 to 100 ft. from another property in a B-3, M-1, and M-2 district, then Level II screening is required.
 - 5. If over 100 ft. from a property in a B-3, M-1, or M-2 district, then Level I screening is required.

²¹⁴ Section 11.05(5) amended August 16, 2001, Zoning Text Amendment Case PC01-051TXT, Ordinance G-01-39.

¹³⁷ Section 11.05(5)(b)(3) added October 7, 1999, Zoning Text Amendment Case 99-07, Ordinance G-99-58.

6. If an M-1 or M-2 district is 50 ft. or less from a property in the R or DR districts, Level IV or V buffer screening is required in accordance with Sections 11.04(B)(1) and 11.04.
- c. Outdoor merchandise display must be screened as follows:
 1. If 50 to 100 ft. from a property in an R, DR, B-O or DB-O district, then Level II screening is required.
 2. If within 50 ft. of any street right-of-way Level I screening shall be required.
 3. If an M-1 or M-2 district is 50 ft. or less from a property in the R or DR districts, Level IV or V buffer screening is required in accordance with Sections 11.04(B)(1) and 11.04.
 - d. Self storage warehouse facilities must be screened with Level II screening between all buildings and parking areas and all lot lines including the street lot line.

11.06 Waivers and Modifications

1. The requirements of this Section may be waived or modified at the site plan review stage by the Planning Commission or Department in any of the following circumstances provided the intent of this Section is preserved.
 - a. Where two or more adjacent properties or two or more separate activities on the same parcel are developed under a common site plan.
 - b. Where compensating architectural, landscaping, or other site development features are utilized by the developer and approved by the Department or Planning Commission.
2. The Planning Commission or staff may attach additional conditions, waivers, or modifications which would assure that the intent of this Section is preserved. Such body shall have the authority to designate landscape spacing, specific type or size when reasonable circumstances or land use intensity warrants such action.

11.07 Installation and Maintenance of Landscaping and Screening

1. All required landscaping and screening shall be installed within six months after the issuance of a conditional occupancy certificate.

2. The property owner or his agent shall be responsible for the maintenance, repair, and replacement of all required landscaping and screening materials. All plant materials shall be tended and maintained in a healthy growing condition, replaced when necessary, and kept-free of refuse and debris. Fences and walls shall be maintained in good repair.
3. The Planning Department shall require the replacement of trees or the repair of barriers within six months if such trees or barriers die or are destroyed.

11.08 Preservation of Existing Landscaping and Screening

The body reviewing a site plan shall have the authority to require existing landscaping and screening which meet the minimum standards of this Ordinance to be preserved. The Zoning Administrator shall have the authority to require replacement or repair of such landscaping or screening destroyed during development.

11.09 Guarantee of Landscaping and Screening

The Planning Commission or Department shall require as a condition of site plan approval a guarantee of installation of landscaping and screening required by this Ordinance. Such guarantee shall be acceptable to the Commission or Department.

11.10^{138, 215} Landscaping or Screening May Be Provided In Conjunction With Forest Conservation Plans

The landscaping, buffer yard, or screening requirements of this Section may be met with landscaping, retained forest, areas for afforestation or reforestation upon a finding by the Commission or Department that the overall purpose of this section will be achieved.

¹³⁸ Section 11.10 added December 3, 1992, Zoning Text Amendment Case 92-7, Ordinance G-92-59, effective January 1, 1993.

²¹⁵ Section 11.10 amended August 16, 2001, Zoning Text Amendment Case PC01-051TXT, Ordinance G-01-40.

SECTION 12. PARKLAND REQUIREMENTS

12.01 Purpose

The purpose of this section is to implement the provisions of the Comprehensive Plan, especially as they relate to the provision of recreation areas; to control congestion; to promote health and the general welfare; to provide adequate light and air; to promote the conservation of natural resources and natural hazard areas; to prevent environmental pollution; to avoid undue concentration of population; and to facilitate the adequate provision of recreation and parks. These regulations have been made with reasonable consideration of, among other things, the demand for park area created by residential developments of different types and densities; the need to apply the size of the project or the number of additional dwelling units created; and the need to grant certain reasonable exceptions from these regulations to those projects which have obtained a certain level of approval and are progressing on the basis of that approval in a timely fashion, and which have already made parkland dedications or commitments which are reasonably consistent with public parkland needs as established in the Comprehensive Plan and in these regulations.

12.02 Parkland Standards

The amount of parkland which shall be dedicated to the City in residential developments is a minimum of five percent (5%) of the gross land area plus an additional percentage of the gross land area based on the density of the proposed development. The amount to be dedicated is as follows:

	Gross Density	Required Dedication of Gross Land Area
Low:	1.0 - 5.0 units/acre	5%
Medium:	5.1 - 11.0 units/acre	10%
High:	11.1 - 30.0+ units/acre	15%

12.03 Areas in Streets, Yards, etc. Excluded from Parkland Dedication

Areas in the development devoted to streets, drives, overhead utilities, or private yards shall not be counted towards meeting public or private parkland requirements. The locations and grade of park maintenance equipment access easements shall be provided on plats of dedication and are subject to modifications by the Director of Public Works.

12.04 Limitation on Floodplain Dedicated Parkland

No more than 75 percent of the area required to be dedicated shall be within a floodplain or have an average slope in excess of eight percent, unless these standards are waived by the Commission for a specified reason not contrary to the intent of this Section. Except as approved by the Planning Commission and the Frederick City Parks, Streets and Sanitation Committee, no storm water management pond area shall be used to satisfy these park requirements.

12.05¹³⁹ Planning Commission Review of Proposed Park Dedication

The Planning Commission shall review each proposed park dedication for its suitability for public recreation in terms of its location, accessibility, topography, shape, size, relationship to surrounding properties (especially other park areas), and the Comprehensive Plan. No proposed park dedication shall be acceptable if it does not by itself or in conjunction with other abutting park areas result in a parcel at least three acres in size unless approved by the Mayor and Board of Aldermen. Areas in forest or proposed for afforestation or reforestation on a forest conservation plan may be found to be suitable as public parkland by the Planning Commission with the approval of the Mayor and Board of Aldermen.

12.06^{140,141} Fee in Lieu of Dedication

If the Commission deems the proposed park dedication to be unsuitable for public recreation purposes in whole or in part, the Commission may require the dedication of another area of the property which is suitable or, at the option of the Commission, may require the developer to pay a fee in lieu of dedication. If the Commission deems appropriate, a combination of a fee and a minimum dedication of land may be made.

The fee shall be determined by the Board of Aldermen and shall be equal to the fair market value for the land in question based upon a recent appraisal of the tract being developed or subdivided. It shall be the responsibility of the developer/subdivider to provide the appraisal report to the Board. The appraisal shall be prepared by a qualified land appraiser selected from a list provided by the City.

12.07 Park Area Size, Private Open Space

If a proposed public park dedication does not by itself or in conjunction with other abutting park areas result in a parcel of at least three acres in size, the Planning Commission may approve a combination of a fee for public parkland and dedication of land to private, rather than public, ownership. The private owner shall be either a property

¹³⁹ Section 12.05 amended December 3, 1992, Zoning Text Amendment Case 92-7, Ordinance G-92-60, effective January 1, 1993.

¹⁴⁰ Section 12.06 amended April 1987, Zoning Text Amendment Case 86-5, Ordinance G-87-4.

¹⁴¹ Section 12.06 amended April 5, 1990, Zoning Text Amendment 90-2, Ordinance G-90-5

owners' association created under the provisions of this Ordinance or the owner of a multifamily project. The combination of fee and private open space shall meet the standards prescribed by Section 12.02. However, the private open space shall not be applied to fulfill more than 37.5 percent of the total parkland area required. This percentage represents the portion of total parkland made up by neighborhood parks as prescribed by the Comprehensive Plan.

12.08¹⁴² Park Improvements Required

- (1) Before any proposed park dedication shall be accepted by the City, the site shall be cleared of debris, weeds, and other undesirable material and graded and the surface stabilized by grass seeding or other acceptable methods at the expense of the owner of the property in accordance with a plan prepared by the owner which has been reviewed and approved by the City Engineer.
- (2) No building permit/zoning certificate shall be approved by the Department of Permits and Code Management for the development in question until the payment of a fee or satisfactory guarantee by the owner of the site improvements required by this Section is accepted by the Mayor and Board.

12.09 Applicability

- (1)¹⁴³ The provisions of this Section shall be applicable to all properties in the City which are proposed to be developed or redeveloped for residential purposes in a manner which will increase the number of units from that which presently exists on the property by more than one, except those projects which meet any one of the following conditions at the time this Ordinance is adopted:
 - (a) All lots in all sections of a subdivision have been approved and recorded; or
 - (b) An overall concept plan or preliminary plan has been approved and is serving the basis for actual development and building permits have been issued for 80 percent of the proposed units; or
 - (c) An overall concept plan or preliminary plan has been approved and is serving as the basis for actual development and dedication of parkland to public or private ownership has been made or is committed by the owner through approved plans which is equal to at least 75 percent of that which would have been required under the provisions of this Section.
 - (d) The Planning Commission, after receiving comment from the Mayor and Board of Aldermen and Recreation Committee, and after considering existing parkland in the vicinity of the proposed development, may deem

¹⁴² Section 12.08 amended December 13, 1990, Zoning Text Amendment Case 90-3, Ordinance G-90-60.

¹⁴³ Section 12.09(1) amended November 21, 1991, Zoning Text Amendment Case 91-4, Ordinance G-91-25.

the addition of a new park on a particular parcel to be unnecessary and waive such requirement.

Multifamily housing for elderly persons is exempt from public parkland requirements.

- (2) This section shall not apply to subdivisions which meet all the following conditions:
 - (a) The tract of land being subdivided contains no more than one occupied dwelling unit.
 - (b) The purpose and result of the subdivision shall not yield more than one additional dwelling unit.
 - (c) Property owner initiating subdivision request shall not own any adjacent property.

SECTION 13. PROPERTY ACCESS REQUIREMENTS**13.01¹⁴⁴ Access Design Requirements****(1) Turn Around Required**

All residential parking areas of 10 or more spaces, all other parking areas of 20 or more spaces, and all loading areas shall be served by access drives designed with a loop, cul-de-sac, or other feature which eliminates dead-end drives, increases maneuverability. Except for driveways for single-family, duplex and two-family dwellings all entrances to property shall be designed so that traffic entering or leaving a property at a public way is traveling in a forward motion.

(2) Intersection Visibility

All access drives to parking and loading areas shall be located and designed so that traffic entering or leaving such areas at a public way is clearly visible for a reasonable distance by pedestrians and other vehicular traffic.

(3) Access Drive Widths

Except as permitted by Section 13.04 all one-way access drives shall be 15 ft. in accordance with City or State Highway design specifications and appropriately channelized to direct traffic. All two-way drives shall be at least 24 ft. in width with two lanes clearly marked to allow vehicles to enter and exit the property in a safe manner.

13.02 Minimum Number of Access Points

All parking areas of more than 100 parking spaces shall have at least two access points on a public street of at least a 50-foot right-of-way to increase accessibility by emergency vehicles, to increase driver options, and to assure the uncongested flow of traffic. Where the access drive separation requirements in Section 13.03 cannot practically be met or other overriding factors are present, the Commission or Department may approve a site plan with a single access location provided that compensating measures such as a monumented access point are provided.

¹⁴⁴ Section 13.01 amended May 21, 1992, Zoning Text Amendment Case 92-3, Ordinance G-92-22.

13.03 Access Drive Separation

- (1) The Planning Commission or Department, at time of site plan or subdivision plat approval, may approve or disapprove any point of access to a property. In approving ingress or egress to a state highway, only those locations acceptable to the State Highway Administration can be approved.
- (2) The minimum entrance separation guidelines on page 13-3 will be used. However, if narrowness of the lot, existing entrances and exits, or sight distance limitations make strict adherence to these guidelines impossible then the Commission or Department may determine appropriate access locations for a property which will assure maximum traffic safety and level of service on the public street.

13.04 Downtown Districts Access Drive Modification

In Downtown districts existing drives of 9 ft. or more in width can be utilized to serve parking areas of 20 or fewer spaces provided that if vehicles are to both enter or exit, there must be a sign indicating that vehicles entering from a public street have the right-of-way over traffic exiting and that all traffic must yield to pedestrians.

SEPARATION GUIDELINES

Minimum Distance Between a:	On a Local Street (feet)	On a Collector Street (feet)	On an Arterial Street (feet)
Local street and local street	150	200	300
Local street and a collector street	175	250	450
Local street and an arterial street	200	300	500
Collector street and a collector street	175	250	450
Collector street and an arterial street	200	300	500
Collector street and an arterial street	250	400	750
Arterial street and a local street	200	300	500
Arterial street and a collector street	250	400	600
Arterial street and an arterial street	300	500	750
Single-family or duplex driveway and a local street	25	---	*
Single-family or duplex driveway and a collector street	50	---	*
Single-family or duplex driveway and an arterial street	50	---	*
Other driveway and a local street	50	150	400
Other driveway and a collector or arterial street	100	150	400
Single-family or duplex driveway and single-family or duplex driveway	5	---	*
Single-family or duplex driveway and other driveway	20	---	*
Single-family or duplex access drive and an arterial street	50	---	*
Single-family detached or duplex access drive and a single-family or duplex access drive	5	20	*
Single-family or duplex access drive and an "other" access drive	20	50	*
Other driveway and other driveway	50	100	200

* New access points are not permitted.

SECTION 14. OFF-STREET PARKING AND LOADING

14.01¹⁴⁵ Purpose

The purpose of this section is to provide a sufficient on-site parking area off the public street to meet the need generated by each property in order to minimize traffic congestion and traffic hazards. On-street parking may be provided in a Planned Neighborhood Development by a modification granted by the Planning Commission (Section 16.10(9)).

14.02^{146, 241} General Requirements

1. No property shall be developed, nor any building or structure erected, structurally altered or enlarged, nor its use changed or intensified unless permanently maintained off-street parking and loading spaces are provided on the property for the existing or proposed building, structure, or use, in accordance with the provisions of this Section, except as herein provided, and as provided for in Section 16.10(9) which provides the authority for a Planning Commission modification to be granted in a Planned Neighborhood Development. Parking for property within the Carroll Creek Overlay District may be provided off the property in accordance with § 22.08.
2. The provisions of this Section shall not apply to any existing building or structure except where a change of use occurs that would intensify the need for parking spaces.

14.03 Determination of Spaces Required

- 1.²²⁵ Parking and loading requirements per floor area shall be based upon gross floor area minus any storage and service area, but in no case less than 70% of gross floor area. This provision does not apply to professional and business office uses, including medical, dental, and veterinary offices and clinics, which are required to calculate parking and loading areas based upon total gross floor area.
2. Parking and loading requirements per seat shall be determined by the number of individual seats. In the case of bench-type seating, 20 inches will be the equivalent to one seat.
3. Where a conflict should exist between this Section and the Frederick City Fire Prevention Code (FCFPC), the stricter provisions shall prevail.

¹⁴⁵ Section 14.01 amended June 15, 1995, Zoning Text Amendment Case 95-1, Ordinance G-95-11.

¹⁴⁶ Section 14.02 amended June 15, 1995, Zoning Text Amendment Case 95-1, Ordinance G-95-12.

²⁴¹ Section 14.02 amended September 2, 2004, Zoning Text Amendment Case 04-474, Ordinance G-04-16.

²²⁵ Section 14.03 amended October 17, 2002, PC02-155TXT, Ordinance G-02-36.

4. Should a fraction of a space result from computing parking or loading space requirements a fraction less than 50% can be rounded down, a fraction 50% or greater shall be rounded up requiring 1 full space.
5. In the event more than one activity takes place within a single business or on a single lot, the parking requirements for that business or lot shall be determined on the basis of the proportion of the total business or lot devoted to each separate activity.
6. Where there is an adequate public transit system or where for any other reason parking requirements are unusually low, then the parking space provisions cited below may be reduced proportionately by the Board.

14.04^{226, 147,148,149,150,151} Parking Space Requirements

Parking space requirements for various uses shall be determined by the table below. The required spaces must be provided in accordance with this Section unless modified elsewhere in this Ordinance.

Type of Use	Number of Parking Spaces Required
<u>Residential</u>	
Single-family	2 per dwelling unit
Duplex	2 per dwelling unit
Two-family	2 per dwelling unit
Townhouse	2.5 parking spaces for units up to 3 bedrooms plus an additional .5 parking space for each additional bedroom. Garages and parking spaces shall be counted as one full space if assured access is provided. Garages and parking spaces with limited access, as a result of having access through a single counted parking space shall be counted as .5 space. Garages and parking spaces accessed sequentially through more than one counted parking space (Stacking more than two deep)

²²⁶ Section 14.04 amended October 17, 2002, PC02-155TXT, Ordinance G-02-37.

¹⁴⁷ Section 14.04 amended October 1, 1992, Zoning Text Amendment Case 92-5, Ordinance G-92-48.

¹⁴⁸ Section 14.04 amended April 5, 1993, Zoning Text Amendment Case 92-6, Ordinance G-93-10.

¹⁴⁹ Section 14.04 amended June 16, 1994, Zoning Text Amendment Case 94-1, Ordinance G-94-19.

¹⁵⁰ Section 14.04 amended June 15, 1995, Zoning Text Amendment Case 95-1, Ordinance G-95-13.

¹⁵¹ Section 14.04 amended June 3, 1999, Zoning Text Amendment Case 99-02, Ordinance G-99-12.

	<p>shall not be counted as parking spaces.</p> <p>A parking space shall not overlap the public sidewalk area. In the event that a requirement is waived for the installation of sidewalks, the space where the sidewalk would have been installed, or may be installed in the future, shall not be utilized by counted parking spaces.</p>
Multifamily	<p>1.5 per 1 bedroom or efficiency unit</p> <p>2 spaces per 2 bedrooms; plus .5 space for each bedroom over 2</p>
Rooming house	1 per guest room
Elderly Housing (Government or nonprofit organization sponsored)	1 per 4 dwelling unit
<u>Commercial</u>	
Carpet, furniture, and appliance sales & other retail uses characterized by relatively low customer turnover and large indoor floor displays.	One per 500 sq. ft. of floor area
Automobile, boat, or farm equipment sales and other retail activities characterized by large area outdoor display of merchandise and low customer turnover	One per 2,000 sq. ft. of lot area.
Automobile repair or service shop	Four per service bay or service area
Automobile filling & service station	One per every two gas pumps
Auction House	One per four seats
Hotels, Motels	One per sleeping room <u>PLUS</u> one for each two employees <u>PLUS</u> one for each 400 sq. ft. of area used for ballrooms, private meeting rooms, and the like.
Funeral Homes	One per 150 sq. ft. of floor area devoted to viewing and one per vehicle used in activity <u>PLUS</u> one per each two employees.
General Retail	One for each 150 sq. ft. of floor area
Banks and credit unions	One per 200 sq. ft. of floor area <u>PLUS</u> five reservoir spaces for each drive-up teller

	window exclusive of driveways or access areas
Reception Facility	<p>One space for each two seats and one space for each 6 sq. ft. in patron assembly areas without seating but excluding restrooms, hallways, and entrance ways</p> <p>Reception facility located in shopping centers shall not use space per each 200 sq. ft. of area, but instead, shall comply with the standard stated above.</p>
Restaurants	One per each 50 sq. ft. of floor area devoted to customer service but excluding food preparation, storage, mechanical and other incidental service areas <u>OR</u> one space for each four seats, whichever is greater <u>PLUS</u> five reservoir spaces for each drive-in window where applicable exclusive of driveways or access areas
Restaurants with Entertainment	One per each 50 sq. ft. of floor area devoted to customer service but excluding food preparation, storage, mechanical and other incidental service areas <u>OR</u> one space for each four seats, whichever is greater and one per each 6 sq. ft. in customer assembly areas without seating but excluding restrooms, hallways and entranceways. Shopping centers shall not use one space per each 200 sq. ft. of areas, but instead shall comply with the standard stated above.
Shopping Centers	Five per 1,000 sq. ft. of gross leasable floor area
Professional and business offices that have gross floor area of 5,000 square feet or less	1 for each 200 square feet of gross floor area, 5 spaces minimum
Professional and business offices having a gross floor area over 5,000 square feet	1 for each 200 square feet of gross floor area for the first 5,000 square feet of gross floor area plus one for each 250 square feet in excess of 5,000 square feet.
Other general commercial activities of a personal or business service nature not included in categories specifically mentioned elsewhere	One for each 300 sq. ft. of floor area

<u>Recreational Entertainment</u>	
Arcades & Amusement Center	1 space for each 100 sq. ft. of leasable/useable area and one additional space for each amusement device or one for every two-player participants anticipated.
Basketball Court	5 spaces per court and one per each 4 spectator seats.
Billiard Hall	2 spaces per table and 1 per employee plus one per each 4 spectator seats. (The number of employees is based on the largest working shift.)
Bowling Alleys and similar participation activities not mentioned elsewhere in this subsection	4 per alley and one per each 4 spectator seats.
Dance/Karate Instruction	1 space per 4 students and one per each 4 spectator seats.
Golf Courses	1 space per 2 employees, +4 spaces per hole, + 50% of spaces otherwise required for accessory uses. (The number of employees is based on the largest working shift.)
Golf Driving Range	1 space per tee, +1 space per employee (The number of employees is based on the largest working shift.)
Miniature Golf Course	2 spaces per hole, +1 space per employee (The number of employees is based on the largest working shift.)
Gymnasium	1 space for each 4 seats at maximum seating capacity, +1 space for each 200 sq. ft., +1 space for each employee (One seat equals two feet of bench length.) (The number of employees is based on the largest working shift.)
Health Club	One space for each 100 sq. ft. of leasable/useable area and one additional space for each exercise station and 1 space for each two employees. (The number of employees is based on the largest working shift.)
Indoor Sports Complex ¹⁵²	One (1) space for every two and two-tenths (2.2) persons based upon one third (1/3) of the maximum occupants of the facility pursuant to the fire safety code. Additionally, a graded grassy area adjacent to the parking

¹⁵² Section 14.04 amended May 17,2001, Zoning Text Amendment Case PC00-128TXT, Ordinance G-01-22.

	lot(s) shall be established for overflow parking spaces. Overflow spaces shall be a minimum of twenty (20) percent of the required parking spaces. Additional parking requirements must be added for paid spectator's events per section 5.04(45)(f).
Swimming Pool	1 space for every 3 persons lawfully permitted in the pool at one time, +1 space per employee subject to a lesser number determined by the Planning Commission that is in accordance with that number of members or patrons who are within a reasonable walking distance of the pool.
Skating Rink	1 space for each seat or six feet of benches, or 1 for each 150 sq. ft. of skating area, whichever is greater.
Tennis or Racquetball	3 spaces per court + additional spaces as may be required for eating establishments and other such uses.
Theater, Stadiums, Auditoriums, Spectator Viewing Areas	1 per each 4 seats + 1 space for each employee. (One seat equals two feet of bench length.)
<u>Institutional</u>	
Churches and similar uses	One for each four seats
Libraries, museums, and cultural centers	One for each 400 sq. ft. of floor area
Hospitals	1.5 for each bed, plus one space for each two employees
Nursing homes, domiciliary care facilities, and similar uses	One for each four beds, plus one space for every two employees, plus one for each facility vehicle
Group homes	One for each four beds, plus one space for every two employees, plus one for each facility vehicle
Child day care centers and similar uses	One for every 10 students, plus one space for each vehicle plus one space for each employee
Adult day care centers	One space for every 4 clients allowed to be cared for in the facility per State permit
Elementary and middle schools	1 for every 8 students
High schools	1 for every 5 students
Private schools including dance or martial arts instruction	1 for every 3 students
<u>Industrial/Wholesale</u>	

Industrial processing and manufacturing, building tradesmen shops, warehousing, wholesaling, if not normally characterized by customer visitation	1 for every 1.5 employees on the largest shift, plus 1 for each motor vehicle used in the business
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14.05²⁴² Modification for DB and DB-O Districts Parking

- (a) In the DB and DB-O districts one half of the parking spaces required by Section 14.04 of this Ordinance must be provided unless a total exemption as specified below applies.
- (b) Within an area bounded by Fourth Street to the north, Bentz Street to the west, All Saints Street to the south, Carroll Street and Chapel Alley to the east, no off-street parking shall be required for property in the DB or DB-O districts provided development or redevelopment of property involves no demolition of buildings to create new building sites. If buildings are demolished to create new building sites, then off-street parking as required by this section must be provided unless a variance is granted by the Board of Zoning Appeals prior to demolition.
- (c) This section supersedes any reduction in the number of parking spaces permitted by § 22.08.

14.06 Loading Space Requirements

1. Except for the DB and DB-O districts one off-street loading space shall be provided and permanently maintained on the same lot for every separate activity requiring the storage or delivery of goods to or from the activity and having a floor area of more than 5,000 sq. ft. One additional loading space shall be provided for each additional 40,000 sq. ft. For activities with floor areas of less than 2,000 sq. ft., one delivery space 12 feet wide and 20 feet long shall be provided.
2. Loading spaces and delivery spaces shall be distinct from parking spaces and access drives and their use shall not obstruct or otherwise conflict with the use of parking spaces and access drives.

14.07²⁴³ Joint Use

1. A parking area or loading area required for one activity may be used to satisfy the parking and loading requirements of another activity provided that all of the following conditions exist.

²⁴² Section 14.05 amended September 2, 2004, Zoning Text Amendment Case 04-474, Ordinance G-04-17.

²⁴³ Section 14.07 amended September 2, 2004, Zoning Text Amendment Case 04-474, Ordinance G-04-18.

- a. The activities must be located on the same lot or adjacent lots which are connected by way of sidewalks.
 - b. The activities sharing parking and/or loading areas will not be opened or operated at the same time.
 - c. There must be a written joint use agreement which shall be in effect for as long as the joint use is necessary for the parties to meet the parking requirements.
 - d. The parking and/or loading area must have sufficient capacity to meet the requirements of any one activity using the areas.
2. If for any reason the above conditions no longer exist, the joint use of parking facilities shall cease and required parking must be provided for each use independently.
 3. Parking and loading areas within the Carroll Creek Overlay District shall comply with § 22.08 in lieu of this section.

14.08^{153,154} Parking Space and Drive Dimensions

1. The minimum dimensions of parking spaces and access drives shall be as follows:

<u>Parking Space</u>	<u>Angle</u>			
<u>Rectangle</u>	<u>0 Deg.</u>	<u>45 Deg.</u>	<u>60 Deg.</u>	<u>90 Deg.</u>
Residential parking	See City Design Standards			9'x17'
Nonresidential parking	See City Design Standards			9'x18'
 <u>Drive Widths</u>				
One Way	15'	15'	18'	24'
Two Way	24'	24'	24'	24'
Window Service	9'			

2. Driveways serving single-family dwellings, duplexes, or two-family dwelling shall not measure less than nine feet in width, provided the driveway length is less than 40 feet. In all other cases driveways shall be as required above.

14.09²¹⁶ Minimum Setback Required from Street or Alley Right-of-way

¹⁵³ Section 14.08 amended May 21, 1992, Zoning Text Amendment Case 92-3, Ordinance G-92-23.

¹⁵⁴ Section 14.08 amended February 3, 2000, Zoning Text Amendment Case 99-08, Ordinance G-00-01.

²¹⁶ Section 14.09 amended August 16, 2001, Zoning Text Amendment Case PC01-051TXT, Ordinance G-01-41.

Parking areas for shopping centers must be set back from all street or alley right-of-way lines 25 ft. (see Sec. 4.04(1)). All other parking areas must be at least 8 ft. from street or alley rights-of-way except in the downtown districts parking may be within 3 ft. of a public right-of-way provided curbing or wheel stops are used and in the M-1 and M-2 districts adjacent to any R districts. In the M-1 and M-2 districts, parking setbacks shall conform to the buffer yard requirements as set forth in Section 11.04.

14.10¹⁵⁵ Parking Space and Access Drive Requirements for Townhouse Developments

Townhouse developments must meet the following minimum street requirements in order to qualify for City acceptance.

1. Twenty-four feet curb-to-curb streets for two-way traffic with no parking should be encouraged where possible. On-street parking spaces cannot be counted as spaces on a twenty-four foot street.
2. A 24-foot street with a 1-foot right-of-way on each side of the street shall be the minimum standard for acceptance for two-way traffic.
3. Total thickness of paving shall consist of six inches of bituminous concrete (4" base course, 2" surface course).
4. The City shall require all streets to provide a continuous loop throughout the development to insure uniform flow of traffic.
5. All curb and gutter shall be constructed to City of Frederick standards.
6. All signing and paving marking shall conform to the Manual of Uniform Traffic Control Devices as adopted by the City of Frederick.

14.11 Loading Space Dimensions

1. The minimum dimensions of a loading space for a tractor-trailer or larger vehicle shall be 12 feet in width, 50 feet in length, and 15 feet in height, exclusive of driveways, aisles, or other circulation areas.
2. The minimum dimensions of loading spaces to be used by vehicles of a smaller size may be reduced accordingly with the approval of the Department or Commission.

¹⁵⁵ Section 14.10 amended June 15, 1995, Zoning Text Amendment Case 95-1, Ordinance G-95-14.

14.12 General Requirements for Parking and Loading Areas**1. Parking Area Lighting**

- a. Any parking and loading areas and access drives except those serving single-family and duplex dwellings shall be effectively lighted if intended to be used at night by the general public or employees.
- b. Such lighting shall be arranged to contain the light within the property boundaries.

2. Paving

- a. All parking areas shall be paved with an acceptable dust-free, durable, and stable surface; however, parking areas located within the 100-year floodplain need not be of an impervious material provided the proposed surface material meet City Engineer and Maryland Water Resources Administration approval.
- b. All parking area surfaces shall be kept in good repair and maintained in such a manner as to preserve its dust-free, durable, and stable characteristics as long as the parking area is utilized.

3. Striping/Marking

- a. All parking and loading areas and access drives, except those serving single-family and two-family residential properties, shall be clearly striped or otherwise marked to identify parking and loading spaces. Access drives shall be marked or signed, as necessary, to facilitate safe traffic circulation.
- b. All striping, markings, and signs shall be maintained as long as the area is utilized or is required for parking or loading purposes.

4. Maximum Length of Access Drive in Residential Developments

No residential parking space shall be located more than 600 feet from a public street right-of-way at least 50 feet wide to which it has access as measured along the center line of the access drive.

5. Restrictions on the Use of Required Off-Street Parking and Loading Areas

All required off-street parking and loading areas shall be kept available for parking and loading purposes. No storage of equipment, recreational vehicles, or other material shall take place in any required off-street parking or loading area.

6. Handicapped Parking

All parking areas shall comply with the MD Building Code for the Handicapped. Handicapped spaces must be provided in accordance with this code and must be appropriately marked (see Code of Maryland Regulations 05.01.07).

7. Turn Around Required

Except for single-family, two-family, and duplex uses, where driveways measure less than 40 feet in length, the parking area shall be designed in such a manner as to afford turn-around areas enabling vehicles to exit in a forward motion onto public streets or alleys.

14.13 Modification for Off-Site Parking

1. Off-street and off-site parking may be authorized by the Board provided all the following conditions are met.
 - a. Off-site parking areas may be no more than 400 ft. from a site.
 - b. A verification letter from the off-site parking property owner shall be filed in the Planning Department, stating that all parking requirements have been met and will continue as such for a specific period of time.
 - c. Loss of committed off-site or on-site parking space will void any applicable zoning or occupancy permits.

14.14¹⁵⁶ Parking Modifications for Tree Protection, Forest Retention

At the time of site plan approval, the Planning Commission or Department may modify parking and load space or drive dimensions, space requirements, and other provisions of this Section in order to retain forest or protect individual trees provided that the modifications are the minimum necessary and are not contrary to the overall purpose and intent of the section nor injurious to public safety.

¹⁵⁶ Section 14.14 added December 3, 1992, Zoning Text Amendment Case 92-7, Ordinance G-92-61, effective January 1, 1993.

SECTION 15. SIGN CONTROL PROVISIONS

15.01 Purpose

The purpose of this Section is to permit the reasonable and consistent identification and advertisement of land uses and properties to pedestrians and motorists without creating hazardous and unsightly clutter and confusion.

15.02²⁴⁴ General Regulations

1. No exterior sign shall be placed or altered unless in compliance with this and any other relevant ordinance.
2. Before any exterior sign shall be placed or altered in size, height, or location, a zoning certificate must be issued.
3. No sign shall be permitted which by reason of its intensity color, location, flashing, movement, or other characteristics will interfere with or resemble traffic control devices, or police, fire, or ambulance signals. No sign will be approved that obscures the reasonable view of the street by a pedestrian or motorist, especially at intersections or that distracts or causes misinterpretation by passing motorists or in any other manner impairs public safety.
4. No sign shall contain statements, words, or pictures of an obscene, indecent, or immoral character, such as will offend public morals or decency.
5. No sign shall remain erected on a site that advertises an activity, business, product, or service no longer produced or conducted on site. Where the owner or lessor the property is actively seeking a new tenant, such signs may remain in place for not more than 30 days from the date of vacancy.
6. Signs identifying or directing traffic to the location of a community institution of a public nature and traffic control devices erected by a governmental body are not subject to these provisions.
7. Signs within the Carroll Creek Overlay District shall comply with this section and section 22.12(e). To the extent that there is an inconsistency between this section and section 22.12(e), the provisions of section 22.12(e) shall govern.

15.03 Location

²⁴⁴ Section 15.02 amended September 2, 2004, Zoning Text Amendment Case 04-474, Ordinance G-04-19.

1. No sign other than an official traffic-related sign shall be located within or project into a street right-of-way, except as provided in Section 15.04(2), 15.09(2), and 15.09 (3).²²⁷
2. No sign shall be permitted which does not pertain to the activity on the property on which it is placed except for off site directional signs authorized by the Board as a Special Exception and directional informational or traffic control signs erected by a governmental body
3. No more than one free standing sign shall be permitted on a lot for each public street upon which the lot fronts except for off site directional signs authorized by the Board as a Special Exception.

15.04²²⁸, ²⁴⁵ Height and Projection

1. A sign attached to a building shall not exceed the actual height of such structure, and shall be an integral part of the building's architecture.
2. Projecting Signs shall comply with the following:
 - a. No Projecting Sign shall extend more than 36 inches from the wall of the building.
 - b. No Projecting Sign shall be less than eight feet above the ground.
 - c. In the DB, DB-0, and Carroll Creek Overlay districts, attached signs may project into a public right-of-way no more than 30 inches except as provided in subsection d, below.
 - d. A sign incorporated as an integral part of a canopy may project into the public right-of-way no more than five (5) feet and must be at least eight (8) feet above grade per Section 7.05 (3) of the Zoning Ordinance.
3. No permanent or temporary freestanding sign shall exceed 25 feet in height.

15.05²²⁹ Size

The maximum area of all signs on a lot which are intended to be visible to a pedestrian or motorist shall be as follows except as provided in Section 15.05(8):

1. R, DR and DR-B Districts

²²⁷ Section 15.03(1) amended October 17, 2002, PC02-188TXT, Ordinance G-02-28, effective November 15, 2002.

²²⁸ Section 15.04 amended October 17, 2002, PC02-188TXT, Ordinance G-02-29, effective November 15, 2002.

²⁴⁵ Section 15.04 amended September 2, 2004, Zoning Text Amendment Case 04-474, Ordinance G-04-20.

²²⁹ Section 15.05 amended October 17, 2002, PC02-188TXT, Ordinance G-02-30, effective November 15, 2002.

- (a) Two square feet per lot, in conjunction with an approved Special Exception use.
- (b) Two square feet per lot for permitted uses and in conjunction with an approved Special Exception Use.

2. DB or B-3 Districts

Two square feet per linear foot of building frontage. Buildings with multiple stories, each with customer entrances, shall be allowed signage for each of the first two stories only.

3. B-0 Districts

Two square feet per use not to total more than 24 square feet per lot.

4. DB-O District

Two square feet per use, not to total more than eight square feet per lot.

5. B-1 District

- (a) Two sq. ft. per each linear foot of building frontage.

6. M Districts

- (a) Two square feet per each linear foot of building frontage.

7. R-0 District

Two (2) square feet per sign per use (tenant), not to exceed eight (8) square feet total.

8. Signs with Changeable Copy

Twelve (12) square feet (per side) of changeable copy board may be added to any permanent freestanding sign within the B and M districts for the exclusive purpose of advertising temporary sales, promotions or events. For the purposes of this section “changeable copy board” shall mean a sign on which copy is changed manually or electronically but must be in conformance with Section 15.02. This

square footage may be transferred to the temporary signage allotment on the building, if the applicant chooses this option and it is approved by staff and noted on the Zoning Certificate for the temporary signage.

15.06 Identification Signs**1. Shopping Centers**

In addition to sign permitted above a shopping center shall be permitted one freestanding sign for each of not more than two major streets upon which the center fronts, displaying only the name of the shopping center as a whole, the subordinate names of no more than four tenants of the shopping center, and a subordinate bulletin board. Every such sign shall be located at least 25 feet back from the lot lines. No such sign shall exceed 15 feet in total height and the total area of each permitted freestanding sign serving any shopping center, including the names of tenants, shall not exceed 100 square feet.

2. Industrial Parks

- (a) In addition to the signs permitted, industrial park identification signs are permitted in M districts and shall measure no more than one square foot per acre and shall be permitted at each major street entrance; however, a minimum sign of 50 square feet may be erected in any case for industrial park identification purposes. Such signs shall not exceed 6 feet in height.

3. Residential Communities

- (a) No more than two permanent community identification signs for each major street entrance identifying a reasonably defined residential complex or neighborhood shall be permitted provided such signs do not exceed the following:

3 to 5 dwelling units located as a unified residential entity - 8 square feet.

5 to 15 dwelling units located as a unified residential entity - 16 square feet.

16 plus dwelling units located as a unified residential entity - 24 square feet or one square foot for each four dwelling units, whichever is greater.

- (b) Each sign shall not exceed six feet in height. A site plan approved by the Planning Department of Planning Commission must accompany each application for a Zoning Certificate for such signs and clearly identify the neighborhood number of units, and locations and size of all proposed community identification signs.

- (c) Rental complex may place upon their identification or directions sign an additional sign no larger than three square feet to be securely mounted to and removable from the identification or directional sign stating "now renting" or other similar language.

4. Off Site Directional Signs

Subject to requirements of the State Highway Administration, if applicable,' such sign may be permitted as a Special Exception authorized by the Board provided that no sign exceeds 20 sq. ft. in area and that its principal function is to direct traffic to an off premises location as provided for by Section 5.04(36). Such signs may include the name and type of activity being identified and directions, but shall not include other advertising material.

15.07 Signs - How Measured

1. The area of a sign shall be the product of its greatest horizontal and vertical dimensions, including background and borders but excluding supports.
2. Only one face of a double-faced sign shall be computed for sign area purposes.
3. For purposes of this section, the length of the property abutting a street right-of-way shall be the length of a straight line between the extreme property corners along a street right-of-way; the length a structure facing a street right-of-way shall be the length of a straight line between the extreme corners of that part of the structure facing a street right-of-way.
4. Where projections or embellishments extend beyond the principal sign area, a reasonable vertical and horizontal area encompassing such projections or embellishments shall be used to compute overall sign area.
5. Each wall of a corner building facing a public street shall be measured separately for purposes of computing sign area limits.
6. Sign area for open canopies (e.g., protective structures over most "gas and go" stations) shall be determined by measuring the canopy structure frontage and then factoring 66% of such signage according to zoning district requirements. State required pricing signs shall not be computed when less than 24 square feet per street frontage

7. Names of buildings, dates of erection, monumental citations, commemorative tablets and the like, when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type construction and made an integral part of the structure shall not be computed for purposes of sign area allotment.
8. That portion of a sign conveying temperature, time, or date information shall not be computed for purposes of sign area allotment.
9. The flag, emblem, insignia, poster, or other display of a nation, state, or political subdivision shall be exempt from these sign provisions.
10. Religious symbols such as crosses, stars, painted or sculptured statues, stained glass window or the like shall be exempt from these sign provisions.
11. Inflatable signs shall conform to the size, setback, and height requirements as defined in each district.

15.08 Outdoor Advertising Signs and Billboards

Outdoor Advertising signs and billboards shall be prohibited in all districts.

15.09²³⁰ Temporary Signs

1. One temporary sign per property, not to exceed twenty-four (24) square feet, securely attached on all sides to the principal building and which is not dilapidated in any way is permitted in all districts, except for the residential and downtown districts provided all other requirements of the Zoning Ordinance are able to be met and a zoning certificate is obtained to approve the size and location of the temporary sign. An applicant may choose to utilize signage permitted in Section 15.05(8) provided it is approved by staff and noted on the Zoning Certificate.
2. Trailer/portable signs shall be prohibited in all districts, except to allow sandwich board signs within the DB and DB-O districts.
3. Temporary real-estate directional signs are permitted in the City right-of-way provided the following requirements are met:
 - a) The signs are only placed from Friday at 7:00 p.m. to Sunday at 8:00 p.m.
 - b) The signs do not exceed two (2) square feet in size.
 - c) The sign does not exceed three (3) feet in height as measured from the ground to the top of the sign.

²³⁰ Section 15.09 amended October 17, 2002, PC02-188TXT, Ordinance G-02-31, effective November 15, 2002.

- d) The sign is supported on metal or wooden stakes supplied by the installer and shall not be attached to any tree, utility pole, traffic control signs, traffic signal poles, walls of buildings, fences or other structures.
 - e) The sign does not obstruct the visibility of vehicles or pedestrians or create a safety hazard.
 - f) Any sign(s) which fails to meet these requirements can be removed, discarded by the City and shall subject the installer (owner, developer, builder or realtor) of the sign to further enforcement action.
 - g) Only one (1) sign per realtor, developer, builder or residential community is permitted at any intersection.
5. Construction site signs shall not exceed a total of one hundred (100) square feet. Such signs shall be removed within one (1) week following issuance of a zoning certificate.
6. Streamers, pennants, balloons, and inflatable signs utilized as temporary signage shall be permitted to advertise special events, sales, and promotions provided the following requirements are met:
- a) No individual streamers, or pennants may be placed any higher than the roofline of the building.
 - b) Streamers or pennants that are placed on a line or tether may not extend higher than twenty-five feet and must not drift into roadways, utility wires, or create any safety hazards.
 - c) All balloons and inflatable signs must be set back from the public right-of-way line(s) a distance equal to the height of the balloons or inflatable signs.

SECTION 16. PLANNED NEIGHBORHOOD DEVELOPMENT**16.01 Purpose**

1. The purpose of this Section is to encourage the integrated and creative design of a variety of land uses and housing types, to minimize street and utility requirements and other factors which increase the cost of development, and to maximize open space and preserve attractive natural features by allowing land to be developed with integrated and/or clustered land uses on the basis of overall density rather than on the basis of conventional minimum lot and yard requirements and the traditional strict segregation of land uses and housing types.
2. The technique shall not be used without an overall community master plan to compensate for the absence of more conventional requirements so that the intent of this Ordinance, and especially of this Section, is met.
3. The planned neighborhood technique is not a zoning district nor an overlay zone. Rather, it is an optional mode of development that may be applied within a zoning district(s).

16.02 Districts Where Applicable

The planned neighborhood technique may be applied to any tract not less than 50 acres in any zoning district or combination of districts, except "M" districts, to any type of development provided other provisions of this Section are met.

16.03 Application

1. An application for approval of the use of the planned neighborhood technique shall be filed with the Planning Department. The application shall include a master plan of the proposed development and other such information as may be required to adequately evaluate the proposal.
2. Fees associated with the application shall be paid at the time of filing. The Department shall not accept such application until all required fees are paid in full.
3. Where all parcels to be included in the planned neighborhood are not in single ownership, the application shall be signed by all owners.

- 4.¹⁵⁷ All applications for an approval of a PND Master Plan must be accompanied by a forest stand delineation as provided for in Section 3.1 Frederick City Forest Conservation Ordinance. Subsequent approvals of site plans or final plats for sections of a PND shall be accompanied by a forest conservation plan as required by Section 3.1 Forest Conservation Ordinance.

16.04 Notice of Application

1. Upon acceptance of a proper application to use the planned neighborhood technique, the Department shall refer it to the Planning Commission for its review and shall set a date for a public hearing by the Commission within 30 days of the filing of the application.
2. The Department shall require the applicant to post the property no later than 15 days prior to the date set for the hearing by the Planning Commission. The sign(s) shall indicate the nature of the application and the time, date, and place of the hearing and shall be placed and maintained during the 15-day period in a location which is clearly visible from the primary street(s) upon which the property fronts.

16.05 Public Hearing

The Commission shall hold a public hearing on the proposed Planned Neighborhood Master Plan. Any interested person shall have the right to appear and testify at the hearing. A complete and permanent record of all testimony shall be kept by the Department. The Commission may order a continuance of the hearing to obtain further information.

16.06 Review Criteria

In reviewing the application and Planned Neighborhood Master Plan, the Planning Commission shall consider, among other things, the consequences of the plan or traffic flow, the economic provision of public services, maintenance of open space and sensitive natural areas, the extent to which the development is planned as a unit, the relationship of activities within the development, and particularly the compatibility of the planned neighborhood with properties not a part of such development.

In exercising its discretion as to the approval or disapproval of a planned neighborhood, the Planning Commission shall be guided by consideration of suitability and desirability of such development in relation to its location and surroundings. No such development shall be approved unless the Commission finds that it will constitute a primarily residential environment of continuing desirability and stability, in reasonable harmony with the

¹⁵⁷ Section 16.03(4) added December 3, 1992, Zoning Text Amendment Case 92-7, Ordinance G-92-62, effective January 1, 1993.

character of the surrounding neighborhood and ensuring substantially the same or a higher standard of occupancy as obtained or may be expected to obtain in the surrounding community generally, and that it will be desirable for the community in all other respects as well.

16.07 Action by the Planning Commission

1. Within 30 days of the closing of the public hearing, the Commission, at a public hearing, shall approve, continue, deny, or approve with modifications the application to utilize the planned neighborhood technique. No more than two continuances shall apply for any one application.
- 2.¹⁵⁸ Following approval by the Commission and at the request of the applicant, the Department may authorize amendments to the master plan adopted in connection with approval of the planned neighborhood option, provided the overall density of the planned neighborhood is not increased, provided that the land use for any section of the planned neighborhood is not changed, and provided that no one section is increased in number of dwelling units by more than ten percent (10%) by Department approval. Density may be transferred between individual sections of the master plan if the Department finds such transfers to be consistent with the concept of the approved planned neighborhood, and to be justified by planning, market, or other legitimate concerns of the applicant.

16.08 Withdrawal or Denial of the Application

1. The applicant may withdraw in writing an application to utilize the planned neighborhood technique at any time prior to the decision of the Commission on the application.
2. If withdrawn, no planned neighborhood application involving the same property and substantially the same development plan shall be accepted by the Department within 60 days of the date of withdrawal.
3. If the application is denied by the Commission, no new application involving the same property and substantially the same development plan shall be accepted by the Department within one year of the date of denial.

16.09 Setbacks from Properties Outside Planned Neighborhoods

1. Any structure which exceeds the building height normally applicable in the zoning district in which it is located shall be set back from any property not a part of the

¹⁵⁸ Section 16.07(2) amended January 1988, Zoning Text Amendment Case 87-2, Ordinance G-88-1.

planned neighborhood a distance equal to twice its proposed height or 90 feet, whichever is greater. In no case shall a structure exceed 90 feet in height.

16.10 Planned Neighborhood Permitted Uses, Density and Development Requirement Modifications

1. A planned neighborhood may include dwelling types and uses other than those permitted in the district(s) for the purpose of creating a self-contained neighborhood having a variety of housing types and related service facilities.
2. Commercial areas within a Planned Neighborhood shall not exceed either the total area equal to the existing "B" districts or an area equal to one acre for every 100 dwelling units, whichever is greater. In the event the planned neighborhood design includes a "B" district or districts, the permitted uses allowed in said districts may be permitted in the planned neighborhood.
3. The floor area devoted to home occupations permitted by special exception within the planned neighborhood shall not be included in the total commercial area allowed in a Planned Neighborhood.
4. With the approval of the Planning Commission, dwelling units in the planned neighborhood may be of types other than those permitted in the districts as principal uses. Said units may be allowed at the discretion of the Commission in order to utilize topographic advantages and to improve the aesthetic impact of the planned neighborhood.
5. Required lot areas, widths and yards may be reduced and building heights increased at the discretion of the Planning Commission subject to the following limitations.
 - a. Along any arterial or collector street the front yard requirement for any structure shall be as required by Section 4 for the zoning district.
 - b. Where any lot adjoins a major arterial, railroad, or a multifamily, commercial, industrial, or other nonresidential area, the Planning Commission may require such lot to have at least the minimum size prescribed for the district.
6. The maximum number of dwelling units within a Planned Neighborhood shall be determined as follows. The gross area (in sq. ft.) of each zoning district within the Planned Neighborhood shall be divided by the least minimum lot area per dwelling unit specified in Section 4.03 for each district. The sum of the units allowed for all districts within the Planned Neighborhood shall be the maximum number of units allowed.

7. No structures shall be located within floodplains or in areas unsuitable for development because of steep slopes, natural features.
8. In order to adequately provide for planned public parks, and other facilities in conformance with the Comprehensive Plan, a Planned Neighborhood Master Plan shall include dedication of land for schools, police/fire stations, or libraries as proposed by the Comprehensive Plan or by a City or County agency.

Such land shall be dedicated as part of the development process. Compensation shall be provided to the property owner by allowing those dwelling units lost by such public land dedication to be developed elsewhere on the property. (See Section 16.10(6)).

- 9.¹⁵⁹ The Planning Commission may approve a modification to the parking standard in Section 14.04 and may allow credit for parking spaces on the public streets within the PND in order to provide excellence of design at a maximum of one-half (.5) space per townhouse dwelling unit providing this approval takes into account the following criteria.
 - a. The street meets or exceeds minimum design criteria for a thirty-two (32) foot local street.
 - b. The street is not already providing or proposed to provide on street parking for other public facilities such as, but not limited to a park, school site, or public or private swimming pools.
 - c. Review of on-street parking takes into account safe access, functional circulation of vehicular traffic, and provision of public services such as, but not limited to refuse collection, snow plowing, and emergency services.
 - d. Streets designated or having significant potential for being designated as snow emergency routes cannot be counted as on street parking spaces.

16.11 Other Requirements

All other requirements of this Ordinance not specifically modified by this Section shall remain applicable within the planned neighborhood area. Parkland shall be provided in accordance with Section 12 of this Ordinance. No land development shall be permitted within floodplain area pursuant to Section 18.

¹⁵⁹ Section 16.10(9) amended June 15, 1995, Zoning Text Amendment Case 95-1, Ordinance G-95-15.

16.12 Prior Planned Neighborhood Development Approvals

1.

Notwithstanding any other provisions contained in this Ordinance, if prior to January 2, 1986, a Planned Neighborhood Development has been approved by the Planning Commission and construction of all or any part of the improvements shown on such plan is likely to occur over a period of time which may begin after, or extend beyond, the effective date of this Ordinance, construction on the property may continue in accordance with the approved plan, the requirements of this section, and the law or conditions under which the plan was approved.

2. **Conditions**

- a. Every such plan on which a phasing/construction schedule has been previously approved by the Planning Commission will be required to be developed in accordance with the approved phasing/construction schedule.
- b. Every such plan on which a phasing/construction schedule has **not** been previously approved by the Planning Commission shall submit within 180 days of the effective date of this Ordinance a phasing/construction schedule. The schedule shall be approved as long as it provides for the commencement of construction within three (3) years from the effective date of this Ordinance. The beginning of construction may include the extension of utilities to the boundary line of the PND project. Failure to seek such a phasing/construction schedule in accordance with the terms of this Section will terminate the approved PND.
- c. Any such prior approved plan in full compliance with the provisions of this Section will constitute a lawful use.

3.

Once the phasing/construction schedule has been submitted, the Planned Neighborhood Development shall be developed in accordance with that schedule provided that if said construction has begun during the three (3) years from the effective date of this Ordinance, the Planning Commission may grant an extension of time under said phasing/construction schedule provided the reason for the extension request is reasonable and there has been reasonable efforts made towards accomplishing the phasing/construction schedule.

4. **Revisionary Powers**

The Planning Commission shall have revisionary power over previously approved Planned Neighborhood Development projects and upon application may increase or decrease the size of the project and the conditions of the development. Any

increase, however, shall not exceed the density allowed in the previous Ordinance. In the event of such amendment, the Planning Commission shall use the provisions in Section 18.70 of the Frederick City Zoning Ordinance which was in effect at the time the Planned Neighborhood Development was originally approved.

16.13¹⁶⁰ Alternative Design Modifications Within Certain Planned Neighborhood Developments 100 Acres or Greater in Size

In planned neighborhood developments which contain in excess of 100 acres of contiguous land, in addition to the foregoing provisions of this section, the Planning Commission may approve alternative design modifications according to existing City standards for roads, lighting, sidewalks, utilities, and other public facilities and/or public improvements and requirements, provided that the Planning Commission shall determine that the requested modifications will contribute to the blending of the neighborhood, with surrounding residential neighborhoods and the overall development of Frederick City, and, further, that the granting of the proposed modifications will not be detrimental to public health and safety or the delivery of public services to the future residents of the planned neighborhood.

Any planned neighborhood applicant, meeting the criteria herein, may submit requests for alternative design modifications as more particularly described below simultaneous with submission of the application for 16.03 of this Section, or subsequent to Planning Commission approval of the Master Plan. Any such other responsibilities by a homeowner's association shall also include proposed or pro forma association documents for Commission review as provided in Section 17 of this Ordinance. If the conditions set forth herein are satisfied, the Planning Commission may approve modifications, such as:

- 1.¹⁶¹ Use of alternative City right-of-way and pavement design standards:
 - a. Collector streets: Right-of-way of sixty feet (60') and paving width of twenty-six feet (26'), subject to the conditions for such use as set forth in (d) below.
 - b. Limited Access Feeder streets: Right-of-way of forty feet (40') and paving width of twenty-six feet (26'), subject to the conditions for such use as set forth in (d) and (e) below.
 - c. Local Street: Right-of-way of forty feet (40') and paving width of twenty-six feet (26'), subject to the conditions for such use as set forth in (d) and (f) below.
 - d. Conditions for use of City Standard twenty-six foot (26') wide streets:

¹⁶⁰ Section 16.13 amended January 1988, Zoning Text Amendment Case 87-2, Ordinance G-88-1.

¹⁶¹ Section 16.13(1) amended September 1988, Zoning Text Amendment Case 88-5, Ordinance G-88-15.

- i. Standard City paving thickness shall be required.
 - ii. Parking will be allowed on one side only.
 - iii. Standard City street lighting shall be required but in "country setting area" where no housing faces the street, the use of low profile, Standard City lighting be allowed with every other pole and fixture omitted, provided Standard City conduit and wiring for full lighting are installed during initial construction.
 - iv. Sidewalks will not be required if, in lieu thereof, internal, well lighted, four foot (4') wide, hard surfaced, private pathway systems are substituted providing reasonable, safe access from each dwelling unit to the common areas, public and private facilities and public sidewalk systems within the planned neighborhood. On any lot on which a sidewalk is not required pursuant to this subsection, a concrete driveway apron shall not be required.
 - v. All intersections of said streets shall contain Standard City street lighting.
 - vi. Standard curb and gutter are required.
- e. May only be used in "country setting areas" where there is no individual lot access to such street. Access provided to dwelling units only by private collector drives or local streets which connect to the Limited Access Feeder street.
 - f. Any neighborhood utilizing the modified local street as described in this subsection shall contain no more than sixty (60) dwelling units per each point of access into such neighborhood from a collector street. Each dwelling unit served by such modified local street shall provide a minimum of four (4) off-street parking spaces.
 - g. Modified Townhouse Section: Parking bay of nine feet (9') wide by eighteen feet (18') long, and a drive aisle of twenty feet (20'), provided that there be two feet (2') of green space between the parking bay and sidewalk.
2. Horizontal and vertical street alignment minimum design requirements may be modified so long as they meet or exceed the minimum design guidelines as set forth in the latest published edition of "A Policy on Geometric Design of Highways and Streets" by the American Association of State Highway and Transportation Officials (AASHTO). The City shall determine specific design criteria to be utilized such as design speed, street classification and maximum rate of super

elevation. Adequate provisions for maneuvering of public and private service vehicles shall be maintained.

3. Private drives may be used in residential areas of the planned neighborhood subject to the following conditions:
 - a. Private drives shall serve no more than twelve (12) residential dwelling units.
 - b. Paving of private drives shall conform to Standard City paving thickness requirements.
 - c. Common garbage collection facilities shall be established at the intersections of such private drives with the public street to allow garbage pick up at the public street.
 - d. Snow plowing and/or removal on private drives will not be performed by the City, but will be handled by the homeowner's association of the planned neighborhood.
 - e. Pavers may be used in the construction of private drives.
4. The Planning Commission may approve any proposal for fencing of sections of the planned neighborhood, or in any required yard of individual lots within a section, provided that:
 - a. Such fencing is part of an overall fencing plan for the planned neighborhood,
 - b. The Commission finds that such a fencing plan is in harmony with the intent and design of the planned neighborhood,
 - c. Does not render the same incompatible with surrounding residential developments and
 - d. Subject to the prior approval of the City Engineer and the Director of Public Works as to compatibility with City highway safety standards.
5. Section 15.06(3) of the Zoning Ordinance may be modified to provide for internal signs within a planned neighborhood identifying individual sections of the planned neighborhood; and such signs may project into, or be located within, a public street right-of-way, provided that the signage is part of an overall sign plan, and provided the Commission determines that the sign plan is in harmony with the intent and design of the neighborhood and is not incompatible with surrounding residential

development, and subject to the prior approval of the City Engineer and the Director of Public Works as to compliance with City highway safety standards.

6. Any applicant under this Section shall meet the minimum parkland requirements of Section 12 of this Ordinance. However, in recognition of the fact that open space and recreational facilities provided and/or operated by an applicant or a homeowner's association meet the special recreational needs of the residents of a planned neighborhood, the applicant may request, and the Mayor and Board of Aldermen may approve, a lease from the City to such homeowner's association for all or part of the dedicated parkland. In such case, the Mayor and Board of Aldermen must find that the proposal for operation and maintenance of such parkland and recreational facilities satisfies the purpose of Section 12 of this Ordinance and the parkland needs and requirements of the City. In the making of this finding, the Mayor and Board of Aldermen may waive the specific requirements of Section 12.08 as to a specific proposal for parkland use which would be incompatible with such requirements. In addition to standard leasehold requirements, such lease shall:

Provide for a rental of One Dollar (\$1.00) per year to be paid by the homeowner's association to the City; allow the homeowner's association the use and control of the leased property to satisfy the parkland needs of the residents of the planned neighborhood; and be terminable by the Mayor and Board of Aldermen if, in their judgment, the requirements of Section 12 of this Ordinance and/or the parkland needs and requirements of the City are not being met by the private operation and maintenance of the leased parkland by the homeowner's association.

7. Domiciliary care facilities shall be permitted in a specially designed or thematically planned neighborhood where such facilities would be appropriate, on the basis of one residential unit for each 250 square feet of lot area, including on-site restaurant, retail and personal services available to the residents and the general public. As to such facilities, the least width court requirements for residential and mixed use structures may be modified to a minimum of forty feet (40') without respect to height of building wings.
8. The Commission may approve the mixing of retail commercial and residential uses in a specially designed or thematic commercial portion of a planned neighborhood, where such mixing of uses would be of significant benefit to the overall character of that particular planned neighborhood.
9. The applicant may substitute PVC sewer pipe for the standard clay sewer pipe in the development of the planned neighborhood.
10. Machine laid curb is acceptable.

SECTION 17. PROPERTY OWNERS ASSOCIATIONS**17.01 Purpose**

The purpose of this section is to assure that property owners' associations are properly established, operate effectively, and are financially sound so that the property values are enhanced and protected and that the public responsibility for maintenance of common property and facilities is minimized.

17.02 Documents Review Required

Before a site plan may be approved for a development which includes a property owners' association or common property, the Planning Commission or Planning Department shall review and approve the proposed articles of incorporation, association by-laws, covenants, and any other association documents. At a minimum, these documents shall include the following provisions.

- (1) Membership shall be mandatory for all property owners.
- (2) Nonpayment of any annual, special or other assessment by a property; a procedure shall be established to allow the connection by the association of unpaid assessments, including late fees and appropriate interest.
- (3) Common areas shall be assured of preservation and maintenance.
- (4) The association's Board of Directors shall be required to prepare an annual operating budget.
 - (a) The budget shall be based on estimated expenses for the operation of the association or, if available, actual expenses for the previous budget adjusted for inflation and any surplus.
 - (b) The budget shall include an allowance for a contingency fund equal to at least 10 percent of estimated or actual expenses.
 - (c) The Board of Directors shall be required to set an annual assessment for each property owner in an amount sufficient to satisfy the approved budget requirements.
 - (d) It shall be required that the budget proposed by the Board of Directors be reviewed for adequacy by an independent certified public accountant prior to approval and that a copy of the accountant's report be supplied to the City Treasurer.

- (5) A capital asset replacement fund shall be created by the developer and maintained and continued by the association with annual appropriations required of property owners to the fund from the date of transfer of common properties and facilities and their expected life. Such fund shall not be used to finance operating and maintenance costs.
- (6) The documents shall provide for mandatory special assessments to meet unforeseen or special expenditures as well as any budget deficit.

17.03 Plat Required

All areas to be owned by the association shall be shown on a record plat for the development.

17.04¹⁶² Forest Conservation Ordinance Protective Agreements

Any Homeowner's Association which will own or maintain areas shown on an approved forest conservation plan for forest retention, afforestation or reforestation, shall provide to the City evidence that a legally binding protective agreement is in existence providing for protection of land forested, afforested, or reforested and which places limitations on use of forest to those consistent with forest conservation.

¹⁶² Section 17.04 added December 3, 1992, Zoning Text Amendment Case 92-7, Ordinance G-92-63, effective January 1, 1993.

SECTION 18. GENERAL PROVISIONS AND MODIFICATIONS**18.01 Trailers, Mobile Homes, Recreational Vehicles, Disabled Vehicles**

- (1) Parking of trailers, recreational vehicles, mobile homes, or boats for residential purposes in any district shall be prohibited except on a farm, one mobile home may be used as living quarters of members of the immediate family owning or operating the farm, or by a tenant family, or any employees primarily engaged in the operation of the farm, which mobile home shall be set back at least 50 feet from any industrial activity and at least 20 feet from any property line.
- (2) The temporary parking, display, or storage of any trailer, or its temporary use as a non-construction office or other place of business, in any district in which such sales or business is permitted, provided that such parking, display, storage, or use shall not continue for more than six months.
- (3) In any R or DR district, disabled vehicles, or unlicensed vehicles or equipment shall not be parked or stored on any lot unless such vehicle or equipment is within a completely enclosed building or structure.

18.02 Temporary Construction Trailers, Parking of Commercial Vehicles in R, DR Districts

- (1) Construction trailers may be parked on property in any district when used in conjunction with active construction. This shall not be interpreted to exclude the placement of such trailers when not in use due to inclement or seasonal weather restrictions.
- (2) No more than one vehicle conspicuously signed or used for commercial purposes shall be parked in any R or DR district between 5 p.m. and 8 a.m. unless used for on-site construction or renovation purposes.

18.03 Condominium Projects

In any district where a property is to be established as a condominium, it shall be subject to the requirements of the Horizontal Property Act, Article 21, as amended, Sections 117-A through 142, of the Annotated Code of Maryland, 1957 Edition, as well as all provisions of this Ordinance. Such properties shall also meet the requirements of the City Building Code.

18.04 Conversion from Condominium Projects

Where a developer desires to convert an existing or proposed condominium project into a non-condominium subdivision, the conversion shall be subject, where applicable, to all requirements for discontinuance of a condominium under the Real Property - Condominium Act, Title II, Annotated Code of Maryland, 1974, as amended, and shall be further subject to Planning Commission approval under the Subdivision Regulations of Frederick City, provided that in the event of such conversion, the Planning Commission shall have the authority to make any necessary changes to the design plan, including varying yard and area requirements, in order that the design conform as closely as possible to the Zoning Ordinance and Subdivision Regulations. Nothing contained herein shall be construed as authorizing the developer to construct, or the Planning Commission to allow, additional dwelling units or more commercial or industrial floor space than was present in the original condominium concept.

18.05¹⁶³ Structural or Land Development in Floodplains

- (1) Development may occur within floodplain zones only if in accordance with the Frederick City Floodplain Management Ordinance, dated April 2, 1992, Ordinance G-92-7.
- (2) The Planning Commission or Department may approve site plans for development within floodplain zones including new structures, substantial improvement, fill or other grading conditioned upon any of the following:
 - (a) A variance being granted pursuant to Article VII of The Frederick City Floodplain Management Ordinance.
 - (b) Issuance of a conditional letter of map revision from FEMA when required.
 - (c) A Water Resources Administration Waterway Construction Permit being issued.
 - (d) Issuance of U.S. Army Corps of Engineer's permits, if required.

However, prior to issuance of a grading or building permit, all State and Federal permits and approvals must be secured.

Any change to a site plan resulting from requirements by subsequent review agencies must be resubmitted for Planning Commission approval.

- (3) In review of all site plans or other development proposals where floodplain is present, the Planning Commission or Department shall consider the stream valley

¹⁶³ Section 18.05 amended May 21, 1992, Zoning Text Amendment Case 92-1, Ordinance G-92-13.

park system as described in the Comprehensive Plan and shall not approve floodplain development which would be inconsistent with or conflict with the implementation of that plan.

18.06 Structures Permitted Above Height Limit

(1)

The building height limitations of this Ordinance shall not apply to penthouses or roof structures for housing elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain a building; or to fire or parapet walls, belfries, towers, steeples, domes, flagpoles, silos, smoke stacks, chimneys, masts, water tanks, monuments, or other roof superstructures that project into the air.

(2)

On commercial or industrially zoned properties, the height limitations of this Ordinance shall not apply to bulkheads, elevator penthouses, water tanks, monitors and scenery lofts provided no linear dimension of any such structure exceeds fifty (50) percent of the corresponding street lot line frontage; or to towers, monuments, fire towers, hose towers, cooling towers, grain elevators, gas holders, derricks, public, commercial or industrial radio or transmission towers, windmills, or other structures where the manufacturing process or use requires a greater height. Provided, however, that no such structure shall exceed 150 feet in total height above ground, and that all such structures above the heights otherwise permitted in the district shall not occupy more than 25 percent of the area of the lot and shall be distant not less than 25 feet in all parts from every lot line not a street lot line.

(3)

The building height limitation of this Ordinance shall not apply to churches, schools, institutional buildings, public utility buildings and structures, and any buildings or structures in the M-2 district, if not less than 600 feet distant from any R, DR, B-O, or DB-O district; provided that for each three feet by which the height of such building or structure exceeds the maximum height otherwise permitted in the district, its side and rear yards, where required, shall be increased in width or depth by an additional foot over the minimum side and rear yards required for the highest building otherwise permitted in the district; and where not otherwise required, a side yard on each side and a rear yard shall be provided equal in width or depth to one foot for each three feet of such excess height.

(4) **Public Interior Amenity Space**

Commercial or industrial buildings that provide a full-floor ground level public interior amenity space (PIAS) that incorporates artwork, fountains, benches,

interior landscaping, open walk areas, and the like may increase by one story and commensurate height the permitted height allowance. One receptionist desk may be permitted in such PIAS provided it covers no more than 100 feet or one percent of the ground level area, whichever is less.

18.07 Court Requirements

Where a court is provided in any building, except a detached single-family dwelling, for the purpose of furnishing light and air to rooms in which persons are to live, sleep, or work, except storage rooms, the least dimensions of the court shall be as follows:

(1) Least Width

- (a) For residential buildings, other than a detached single-family dwelling, the sum of heights of building wings opposite one another, but not less than 30 feet.
- (b) For nonresidential buildings, two-thirds the sum of heights of building wings opposite one another, but not less than 30 feet.

(2) Maximum Depth

One and one-half times the court width.

18.08 Conversion of Dwelling

- (1)¹⁶⁴ Except as provided for under paragraph (2) below, the conversion of a building into a dwelling, or the conversion of a dwelling so as to accommodate an increased number of dwelling units or families, shall be permitted only within a district in which a new building for a similar occupancy would be permitted under this Ordinance, and only when the resulting occupancy shall comply with the minimum lot area, minimum area per dwelling unit, and yard requirements of Section 4.03 governing new construction in the district.
- (2)¹⁶⁵ Buildings within the DB district only which existed as of the effective date of this Ordinance, February 6, 1986, may be converted or modified to accommodate dwelling units regardless of minimum lot area and lot area per dwelling unit of Section 4.03 subject to the following limitations:

¹⁶⁴ Section 18.08(1) amended July 13, 1989, Zoning Text Amendment Case 89-1, Ordinance G-89-16.

¹⁶⁵ Section 18.08(2) amended July 13, 1989, Zoning Text Amendment Case 89-1, Ordinance G-89-16.

- (a) One dwelling unit for each 850 sq. ft. of gross floor area within the existing building shall be permitted on the lot or one dwelling on each floor above the ground level shall be permitted.
- (b) Buildings with ground level floors designed for business occupancy, whether occupied or vacant, may not be modified so that the entire ground level is converted to dwellings but must retain space viable for business occupancy adjacent to the street unless total ground floor conversion is authorized by the Board of Zoning Appeals as a Special Exception (see Section 5.04(39)).

18.09¹⁶⁶ Reserved.

18.10 Public Utilities, Essential Services Shall be Permitted in any District

Public utilities and other essential services shall be permitted in any district provided that plans for any such facilities which are above ground are submitted to the Commission for review, and that the recommendations of the Commission are followed, and further provided that, when such above ground facilities are proposed in a DR or R district, the Commission finds that no feasible alternative location in another district is available.

¹⁶⁶ Section 18.09 deleting September 2, 1999, Zoning Text Amendment Case 99-06, Ordinance G-99-55.

SECTION 19. BOARD OF ZONING APPEALS**19.01 Board of Appeals Reestablished**

With the enactment of this Ordinance the Board of Zoning Appeals, as currently established and appointed under provisions of the Charter of the City of Frederick, is hereby reestablished and reappointed.

19.02 General Powers

The Board of Zoning Appeals shall have the following powers.

- (1) The Board shall hear and decide appeals where it is alleged there is error in any decision made by the Zoning Administrator in the enforcement of this Ordinance.
- (2) The Board shall hear and may authorize special exceptions as provided for by this Ordinance.
- (3) The Board shall hear and may authorize upon appeal, in specific cases, a variance from the terms of this Ordinance.
- (4) The Board shall hear and may authorize temporary uses that are not in conformance with this Ordinance.
- (5) The Board shall hear and may authorize alterations, expansions, or extensions, of lawful nonconforming uses located on properties platted or deeded as of the date of enactment of this Ordinance provided that all development regulations, signs, and parking requirements are complied with.
- (6) The Board shall hear and may authorize the substitution of one nonconforming use for another nonconforming use.
- (7) The Board may determine, after notice to the property owners affected and after a public hearing, the boundaries of zoning districts as follows:
 - (a) Where a street or lot layout, actually on the ground or as recorded, differs from street or lot lines as shown on the zoning maps, the Board shall interpret the maps in such a way as to carry out the intent and purpose of the Ordinance.

- (b) Where a district line divides a lot of record, as of the effective date of this Ordinance, the Board may permit the extension of a district but not more than 100 ft. beyond the district boundary line.

19.03 Limitations, Guides, and Standards

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

- (1) The purpose, application, interpretation, and standards of these regulations.
- (2) Decisions of the Circuit Court for Frederick County and the Court of Appeals of Maryland.
- (3) The orderly growth and improvement of the neighborhood and community.
- (4) The most appropriate use of land and structures in accordance with the Comprehensive Plan.
- (5) Facilities for sewers, water, schools, transportation, and other services and the ability of the City or County to supply such services.
- (6) The limitations of fire-fighting equipment, and the means of access for fire and police protection.
- (7) The effect of such use upon the peaceful enjoyment of people in their homes.
- (8) The number of people residing, working, or studying in the immediate areas.
- (9) The type, character, and use of structures in the vicinity, especially where people are apt to gather in large numbers such as schools, churches, theaters, hospitals, and the like.
- (10) Traffic conditions including facilities for pedestrians, such as sidewalks and safety zones, and parking facilities available, and the access of cars to highways.

- (11) The preservation of cultural and historic landmarks.
- (12) The conservation of property values.
- (13) The effect of odors, dust, gas, smoke, fumes, vibration, glare, or noise upon the uses of surrounding properties.
- (14) The contribution, if any, a proposed use, building, or addition would make toward the deterioration of areas and neighborhoods.
- (15)¹⁶⁷ The objectives of the Forest Conservation Ordinance to retain forest and to provide for afforestation and reforestation and the protection of individual trees.

19.04 Advertising Requirements

Upon receipt of an application and all required fees, the Zoning Administrator shall set a date for a hearing before the Board of Zoning Appeals. Notice shall be advertised in a newspaper of general circulation at least 10 days prior to the hearing. A sign shall be placed on the property in question which shall indicate the nature of the case and the date, time, and place of the hearing at least 10 days prior to the hearing. This sign shall be erected in a location which is clearly visible from the street upon which the property fronts and shall remain until the Board holds a public hearing on the application or the case is withdrawn.

19.05 Public Hearing

Before making a decision, the Board shall hear the case in public session. Any person may appear and testify at the hearing. The Board shall decide the matter within a reasonable time and may continue the hearing to a specific future date for a specified reason.

19.06 Action by the Board

The concurring vote of at least four members of the Board shall be necessary to reverse any decision of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance.

¹⁶⁷ Section 19.03(15) added December 3, 1993, Zoning Text Amendment Case 92-7, Ordinance G-92-65, effective January 1, 1993.

19.07 Withdrawals or Denials

- (1) If a case before the Board is disapproved, the Board shall not be required to consider another appeal for substantially the same proposal on the same property until after one year from the date of such disapproval.
- (2) If a case to the Board is filed and a hearing date set and advertised and thereafter the applicant withdraws the appeal, the applicant shall be precluded from filing another appeal for substantially the same proposal on the same property until after six months from date of the withdrawal. Unless specifically stated by the Board, no action is transferable to subsequent property owners.

19.08 Approval Expiration

A decision of the Board granting an appeal or other action in whole or in part shall be void one year from the date of approval unless the use is established or a zoning certificate is issued and construction has begun in accordance with the terms of the decision.

19.09 Appeals from the Board's Decision

Any person aggrieved by any decision of the Board of Appeals or any taxpayer or officer, department, or board of the City may seek recourse from the decisions of the Board of Appeals to the Circuit Court, as provided by law.

19.10 Variances

- (1) Application for a variance shall be filed only by a person or persons with a financial, contractual or proprietary interest in the property in question or by his or her authorized agent.
- (2) The Board may authorize a variance from the height, lot area, parking, and yard requirements and only when specific findings are made by the applicant to the Board's satisfaction that each of the following conditions are met:
 - (a) Whereby reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, or of the use of the property or property immediately adjacent, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exception or undue hardship upon, the owner of such property;
 - (b) The variance requested is the minimum reasonably necessary to overcome the extraordinary or exceptional conditions applicable to the property;

- (c) That the literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance and would prevent the reasonable use of the property by the applicant;
 - (d) That granting the variance will confer on the applicant any special privilege that is denied by this Ordinance to other lands or structures in the same district;
 - (e) That the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and
 - (f) No variance shall be granted in any case where the applicant or their agent has created or caused to be created a situation which would or has necessitated the issuance of a variance in order for such property to comply with this Ordinance.
- (3) In granting the variance, the Board of Appeals may prescribe appropriate and specific conditions and safeguards, including location, construction, maintenance, and operation in conformity with the Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be a violation of this Ordinance.
 - (4) Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the zone involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said zone.

19.11 Special Exceptions

- (1) Application for a special exception may be filed only by a person or persons with a financial, contractual, or proprietary interest in the property for which the exception is requested. The Board may authorize special exceptions included in Section 5 of this Ordinance only when the Board finds that the following conditions exist.
 - (a) The proposed use is in harmony with the purpose and intent of the Comprehensive Plan and this Zoning Ordinance.
 - (b) The characteristics of the use and its operation on the property in question and in relation to adjacent properties will not create any greater adverse impact than the operation of any permitted use not requiring special exception approval.

- (c) That the proposed activity will comply with all conditions and requirements set forth in Section 5 of this Ordinance.
- (2) The Board may attach to the approval any special conditions in addition to those specified in the Ordinance which it feels are necessary to protect adjacent properties and the general neighborhood and to carry out the intent of this Ordinance. Violation of such additional conditions is a violation of this Ordinance and may be grounds for termination of the special exception.

The Board may require the installation, operation, and maintenance of devices and methods of operation as may, in its opinion, be reasonably required to prevent or reduce hazardous or congested traffic conditions, odor, dust, smoke, gas, noise, or similar nuisances. The Board may impose such other conditions and requirements as may be necessary in its opinion to protect adjacent properties and neighborhoods and prevent conditions which may become obnoxious or offensive. In authorizing a special exception, subject to compliance with certain conditions, the Board shall require from the owners, lessees, or tenants of the property for which this special exception is granted such evidence, written agreement, guarantee, or bond as it may deem necessary, to ensure that the conditions stipulated by the Board are being and will be complied with. Any such written agreement may be required by the Board to be recorded among the land records of Frederick County, at the expense of the applicant.

- (3) No use or activity permitted by special exception shall be enlarged or extended beyond the limits authorized in the grant of special exception. Changes from one special exception use to another use permitted by special exception shall require approval by the Board.

19.12 Temporary Uses

The Board may authorize the temporary use of a building or premises in any district for a purpose or use that does not conform to the regulations prescribed by this Ordinance for the district in which it is located; provided, that such use be of a temporary nature and does not involve the erection of substantial buildings. Such certificate shall be granted in the form of a temporary and revocable permit for not more than a six-month period subject to such conditions as will safeguard the public health, safety, convenience, and general welfare. Such certificate shall not be renewed for more than two successive six-month periods.

19.13 Nonconforming Uses

- (1) Applications for Board approval for the alteration, expansion, and extension of a nonconforming use or the substitution of one nonconforming use for another may

be made by any person with a financial, contractual or proprietary interest in the property.

- (2) The Board may authorize changes to nonconforming use or substitution of one nonconforming use for another only upon specific findings that the resulting activity or use shall be equally or more compatible with permitted uses in the district. In an R or DR district no use prohibited in a B district shall be authorized. In a B district no use prohibited in an M-1 district may be authorized.

19.14 Appeals of Decisions by the Zoning Administrator

- (1) An appeal to the Board may be made by any person aggrieved or by any officer, department, or board within the jurisdiction affected by the decision of the Zoning Administrator. Such appeal shall be made within 30 days of the decision of the Zoning Administrator by filing a notice of an appeal on the forms provided by the Department. Such notice shall specify the nature and grounds of the appeal and shall contain such additional information as may be needed to explain the appeal. Fees associated with the appeal shall be paid at the time of the filing in accordance with the fee schedule established in Section 23.
- (2) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board that, by reason of facts stated in the certificate, such stay will cause imminent danger to life or property. In such case, proceedings shall not be stayed except by a restraining order granted by the Board or by a Court of Record on application by the applicant after notice to the Zoning Administrator and with due cause shown.
- (3) In exercising its powers, the Board may, in conformity with the provisions and limits of the Charter and of this Ordinance, reverse or affirm, in whole or in part, or may modify the decision of the Zoning Administrator appealed from and may make such decision as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

¹⁶⁸SECTION 20. TEXT AND MAP AMENDMENTS
(Excluding Floating Zone Map Amendment)*

* The M-1 and M-2 districts may, if approved by the Board of Aldermen, be developed pursuant to the MXE Mixed-Use Employment Center Development floating zone, pursuant to the provisions of Section 23 of this Ordinance.

20.01 Applications - General

Applications for zoning text or zoning map amendments shall be filed with the Planning Department on the forms provided by the Department and shall include such information as may be specified in this Section or as may be required by the Department to explain or support the request. Fees associated with the application shall be paid at the time of filing. The Department shall not accept any application until all the necessary and required information is included and the fees are paid in full.

20.02 Text Amendments

An application for a text amendment may be made by any citizen or official or agency of the City.

20.03 Map Amendments

- (1) An application for a zoning map amendment may be made by any official or agency of the City, any property owner or his authorized agent, or any other person or persons with a 50 percent or more contractual or proprietary interest in the area covered by any map amendment application.
- (2) Any application for a zoning map amendment, except a comprehensive zoning map amendment, shall include findings of fact regarding the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development for the area and the relationship of the proposed amendment to the City's Comprehensive Plan, and, via a letter of transmittal to the Mayor and Board of Aldermen, the Planning Commission's recommendation.
- (3) Except for a comprehensive zoning map amendment, the application shall include either a finding that there has been a substantial change in the character of the neighborhood where the property is located since the last comprehensive zoning map amendment which was not anticipated or authorized by that comprehensive

¹⁶⁸ Section 20 amended September 14, 2000, Zoning Text Amendment Case PC00-105TXT, Ordinance G-00-22.

zoning map amendment and which support the proposed amendment, or a finding that existing zoning classification of the property is a mistake.

- (4) If a finding is made that there has been a "change in the character of the neighborhood," the area comprising that neighborhood shall be defined by the applicant. The Planning Commission may modify these neighborhood boundaries, in whole or in part.

20.04 Notice of Application and Public Hearing by the Planning Commission

- (1) Upon acceptance of a proper application for a zoning map or text amendments the Department shall refer it to the Planning Commission for its recommendation. The Department shall set a date for a public hearing by the Commission within 45 days of the filing of the application and shall cause notice of the application to be published at least twice in successive weeks in a newspaper of general circulation in the City not less than 15 days prior to the date set for the hearing. A proposed comprehensive text or map amendment shall be so advertised on at least three separate dates, the latest of which shall not be less than 15 days prior to the date set for the hearing.
- (2) In the case of a proposed zoning map amendment, except a comprehensive map amendment, the applicant shall post a sign, the size of which shall be approved by the Department, noting the application and the date of the hearing on the property affected in a conspicuous place as directed by the Department at least 15 days prior to the hearing. The applicant shall see that the sign remains posted in good condition until after the hearing or until the application is withdrawn, whichever occurs first.
- (3) The Planning Commission shall hold a public hearing as required. Any interested person shall have the right to appear and testify at the hearing. A complete and permanent record of all testimony shall be kept by the Department. The Commission may order a continuance of the hearing for a specified reason to a specified date, time, and place.

20.05 Action by the Planning Commission

- (1) Within 45 days of the closing of the public hearing, unless such time is extended by the Commission for a specified reason, the Commission shall by resolution recommend either the approval, denial, or modification of the proposed zoning amendment and shall forward its recommendation to the Mayor for action by the Board of Aldermen.
- (2) In the case of a proposed zoning map amendment, the Commission may recommend approval of the rezoning of a smaller portion of the parcel than that

requested by the applicant but only for the zoning classification requested by the applicant, provided a lesser area of rezoning is supported by the evidence and provided the smaller area is accurately delineated. In no case shall the Commission recommend the rezoning of a larger area than that requested by the applicant.

- (3) In the case of a zoning map amendment proposal, except a comprehensive zoning map amendment, the Commission shall include with its recommendation to the Board of Aldermen findings of fact regarding the matters listed in Sections 20.03(2) and 20.03(3), shall identify the "neighborhood" of the property in question, and may recommend approval of the rezoning in whole or in part based on a finding that there has been a substantial change in the character of the neighborhood where the property is located or that there is a mistake in the existing zoning classification of the property in question.

20.06 Notice and Public Hearing by the Board of Aldermen

- (1) Within 30 days of the receipt of their recommendation by the Commission, the Mayor shall schedule a public hearing by the Board of Aldermen. The Mayor shall cause notice of the public hearing and the nature of the application to be published at least once in two successive weeks in a newspaper of general circulation in the City not less than 15 days prior to the date of the public hearing. A proposed comprehensive zoning text or map amendment shall be so advertised at least three times not less than 15 days prior to the date set for the hearing.
- (2) In the case of a proposed zoning map amendment, except a comprehensive zoning map amendment, the applicant shall post a sign noting the application and date of the hearing on the property affected in a conspicuous place as directed by the Department at least 15 days prior to that hearing. The applicant shall see that the sign remains posted in good condition until after the public hearing or until the application is withdrawn, whichever occurs first.
- (3) The Board of Aldermen shall hold a public hearing as required. Any interested person shall have the right to appear and testify at the hearing. A complete and permanent record of all testimony shall be kept by the Mayor. The Board may order a continuance of the hearing for a specified reason to a specific date, time, and place.

20.07 Action by the Board of Aldermen

- (1) Within 45 days of the closing of the Board's public hearing unless such time is extended by the Board for a specific reason, the Board shall approve, deny, or modify the proposed amendment. A record of the votes of the Board shall be kept.

- (2) In the case of a proposed zoning map amendment, the Board may approve the rezoning of a smaller portion of the parcel than that requested by the applicant but only for the zoning classification requested by the application, provided such a lesser rezoning is supported by the evidence and provided the smaller area is accurately delineated. In no case shall the Board approve the rezoning of a larger area than that requested by the applicant.
- (3) In the case of a proposed zoning map amendment, except a comprehensive zoning map amendment, the Board shall make findings of fact in each of the matters listed in Sections 20.03(2) and 20.03(3), as well as on the recommendation of the Planning Commission, and may grant the amendment in whole or in part based on a finding that there has been a substantial change in the character of the neighborhood where the property is located or that there is a mistake in the existing zoning classification of the property in question.

20.08 Withdrawal or Denial or Amendment Application

- (1) The applicant may withdraw in writing a proposed zoning amendment from consideration prior to the Planning Commission's public hearing. If withdrawn, no new application for the same amendment shall be accepted by the Department within 90 days of the date of withdrawal.
- (2) The applicant may withdraw in writing a proposed zoning amendment from consideration prior to the Board of Aldermen's public hearing. If withdrawn, no new application for the same amendment shall be accepted by the Department within six months of the date of withdrawal.
- (3) If a zoning amendment application is denied in whole or in part by the Board of Aldermen, no new application for the same amendment shall be accepted by the Department within one year of the date of the Board's action.

20.09¹⁶⁹ Plat Required

Every application for a change in zoning district boundaries shall be accompanied by a plat drawn to such scale as the Planning Department shall require, showing the existing and proposed boundaries and other information as may be needed to amend the official zoning map.

¹⁶⁹ Section 20.09 amended December 13, 1990, Zoning Text Amendment Case 90-3, Ordinance G-90-61.

SECTION 21. ADMINISTRATION AND ENFORCEMENT

21.01¹⁷⁰ Zoning Administrator

The Director of Planning shall appoint a City Zoning Administrator. It is the duty of the City's Zoning Administrator or his/her representative(s) to coordinate the administration and enforcement of provisions of this Ordinance in accordance with its administrative provisions.

21.02 Violations of Previous Ordinances

Any use, lot, or structure previously unlawful shall not be deemed to have acquired the status of nonconformity by reason of the adoption of these regulations. To the extent that said lot, use, or structure was previously in violation of the City Zoning Ordinance of 1964, as amended, or any other ordinance, statute, or law, or is in violation of these regulations, it shall be deemed a continuing violation.

21.03¹⁷¹ Zoning Certificate Required

- (1) It shall be unlawful to develop, construct, begin to construct, alter, or reconstruct or demolish any structure or to develop or change the use of any structure or land without first obtaining a zoning certificate from the Department of Permits and Code Management.
 - (a) This provision shall not apply to general in-kind maintenance or repair.
 - (b) An approved building permit/zoning certificate, or copy thereof, shall be conspicuously displayed on site until work is completed for all such applications, excluding requests for change in use only.
 - (c) Zoning certificate requirements may be waived for interior renovations after a review by the Zoning Administrator has determined that no increase in parking space requirements will occur and for exterior changes that do not alter existing or external structural dimensions except for changes to structures in the Historic District.
 - (d) All other City requirements such as Building Code, Plumbing Code, and Fire Safety Code shall be complied with and if necessary a permit obtained notwithstanding a waiver of a zoning certificate as specified above.

¹⁷⁰ Section 21.01 amended December 13, 1990, Zoning Text Amendment Case 90-3, Ordinance G-90-62.

¹⁷¹ Section 21.03 amended December 13, 1990, Zoning Text Amendment Case 90-3, Ordinance G-90-63.

- (2) Each application for a zoning certificate shall be made to the Department of Permits and Code Management and shall be accompanied by copies of an approved site plan, if applicable, or by a legible drawing either drawn to scale or accurately indicating dimensions which show property boundaries and existing and proposed structures and other proposed changes or land development.
- (3) Use of any property, developmental arrangement, or construction on any property other than that authorized in the zoning certificate is a violation of this Ordinance. All provisions of this Ordinance and amendments thereto shall be maintained perpetually.
- (4)
 - (a) A zoning certificate shall become void six months after the date of issuance if the authorized use, arrangement, or construction has not been substantially begun.
 - (b) Substantially begun shall mean that the footings and the foundation to the first floor level or slab for the dwelling or other structure have been constructed.
 - (c) Such certificate shall become void 18 months after the date of issuance unless it is extended, if the authorized use, arrangement, or construction has not been completed and a certificate of occupancy issued.
- (5)¹⁷² A zoning certificate is revocable upon noncompliance with any conditions or requirements imposed under this Ordinance.
- (6) A filing fee shall be charged in accordance with the fee schedule contained in Section 22 of this Ordinance.

21.04 Certificate of Occupancy Required

- (1)¹⁷³ It shall be unlawful to occupy or use any structure or land whose alteration, reconstruction, construction, or other development has been authorized under the terms of a zoning certificate without first obtaining a certificate of occupancy from the Department of Permits and Code Management.
- (2)¹⁷⁴ A certificate of occupancy shall be issued by the Department of Permits and Code Management upon a finding that the alteration, reconstruction, construction, or other development of the structure or land has been completed in compliance with the provisions of this Ordinance and any conditions which may have been attached to the approval of the zoning certificate.

¹⁷² Section 21.03(5) amended August 22, 1990, Zoning Text Amendment Case 90-5, Ordinance G-90-15.

¹⁷³ Section 21.04(1) amended December 13, 1990, Zoning Text Amendment Case 90-3, Ordinance G-90-64.

¹⁷⁴ Section 21.04(2) amended December 13, 1990, Zoning Text Amendment Case 90-3, Ordinance G-90-64.

- (3)¹⁷⁵ The Department of Permits and Code Management may issue a temporary certificate of occupancy for a structure or land development pending its completion, but not for any period exceeding one year, upon a finding that it is impractical for the applicant to comply with the terms of this Ordinance or the approved zoning certificate at the time occupancy or use is desired, provided such occupancy or use will not be a substantial detriment to adjacent properties or contrary to the intent of this Ordinance. The term of the temporary certificate of occupancy shall be the least time necessary to comply with the approved zoning certificate.
- (4) It shall be unlawful to continue to occupy or use any structure or land for which a temporary certificate of occupancy has been issued upon its expiration of the structure or land development has not been completed in compliance with this Ordinance and any conditions which may have been attached to the zoning certificate and if a permanent certificate of occupancy has not been issued.
- (5) A certificate of occupancy is revocable upon noncompliance with any conditions or requirements imposed under this Ordinance.

21.05 Ordinance Enforcement Procedures

- (1) The Zoning Administrator shall promptly investigate any written complaint alleging a violation of this Ordinance and determine as a matter of fact whether a violation has occurred.
- (2)¹⁷⁶ In the investigation of an alleged violation, the Zoning Administrator may inspect or request that an inspection be conducted by the Department of Permits and Code Management, while accompanied by a City Police Officer, and shall have the right, upon receipt of a duly authorized search warrant, to enter and inspect any structure or land in order to verify that the structure or land complies with the provisions of this Ordinance.
- (3)¹⁷⁷ Upon a finding by the Zoning Administrator that a violation of this Ordinance has in fact occurred, the Department of Permits and Code Management shall give written notice to the owner or other person responsible for the violation of this Ordinance, stating the nature of the violation and ordering such actions as will correct the violation.
- (4)¹⁷⁸ If after a reasonable period of time for compliance with the written order the violation has not been corrected, the Department of Permits and Code

¹⁷⁵ Section 21.04(3) amended December 13, 1990, Zoning Text Amendment Case 90-3, Ordinance G-90-64.

¹⁷⁶ Section 21.05(2) amended December 13, 1990, Zoning Text Amendment Case 90-3, Ordinance G-90-65.

¹⁷⁷ Section 21.05(3) amended December 13, 1990, Zoning Text Amendment Case 90-3, Ordinance G-90-65.

¹⁷⁸ Section 21.05(4) amended December 13, 1990, Zoning Text Amendment Case 90-3, Ordinance G-90-65.

Management shall issue a citation to the owner or other person responsible for the violation.

- (5)¹⁷⁹ It shall constitute a municipal infraction to locate, erect, construct, reconstruct, enlarge, change, maintain, or use any structure or land in violation of any regulation in or provision of this Ordinance or any amendment or supplement thereto, or to fail to comply with any requirement or condition imposed by the Board of Zoning Appeals, Planning Commission or Zoning Administrator. The penalty for violation shall be a sum not to exceed five hundred dollars (\$500.00).
- (6) The City of Frederick may recover damages in a civil action pursuant to Section 7.01 of Article 66B, Annotated Code of Maryland, as amended, which damages may be used at the City's discretion to correct violations of this Ordinance.

21.06²⁴⁶ **Fees**

The applicant will pay all established fees for Planning Department reviews and services at the time of application submittal. No application shall be considered complete, nor shall any review take place until all applicable fees have been paid in full. Fees shall be established annually by the Board of Aldermen by resolution.

¹⁷⁹ Section 21.05(5) amended December 13, 1990, Zoning Text Amendment Case 90-3, Ordinance G-90-65.

²⁴⁶ Section 21.06 added September 2, 2004, Zoning Text Amendment Case 04-474, Ordinance G-04-21.

¹⁸⁰, ²⁴⁶ ²⁴⁷ SECTION 22. CARROLL CREEK OVERLAY DISTRICT REGULATIONS

22.01 Purpose

(a) The Carroll Creek Overlay District (“CCOD”) controls development in the Carroll Creek Park Corridor. The Carroll Creek Park Corridor is described in the document entitled Carroll Creek Park Design Development Standards (hereinafter the “Design Standards”), dated November 7, 2003, which document is hereby incorporated by reference. The City hereby adopts the Design Standards as legislative findings as if they were set out in their entirety herein.

(b) This district establishes design standards to guide the new construction and rehabilitation of buildings, streetscapes, and creekscapes within the Carroll Creek Park Corridor.

(c) The City finds that the standards established in this District accomplish the following objectives:

- (1) To reinforce and build upon Frederick’s cultural, historical, and architectural assets;
- (2) To create a high quality, pedestrian- and multi-modal-friendly environment in the Carroll Creek Park Corridor;
- (3) To establish a shared public-private partnership that promotes and achieves high quality development and design in Carroll Creek Park Corridor;
- (4) To ensure that structured and surface parking is not visible from Carroll Creek Park;
- (5) To minimize the negative impact of large paved surfaces such as surface parking lots on the quality of the visual environment.
- (6) To create a development pattern that connects the different areas and elements within Carroll Creek Park Corridor, without promoting design uniformity;
- (7) To reinvigorate the Carroll Creek Park Corridor’s existing commercial areas and residential neighborhoods and promote new mixed-use development in Carroll Creek Park Corridor as a means of infusing around-the-clock activity into the area;
- (8) To establish a coordinated approach to the City’s development review and regulation processes and to more clearly communicate the City’s development policies for the Carroll Creek Park Corridor;
- (9) To effectuate a fair and predictable development review process within Carroll Creek Park Corridor through the use of design development standards and a coordinated review process;
- (10) To convey the interests of the community of Frederick through well written, clearly understood development and design standards.

¹⁸⁰ Section 22 amended June 17, 1993, Zoning Text Amendment Case 93-1, Ordinance G-93-15.

²⁴⁶ Section 22 deleted its entirety September 2, 2004, Zoning Text Amendment Case 04-474, Ordinance G-04-22.

²⁴⁷ Section 22 added new section September 2, 2004, Zoning Text Amendment Case 04-474, Ordinance G-04-22.

22.02 Scope

(a) Applicability

This section applies to any site improvements, development, use, or change of use within the Carroll Creek Overlay District, as qualified by Section 22.02(b)(2).

(b) Relationship to Other Ordinances

(1) The standards and procedures established by this Section do not supersede any state, county or municipal approval procedures, except as provided below.

(2) Portions of the Carroll Creek Overlay District also fall within the City's Frederick Town Historic District established by Article III of Chapter 5. Streetscape, additions, rehabilitation, renovation, replacement buildings, and demolition of buildings within the Frederick Town Historic District shall comply with the requirements of the Frederick Town Historic District (Chapter 5, Article III) and the HDC Guidelines. New construction in the Frederick Town Historic District shall comply with this section. However, this section only applies to new construction within the Frederick Town Historic District. This section does not apply to the streetscape, additions, rehabilitation, renovation, replacement buildings, or demolition of buildings within the Frederick Town Historic District. Streetscape, additions, rehabilitation, renovation and demolition of buildings outside of the Frederick Town Historic District shall comply with this Section and the requirements of the underlying zoning district.

Table 22-1: Applicability of Frederick Town Historic District Design Guidelines: Standards and Guidelines for New Construction

Location	Frederick Town Historic District Design Guidelines	Section 22: Carroll Creek Overlay District Regulations
	CCOD and Frederick Town Historic	Yes

District		
CCOD but outside Frederick Town Historic District	No	Yes

(3) If any standard established by this Section is more prescriptive than another applicable local ordinance, code or guidelines, the standard established by this Section applies.

22.03 District Boundaries

The boundaries of the Carroll Creek Park Corridor are as established in the Zoning District Map. A copy of the boundaries is attached as Figure 1 below for the convenience of the reader. To the extent that there is any inconsistency between Figure 1 and the Zoning District Map, the Zoning District Map controls.

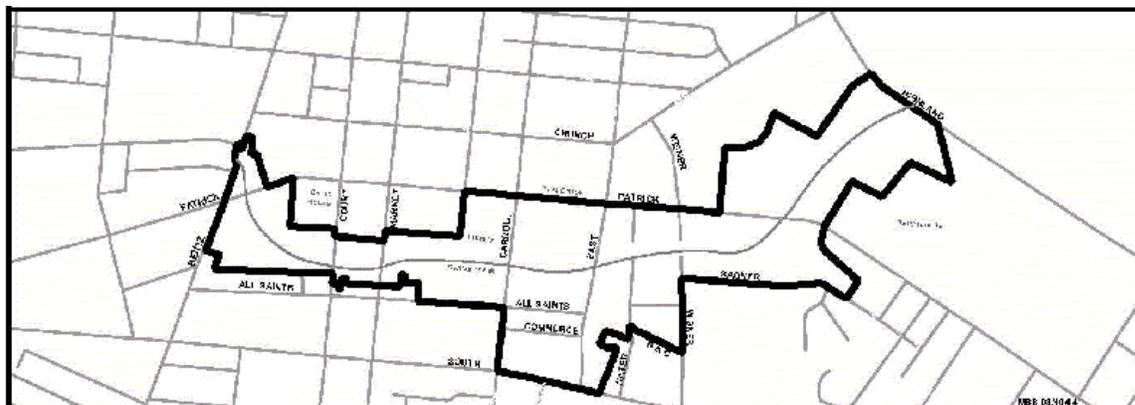


Figure 1: Carroll Creek Overlay District boundaries (unofficial)

22.04 Density

(a) All new residential or mixed use development within the Carroll Creek Overlay District is subject to the standards outlined in Section 4.03. For the purposes of this section, the minimum lot area per dwelling unit may be reduced by the Planning Commission from 725 to 580 square feet of lot area per dwelling unit if the following criteria are met:

1. One parking space per dwelling unit shall be provided on site.
2. A minimum of 10% of the building footprint must be dedicated to public use. Public use space includes, but is not limited to, public courtyards, public pathways, public meeting rooms, public gardens, pocket parks, public restrooms, or any other public use approved by the Planning Commission;
3. Traffic level of service (LOS) on all abutting roads must be at a level “C” or higher during both the peak AM and PM hours. The LOS must be determined by a third party traffic study submitted with the site plan and confirmed by the City of Frederick.

If any abutting road has a level of service of “D” or below, increased density will not be allowed on the site.

22.05 Architectural Non-Conformity

- (a) Within the Carroll Creek Overlay District, properties that do not comply with the provisions of Section 22.11, Architectural Standards, may continue to be used in their current condition as legal non-conformities. All other non-conformities are subject to the provisions set forth in Section 9 of the Zoning Ordinance. However, any exterior alterations not considered part of normal maintenance and upkeep of a non-conforming property must be reviewed by the Reviewing Authority. If the building is demolished or vacant for more than one year, any and all new construction on the site must conform to these regulations.
- (b) The Reviewing Authority may authorize a modification from the standards of Section 22 provided all the following findings are made:
 1. That because of physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provision of Section 22;
 2. That the applicant has demonstrated the physical circumstances or conditions precluding conformity with this section was not created by the applicant;
 3. That granting the modification will be in harmony with the general purpose of the Carroll Creek Overlay District;
 4. That the modification is the least necessary to afford relief from this section.
- (c) In granting the modification, the reviewing authority may prescribe appropriate safeguards and conditions in conformity with this section. Violation of such conditions and safeguards, when made as part of the terms under which the modification is granted, shall be a violation of this Ordinance.

22.06 Non-Permitted uses

The permitted uses within the CCOD are the same as those in the underlying zoning district, except that the following uses are not permitted:

- (a) Drive-through uses.
- (b) Automobile, truck or other vehicle sales.
- (c) Fuel sales.
- (d) The wholesale or retail sale or distribution of automobiles and other motor vehicles, motor vehicle supplies, tires, and new and/or used parts or accessories.
- (e) Establishments primarily engaged in providing repair and maintenance services for automotive vehicles.

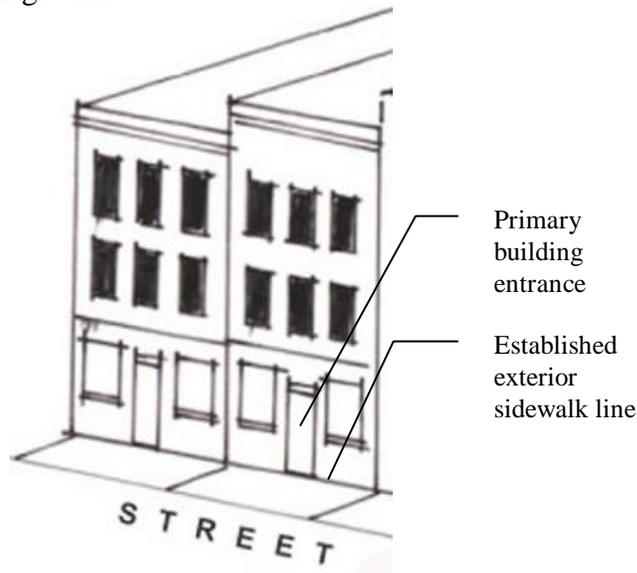
- (f) Outdoor storage yards unless completely screened.

22.07 Yards and setbacks

(a) Building Setbacks and Orientation

The front setback for all new construction in the CCOD shall conform to the following. All other setbacks shall comply with § 4.03. To the extent that there is a conflict between this section and §4.03 for any setback, this section shall govern.

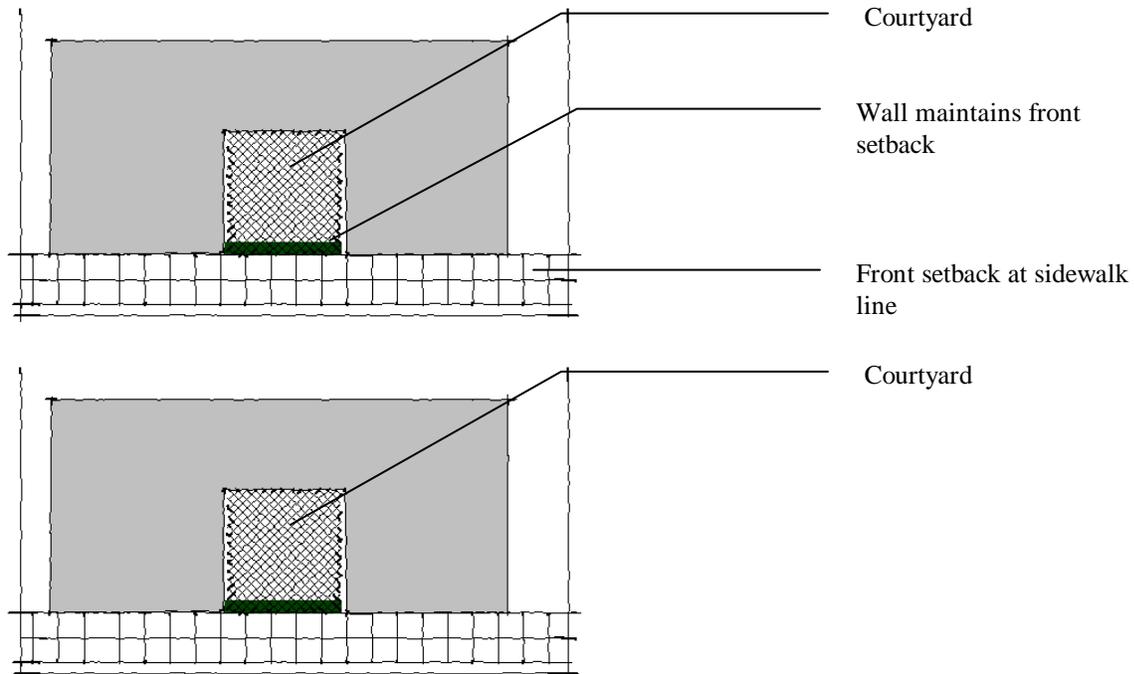
- (1) The primary pedestrian entrance to any building shall abut the established exterior sidewalk line. The main pedestrian entrance shall not open to a driveway or an off-street parking lot. The principal structure shall have a primary pedestrian entrance facing the street in addition to any other access that may be provided.



- (2) For lots abutting Carroll Creek Park, a primary entrance shall abut Carroll Creek Park in addition to any primary entrance that abuts a street.

- (3) The Zoning Administrator may adjust the front setback established in subsection (1) where the average established front setback on developed lots on the same block face is more than ten (10) feet. The front setback on such lots shall not vary more than five (5) feet from the average setback.

- (4) If one or more courtyards pierce the front elevation, a wall shall maintain the building's front setback.



22.08 Parking

(a) Generally

The number of parking spaces required, parking space dimensions, and all other parking regulations are subject to Section 14 of the Frederick City Zoning Ordinance, except as provided below.

(b) Location and Number of Spaces

(1) In order to provide for adequate off-street parking while maintaining design flexibility, off-street parking required by the Zoning Ordinance shall be located:

- a. on the same parcel as the use that it serves, or
- b. the same or adjacent block as the use that it serves subject to subsection (2).

(2) The purpose of this section is to provide for adequate parking within a reasonable distance of the proposed use, while maintaining flexibility for uses with different peak parking periods. Where parcels within a block are developed by different owners, any required off-street parking requirements shall be accommodated on the same block or adjacent block as the development, unless a written joint use agreement is submitted. The joint use agreement shall be submitted along with an application for site plan review. The joint use agreement shall be considered and approved, approved with conditions, or denied as part of the site plan review. Any approved joint

use agreement shall be considered necessary to site plan approval. The applicant shall record a binding restrictive covenant that incorporates the joint use agreement in the Land Records of Frederick County. The joint use agreement shall bind the deed or parcel through a legally enforceable agreement. The joint use agreement shall include the following:

- a. The entire land area subject to the agreement; and
- b. The owner or owners of all structures then existing on such land area; and
- c. All parties having a legal interest in such land area and structures; and
- d. Evidence that is sufficient to establish the status of applicants as owners of parties in interest; and
- e. Plans showing the location of the uses or structures for which off-street parking facilities are required; and
- f. The location of the off street parking facilities; and
- g. The schedule of times used by those sharing the parking facilities in common.

(3) Developments that contain a mix of uses on the same parcel, as set forth in Table 22.08-1 below, may reduce the amount of any required parking in accordance with the following methodology:

- a. determine the minimum parking requirements in accordance with Table 22.08-1 for each land use as if it were a separate use,
- b. multiply each amount by the corresponding percentages for each of the five time periods set forth in Columns (B) through (F) of Table 22.08-1,
- c. calculate the total for each time period, and
- d. select the total with the highest value as the required minimum number of parking spaces.

Table 22.08-1 Shared Parking Ratios

(A) Land Use	Weekday		Weekend		
	(B) Daytime (9 a.m. - 4 p.m.)	(C) Evening (6 p.m. - midnight)	(D) Daytime (9 a.m. - 4 p.m.)	(E) Evening (6 p.m. - midnight)	(F) Nighttime (midnight - 6 a.m.)
Office/Industrial	100%	10%	10%	5%	5%
Retail	60%	90%	100%	70%	5%
Hotel	75%	100%	75%	100%	75%
Restaurant	50%	100%	100%	100%	10%
Entertainment/Commercial	40%	100%	80%	100%	10%

For purposes of this subsection, a “development” includes a proposed development on a single lot or parcel that has more than one (1) use, or developments on different lots or parcels under more

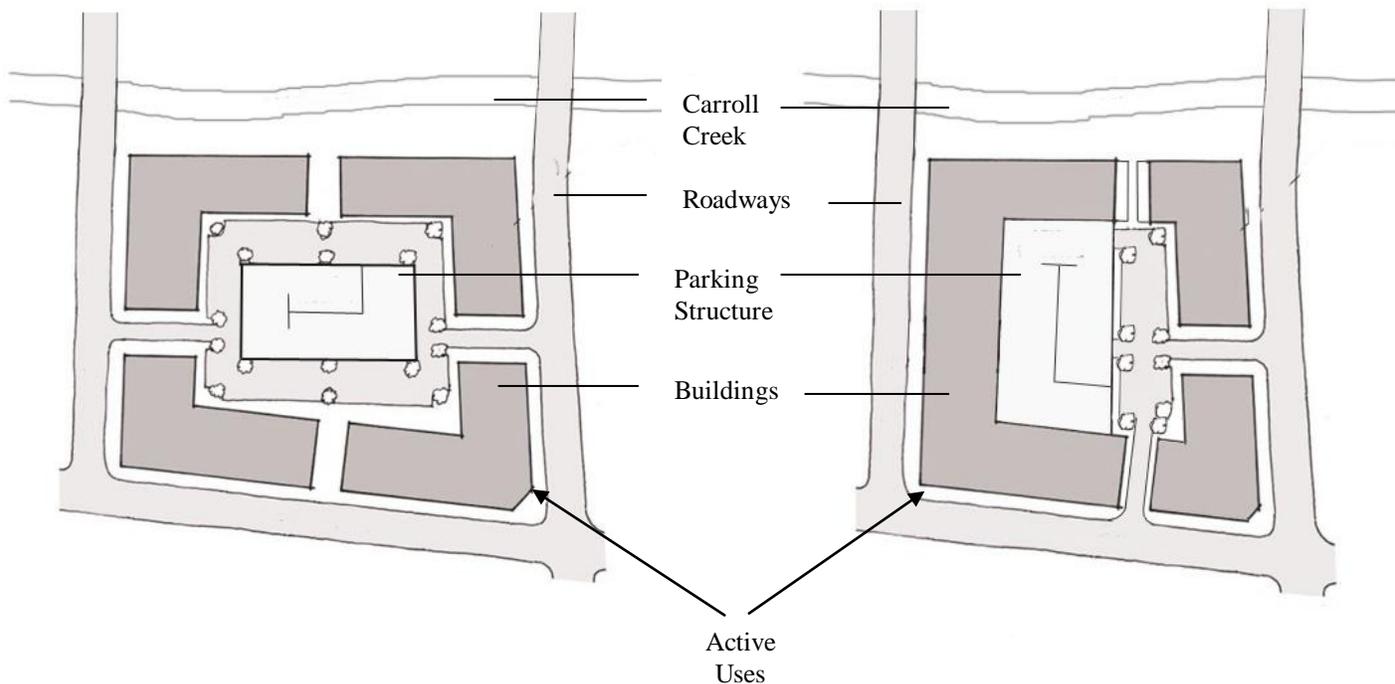
than one (1) ownership that are subject to an approved joint use agreement as provided in subsection (2), above. No use may reduce its parking requirements pursuant to this section, or change any use after it is approved for a parking reduction pursuant to this section, unless a zoning certificate is approved in accordance with § 21.03 of this ordinance. For uses that are not listed in Table 22.08-1, the zoning administrator shall determine the parking requirements based upon any of the following: (1) any binding conditions proposed by the applicant to restrict the hours of operation so that they do not coincide with the peak parking hours of another proposed use; or (2) any generally accepted studies, empirical evidence, or other substantially competent evidence that related to the parking demands of the proposed use. If a use changes to another use in a different category, the Zoning Administrator shall determine if additional parking is required by applying Table 22.08-1. No zoning certificate shall be approved for the change in use until such additional parking is required.

(4) The minimum number of required parking spaces for a lot or parcel for a use that is located within one-quarter (¼) of a mile from a transit station shall be reduced by fifty percent (50%). This subsection does not apply where parking has been reduced pursuant to § 14.05§ 14.05.

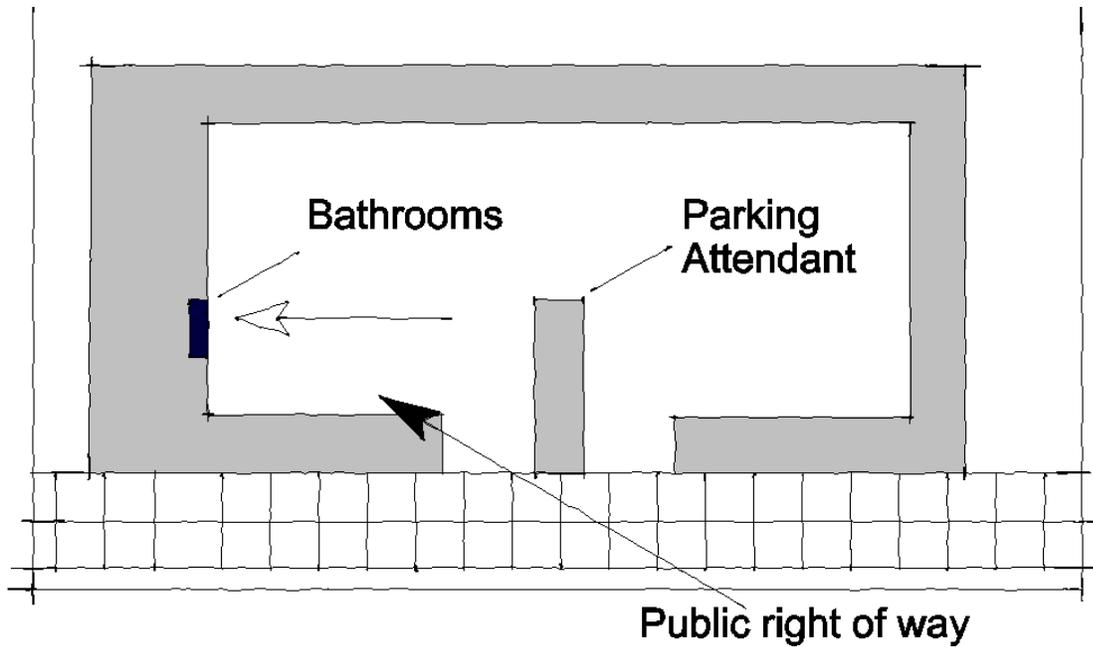
(c) Structured Parking

In order to minimize the view of parking areas from public places such as streets and Carroll Creek Park, the location and design of public and private parking structures shall comply with the following:

(1) Parking structures shall have non-parking active uses on that portion of all building floors that abut a street facing wall.



- (2) A parking structure shall not exceed the height of adjacent structures (see § 22.11(b)(1).
- (3) No floors of a parking structure shall have frontage on a street or Carroll Creek.
- (4) The architectural treatment of parking structures that are visible from the public right of way shall have the same form, scale, massing, rhythm, exterior building materials, colors and textures as adjacent structure(s) on the same block.
- (5) Directional signs shall be located at pedestrian entrances and exits to parking structures.
- (6) Pedestrian entrances and exits to parking structures shall be accessible from public streets and Carroll Creek.
- (7) Public parking structures shall include public restrooms, bike lockers, and vending machines. Private parking structures exceeding 100 spaces or 20,000 square feet shall include restrooms, bike lockers, and vending machines. The Reviewing Authority may waive this requirement if it finds that such facilities are available to the public on the same lot or parcel, or on other parcels on the same block. Restrooms and bike lockers shall not be visible from the public right of way, but shall be visible to the parking attendant. The restrooms shall be made visible from parking spaces in the lot through the use of signage, the placement of the bathrooms relative to parking spaces, and similar wayfinding techniques. The lighting of parking structures shall comply with the security requirements of the Illuminating Engineering Society of North America, *IESNA Lighting Handbook* (9th Ed. 2000), which document is hereby incorporated by reference.



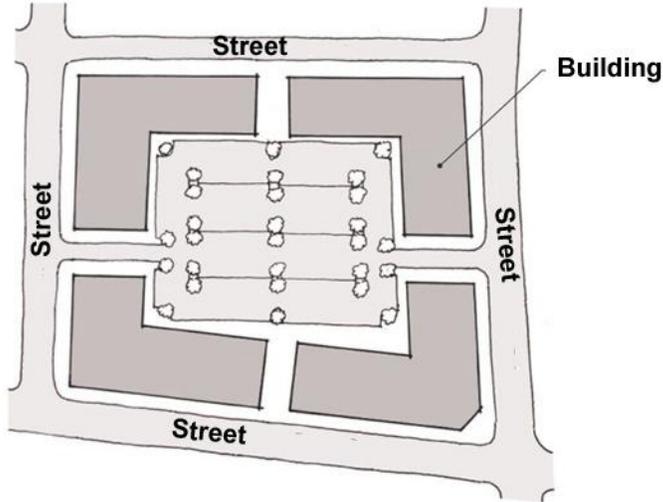
Example of bathrooms obscured from public right of way but within sight of parking attendant

<p><i>Integrated structured parking oriented toward Carroll Creek Park</i></p>	<p><i>Integrated structured parking oriented toward block core</i></p>
<p><i>Structured parking internal to block core screened by a building facing Carroll Creek Park</i></p>	<p><i>Structured parking internal to block core screened by a building facing a street</i></p>

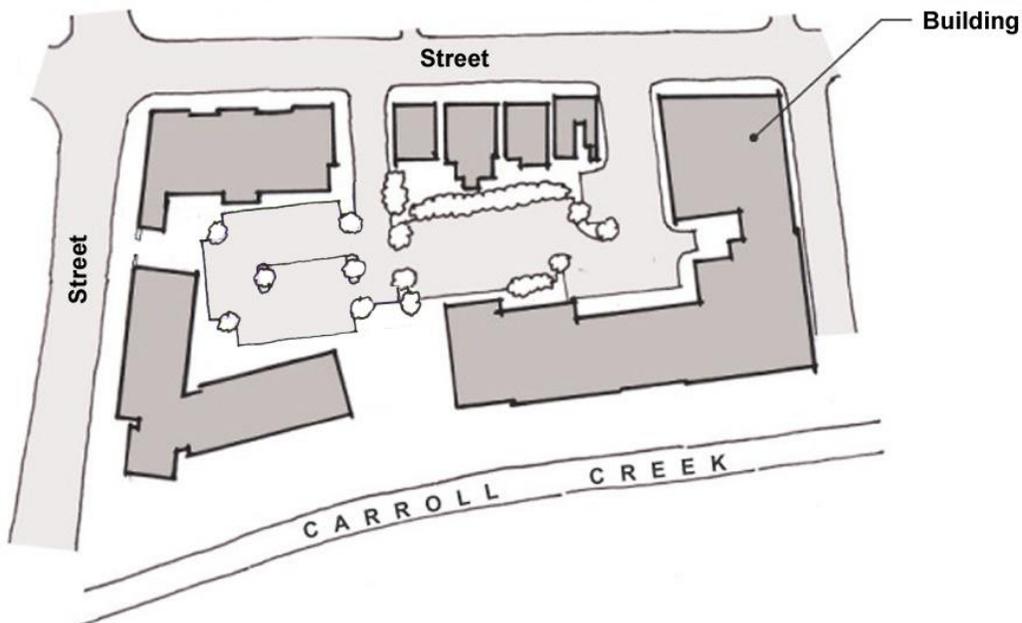
(d) Surface Parking

In order to minimize the view of parking areas from public places such as streets and Carroll Creek Park:

- (1) Required surface parking shall be located within the same or adjacent block as the use;
- (2) Surface parking shall not be visible from the public right-of-way;



Surface parking internal to the block core



Surface parking internal to the block core screened from Carroll Creek Park

- (3) Off-street parking shall not abut the boundary of a street right-of-way or Carroll Creek Park unless it complies with all of the following standards:

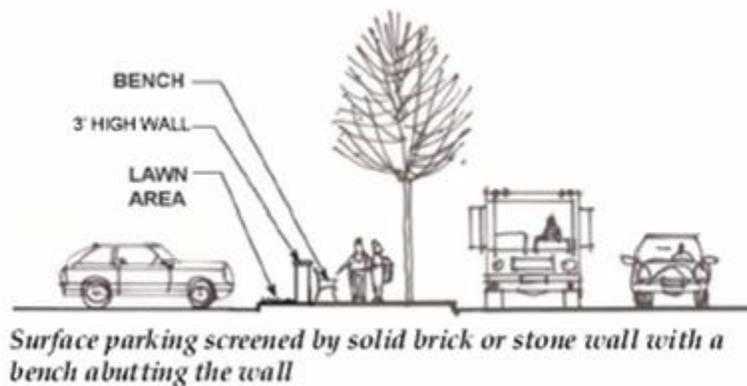
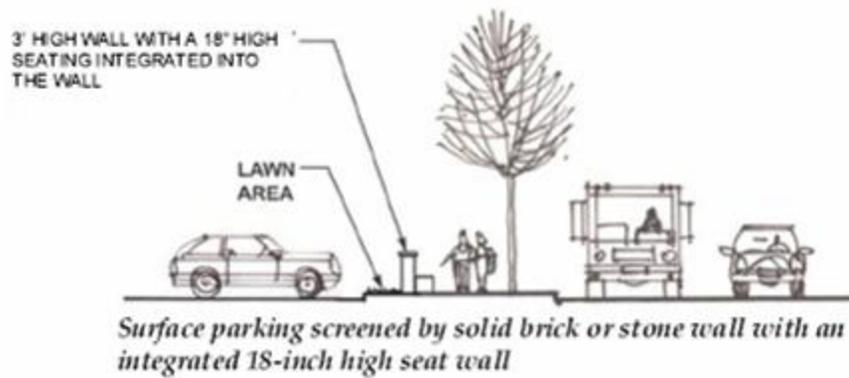
- a. Such parking areas are not permitted unless the Planning Commission grants a modification pursuant to § 6.12. The Planning Commission shall not grant a modification unless the proposed parking lot does not exceed 10 spaces and:
1. the proposed use is located on a lot that does not exceed fifty percent (50%) of the average lot size on the same block; or
 2. bedrock, sinkholes, or similar topographical restrictions preclude the construction of underground parking; or
 3. the street and lot have an unusual configuration and the parking will not disrupt the continuity of the streetscape. Examples of “unusual configurations” include panhandle lots, triangular lots, or lots where parallel lot lines vary in length by at least twenty five percent (25%)..
- b. Such parking areas shall be screened with a brick or stone wall. For the purposes of this section, front yard walls may be allowed provided they meet the criteria put forth in this Section. The wall materials shall match the exterior building materials of the principal use. The wall shall have a minimum height of three (3) feet and a maximum height of four (4) feet. The wall shall comply with Sections 10.05(2) and 13.01(2) of the Zoning Ordinance and the Manual of Uniform Traffic Control Devices. That portion of the wall elevation facing a public right-of-way shall have one of the following: (1) an 18-inch high seat wall incorporated into the wall, or (2) benches placed along the wall elevation and facing a public right-of-way. If benches are used, at least one (1) bench shall be placed along every 50 feet or fraction of 50 feet of road or creek frontage.



Example of a 3' high solid wall screening parking



Brick paving materials



- (4) Planting beds for perimeter and interior parking lot plant materials shall be separated from parking spaces and access aisles by concrete or masonry barrier curbing.
- (5) Parking lots shall be separated from sidewalks, streets, or alleys by an open space between the parking area and the edge of the right-of-way. The open space shall be at least five feet in width, or three feet if curb stops are used. This area shall be planted with grass, or shrubbery, and a minimum three (3) foot high brick or stone wall as required by §22.08(e)(3)(b). A wall is not required where the parking area abuts an alley.
- (6) Interior parking lot plant materials shall be spaced so as to divide lots into groups of parking spaces. Parking lots shall have one planted island and one shade tree per twenty parking spaces. Planting islands shall:
- a. Have a minimum size of 160 square feet.
 - b. Have dimensions of at least 9 feet in width and 18 feet in length.
 - c. Spaced at intervals not exceeding 150 feet.

(7) A minimum of 5 percent of the total area of the lot shall be dedicated to planted areas. Plant materials, such as hedges, trees, ground covers, and grass, may be installed in areas of a parking lot that are not devoted to parking spaces, lanes, or other uses.

(8) The required landscaped area for parking lots (see § 11.05) shall be decreased by 25 percent where:

- a. At least 25 percent (25%) of all outdoor vehicular pavement area consists of decorative pavement, such as brick; or
- b. at least 50 percent of all outdoor pedestrian pavement area consists of decorative pavement, such as brick.

(e) Temporary parking lots

Improved temporary parking lots may be established on vacant lots or in conjunction with development projects in order to accommodate vehicles associated with the construction activities. Temporary parking lots are permitted for a period not exceeding one calendar year from the date of initial use. No temporary parking lot shall be established until a zoning certificate is issued. Paving materials for temporary parking lots must be approved by the City Department of Engineering as a dust-free surface, consistent with the Standard Specifications and Details published by the Department of Engineering and incorporated herein by reference.

22.09 Services and Loading

(a) Generally

Service and loading areas shall not be visible from the public right-of-way or Carroll Creek Park, except as provided in the following section.

(b) Loading Areas and Refuse Containers

(1) Loading areas and refuse containers shall either be located internal to the building they are intended to serve, or external to the building subject to the standards established in subsection (2), below.

(2) If loading areas or refuse containers cannot be located internal to the building they serve due to unique topographical conditions or space limitations due to their location in an existing structure, they shall not be visible from the public right-of-way. External loading areas and refuse containers shall be screened on all sides with a minimum six foot (6') high wall with the exception of the access opening. Pedestrian and vehicle access shall be screened by a solid operable gate of the same height as the wall. The walls, gates, and doors shall be:

- a. attached to the exterior walls of the principal structure; and
- b. finished with the same exterior materials as the principal structure, except that gates may be constructed of metal, except as limited in 22.10(b)(1).

- (3) Loading areas shall be accessible via an operable solid gate and/or door.
- (4) Refuse containers shall be placed on a concrete pad with sufficient strength to prevent them from sinking into asphalt or soil. The containers themselves shall be enclosed on all sides with an operable door for inserting refuse.
- (5) A common refuse container may be shared between uses on separate lots that do not have sufficient area to store refuse with the submittal of a shared access agreement signed by all parties involved. The refuse container shall comply with the screening requirements listed above.
- (6) All tenants must comply with applicable sections of Chapter 10 of the Frederick City Code.

(c) Ground Mounted Equipment

- (1) Mechanical equipment shall be installed in a manner that will not destroy or damage a building's character-defining elements or facade details.
- (2) Ground-mounted mechanical equipment shall be located within a loading area unless the location is not feasible. Where this location is not feasible, mechanical equipment shall be located where it is not visible from the public right-of-way and adjacent properties. A location within the loading area is not considered "feasible" where the lot size is inadequate to normal loading operations that are customary for the use and mechanical equipment that does not exceed the size that is customary for that type of building or structure.

(d) Roof Mounted Equipment

Roof mounted mechanical units or utility equipment shall be screened from the public right-of-way and adjacent properties. The method of screening shall be integrated with the structure in terms of its architectural form, materials, color, shape and size. Equipment shall be screened by building elements (such as a parapet wall) rather than through add-on screening (such as wood or metal slats).

(e) Supply and Exhaust Vents

No supply or exhaust vents shall be located along the public right-of-way or within 20 feet of any pedestrian entrance.

(f) Sound

Frederick City Code, §§ 15-21 to 15.21.8 is included in this section by reference. Property owners are responsible for notifying and informing their tenants of events that may reach the maximum decibel levels allowable in the City's Noise Ordinance.

(g) Communication Antennas and Satellite Dishes

The City hereby finds that the Carroll Creek Overlay District is an area with unique aesthetic values and character, and that the unregulated proliferation of communication antennas and satellite dishes would significantly degrade the appearance of the district and its ability to attract new commercial and residential development in this area. The City also finds that the regulations established below are no more burdensome to satellite users than is necessary to achieve the health or safety objectives established above. Accordingly, the following standards apply to the establishment of any communication antenna or satellite dish in the Carroll Creek Overlay District:

- (1) Communication Antennas shall comply with Sections 4.04(14) and 5.04(13) of the Zoning Ordinance as well as the following requirements.
- (2) Communication Antennas are permitted in commercial districts where they are accessory to an established use. Communication Antennas, including ancillary appurtenances, or equipment enclosures, shall be camouflaged and aesthetically compatible with buildings in the district. Such facilities may have a secondary function including, but not limited to, the following: church steeple, bell tower, spire, clock tower, cupola, light standard, flagpole with a flag, or similar elements.
- (3) Communication Antennas are permitted in residential districts where they are accessory to an established use. These structures shall be located in the rear yard, and shall not exceed the maximum building height for the underlying zoning district.
- (4) Communication Antennas and support structures that are not attached to a building are not permitted in the CCOD unless they are not visible from the public right-of-way.
- (5) The Reviewing Authority may grant a modification of these sections pursuant to § 6.12 where the applicant demonstrates that the proposed modification is needed to comply with state or federal law.

(h) Utilities

- (1) This subsection applies to utilities such as electric, telephone, cable, gas, sewer, and water (hereinafter “utilities”).
- (2) Utilities shall be placed underground in new construction or installation of new utility infrastructure.
- (3) Utilities shall provide for interconnections such as the installation of sleeves for future extension of piping, shared, and oversized utility connections between buildings and shared entry courts or loading areas.
- (4) Exposed exterior mechanical, electrical and plumbing elements such as storage tanks, cooling equipment, air conditioning units, and processing equipment shall not be visible from the public right-of-way. These elements shall:

- a. incorporate or continue the same materials, rhythm and scale as the building facade; and
- b. shall be screened from adjacent properties , public right-of-way, and public streets in accordance with the City’s Zoning Ordinance.

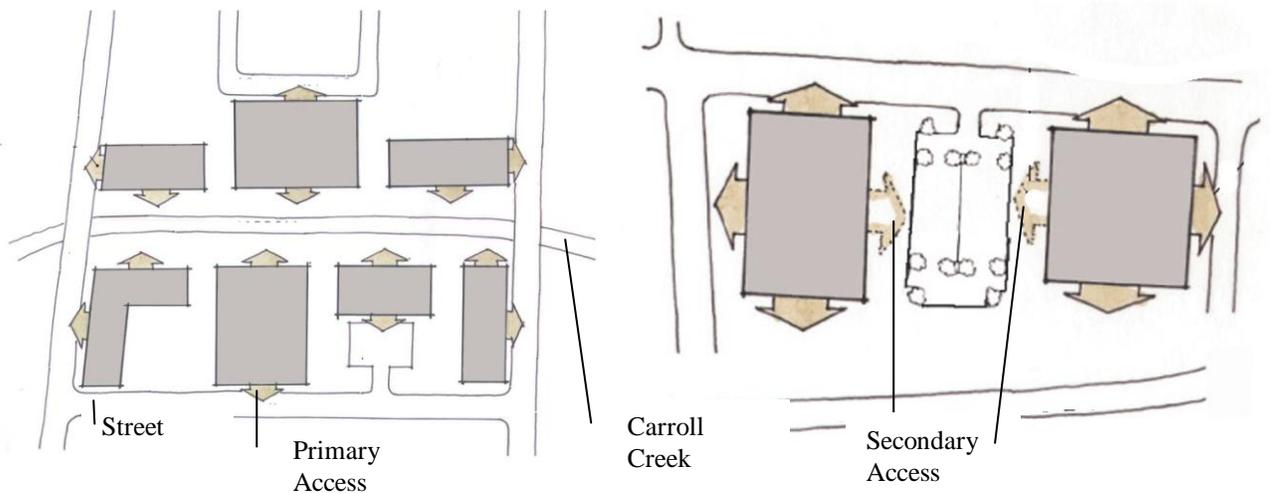
(5) Utility boxes such as gas and electric meters and cable and telephone boxes shall be located in the service and/or loading areas of the building they service. Utility boxes shall not front onto public rights-of-way, streets or Carroll Creek Park unless they are screened completely from view by mature landscaping or building materials that are the same as the principal building.

22.10 Pedestrian Access/Linkages

(a) Building Frontages and Entrances

(1) Buildings that front on a street or Carroll Creek Park shall have their primary entrances located along the street edge and/or Carroll Creek Park.

(2) If a building fronts both Carroll Creek Park and a street, it shall have a primary entrance located along both the street edge and Carroll Creek Park. If a building fronts on a primary and secondary street, the primary entrance shall be on the primary street.



(b) Crosswalks

(1) This subsection applies to crosswalks located on private property, or where required as a condition of a special exception or site plan. A crosswalk may be required as traffic mitigation, where pedestrians will cross private streets, or other situations where the evidence presented as part of a special exception or site plan proceeding demonstrates that a crosswalk is needed to protect the safety of pedestrians crossing the street.

(2) Pedestrian crosswalks shall be demarcated with brick pavers contained within an 8 inch wide concrete band on both sides.



Example of an existing crosswalk

- (3) Pedestrian crosswalks shall have a minimum width of ten (10) feet or the sidewalk width, whichever is wider.

(c) Pathways

Private sidewalks are required frontage improvements for all development, both new and reuse, within the Carroll Creek Linear Park, and shall be directly linked to the public sidewalk/pathway system. Inter-block pedestrian linkages are permitted. Permitted paving materials on private sidewalks are brick, concrete pavers, and concrete. Asphalt is prohibited except for designated bikeways.

(d) Private Walkways

- (1) Applicants for site plan or special exception approval shall provide private walkways that comply with this subsection (d).

(2) Private walkways shall connect with the existing and adopted public sidewalk and pathway systems and motor courts, buildings, and public spaces.

(3) Private walkways connected to a residential use shall be a minimum four (4) feet wide. Scoring patterns and materials shall conform to the existing adjacent public sidewalk system, and any additional public sidewalk improvement standards adopted by the City of Frederick.

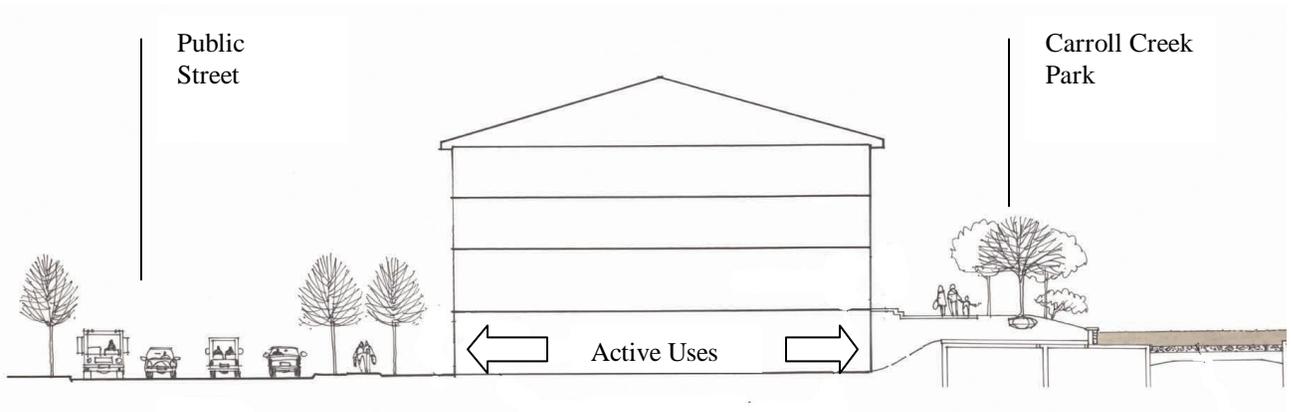
(4) Applicants for site plan or special exception approval shall provide covered walkways at building entries and porte cocheres.

(e) Bikeways

Bikeways located on private property shall connect to, or be aligned with, the City's adopted bikeway plan. Paving material shall be asphalt or other surface found by the Reviewing Authority to be of equivalent durability and smoothness. Where a bikeway serves both bicycles and pedestrians, the materials required in subsection (c) apply.

(f) Active Uses; Relationship of First Floor to Carroll Creek Park

Buildings shall have active uses along the ground floors that abut public streets and Carroll Creek Park.



22.11 Architectural Standards

(a) Corner Buildings

Buildings, except single family residences, that abut the corner of two public rights of way shall include at least one of the following elements along that portion of the façade that abuts the corner: bay windows or similar projections along the upper stories, or a recessed entryway extending at least twelve (12) feet in height or eight (8) feet in width.



Examples of dominant elements for corner buildings

(b) Architectural Features

1. Height

a. Building height shall not exceed 75 feet or 365 feet above mean sea level, whichever is less. Vertical datum established by the City Surveyor shall be used to measure height. Floor-to-floor heights shall be a minimum of nine (9) and a maximum of twenty (20) feet.

b. Mechanical service units or rooms that exceed five (5) feet in height shall be counted as part of the overall building height.

2. Upper Floor Step Backs

- a. New construction exceeding three (3) stories in height shall have their fourth and higher stories setback from the building face a minimum of 20 feet per floor along the creek side facade
- b. In the Frederick Town Historic District, new construction shall be no higher than one story above the existing streetscape without adhering to the following setback requirements:
 - 1. If the existing streetscape is two stories in height or lower, the new construction shall be permitted to be three (3) stories in height before incorporating any step backs. At the fourth floor, the building must be stepped back a minimum of 20' from the building face, and each additional floor must be stepped back a minimum of 10 additional feet.
 - 2. If the existing streetscape is three stories in height or higher, the new construction must be stepped back initially 20' at the first floor above the existing streetscape, and a minimum of 10' for each subsequent floor.
- c. New construction outside of the Frederick Town Historic District shall follow the step backs outlined in 22.11(b) 2.b.2 above.

3. Massing, Rhythm and Spacing

a. This section applies to the massing of new buildings or additions to existing buildings. For purposes of this subsection “mass” or “massing” means the enclosed volume that constitutes building's exterior form. (2), a

b. The dominant massing of a building shall face Carroll Creek Park or a public street. Buildings that abut multiple right-of-ways shall include the dominant mass along each public right of way. For purposes of this subsection, the “dominant mass” means the mass that includes the highest façade elevations through the use of parapet walls, cornices, towers, dormers, or similar elements, and that contains the primary entrance.

c. The front elevation of new buildings shall have a vertical orientation. Buildings subject to subsection (4).b, below, shall be broken into modules along the front façade that have a vertical orientation. *Rhythm Diagram* be

4. Transition

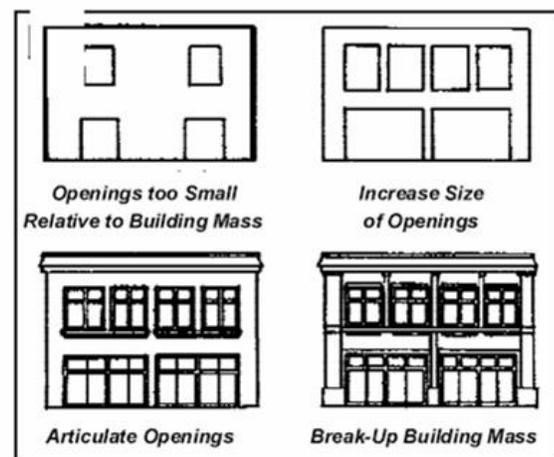
The horizontal alignment/banding (e.g., cornice line and window height) of an infill building shall vary by not more than two (2) feet in the vertical direction from buildings on abutting lots.

5. Wall Articulation

a. Facades shall be divided into a series of structural bays (i.e., masonry piers that frame window and door elements) for every thirty (30) feet or less in horizontal length.

b. This subsection applies to buildings with front façade lengths that exceed the average frontage of buildings on the same block face or forty (40) feet in horizontal length, whichever is less. The front façade of such buildings shall be divided into structural bays that do not exceed the average frontage along the same block face. Structural bays consistent with subsection shall be formed by:

1. courtyards; or
2. vertical and horizontal articulation (i.e., sculpted, carved or penetrated wall surfaces defined by recesses and reveals) that are characterized by: 1) breaks (reveals, recesses) in the surface of the front elevation; 2) placement of window and door openings; or 3) the placement of balconies, awnings, and/or canopies; or



Wall articulation diagram

c. Storefront design at the ground level that includes: 1) a series of display windows that are divided by smaller panes of glass divided by muntins and mullions in a traditional configuration; 2) constructing the facade with brick or decorative tile along bulkheads; 3) providing recessed entries; 4) the use of panel signs, non-panel signs, or projecting signs; and 5) providing consistent door and window reveals.

6. Windows

a. This subsection (5) applies to any façade elevation that faces a public street or Carroll Creek Park.

b. The minimum percentage of façade elevations that shall be in glazed materials is as established in Table 22-2. Colored, reflective or mirrored glazing shall not be used to satisfy this requirement.

c. Windows shall have a minimum proportion of horizontal length to vertical height of 1:2, and maximum proportions of 1:3.

d. Clear glass (at least 80 percent light transmission) shall be used on all floors.

- e. Storefront windows shall not be located closer than 18 inches from the ground (bulkhead height). The maximum bulkhead height for new construction is 36 inches.
- f. Permanent, fixed security grates or grills are not permitted in front of windows. Security grills are permitted only inside the building behind the window display area. Security glass may be used in lieu of grates or grills.
- g. Existing transom windows shall be retained. If the ceiling inside the structure has been lowered, the ceiling shall be stepped up to meet the transom so that light will penetrate the interior of the building.

Table 22-2 Glazing Standards

	Ground Floor	Upper Floors
Commercial Uses	60%	30%
Residential Uses	30%	30%

7. Architectural Lighting

- a. Architectural lighting is permitted. Lighting sources shall be incandescent fixtures.
- b. Sodium vapor lighting sources and general flood lighting of building exteriors is prohibited.
- c. Applications for site plan or special exception approval shall include an illumination impact plan. The illumination impact plan shall address the fixture, design, color, location, and vertical and horizontal illumination levels for all lighting and effects on adjacent properties.
- d. Original fixtures that conform to the HDC Guidelines, if present, shall be preserved and repaired whenever possible.
- e. Period light fixtures are not permitted unless there is documented evidence that a particular fixture was used in the original use of the building. The period fixture shall be historically accurate and compatible with the period of the building. The fixture shall be appropriate in scale to the building or element to which it is attached. To prevent damage to the historic fabric, new period fixtures shall be attached through the mortar joints, not the masonry.

8. Skywalks

- a. Skywalks are prohibited in the public right-of-way.
- b. Skywalks in areas outside of the public right-of-way shall require a modification granted by the Reviewing Authority, as defined in Section 22.14. A modification will not be granted unless the skywalk complies with the following criteria:

1. The skywalk shall not exceed sixty (60) feet in length.
2. The exterior materials shall be the same as those used on the buildings to which the skywalk is attached.
3. That portion of a skywalk that is visible from the public right of way shall comply with the glazing standards for upper floors as established in subsection (5), above.

(c) Materials

(1) Generally

- a. The exterior building façade materials of commercial buildings shall be composed of one dominant veneer material on the first level and one or two additional materials as accents. The dominant veneer shall include the materials permitted by subsection (2), below. Accent materials include glazing, wood, or masonry. The dominant material shall comprise a minimum of fifty percent (50%) of first floor elevation.
- b. Building materials for dwelling units shall be either brick or wood frame.
- c. Applications for site plan or special exception approval shall include exterior material selections. Sample building-material panels shall be provided to the RA along with any application for approval of a site plan or Frederick Town Historic District Commission certificate of approval.

(2) Permitted Materials

Permitted exterior building façade materials include brick; stone; terra cotta; wood; metal; or limestone. Stucco or plaster is permitted if it is located no closer than 3' to grade and does not exceed twenty percent of the overall non-window façade area. Ceramic tile and terra cotta are permitted in that portion of the CCOD that lies within the Frederick Town Historic District if the Historic District Commission determines that it is consistent with the Frederick Town Historic District Design Guidelines.

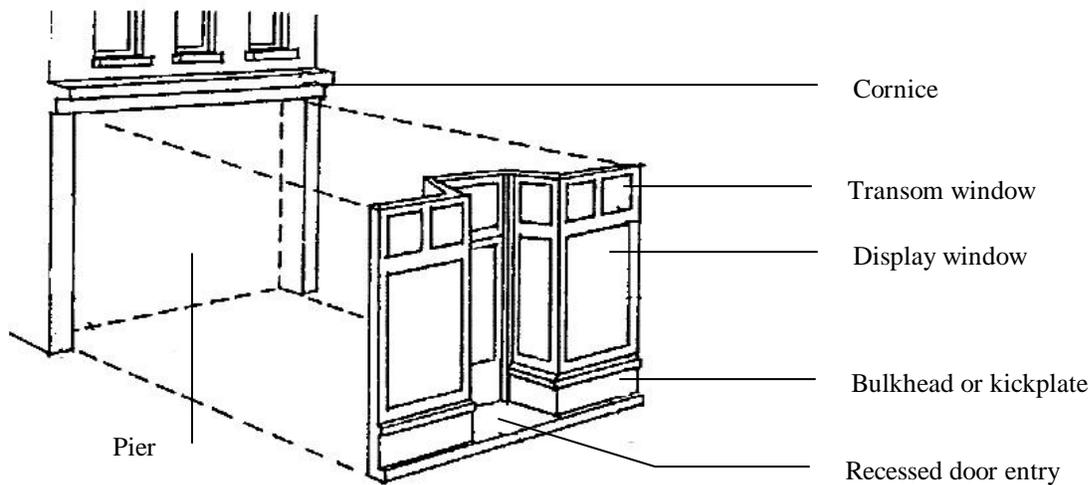
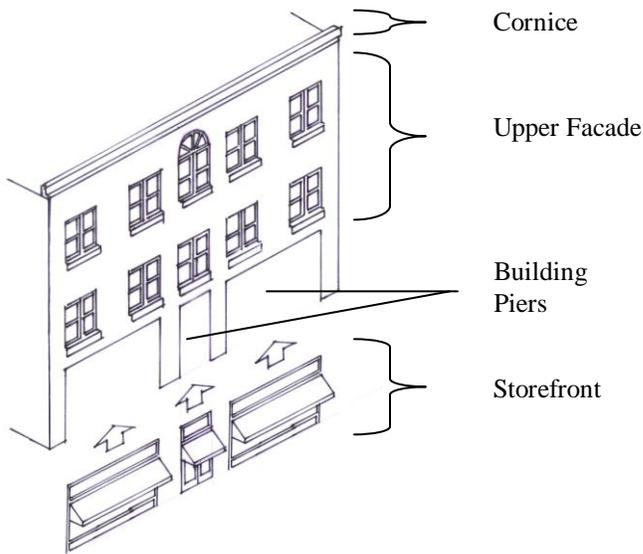
(3) Prohibited Materials

The following materials are not permitted: aluminum, vinyl, and concrete siding; glass curtain walls; painted brick; concrete masonry units (CMU); unfinished and painted CMUs; or synthetic stucco (exterior insulation finishing system (EIFIS)).

(d) Façades Facing onto a Street and/or Carroll Creek Park

(1) Generally

The primary building elevation facing onto a street and/or the creek shall have defining elements that differentiate the first floor from the upper façade. Defining elements include design elements such as entries, windows, awnings, grill work, piers, cornices and fascia.



(2) 1st Floor/Storefront

a. Entries / Doorways

The main entry to a building, leading to a lobby, stair or central corridor shall be emphasized at the street level to announce a point of arrival in one or more of the following ways:

1. Flanked columns, decorative fixtures or other details;
2. Recesses within a larger arched or cased decorative opening;
3. Covered by means of a portico (formal porch) projecting from or set into the building face (refer to Section 15.04 of the Zoning Ordinance for allowable projections);

4. Punctuated by means of a change in roofline, a tower, or a break in the surface of the subject wall;
5. Distinctions achieved through changes in materials, color, and addition of awnings.

Buildings situated at the corner of a public street shall provide a primary entrance that is at least twelve (12) feet high and five (5) feet in width. Recessed entries are permitted, but shall not exceed five (5) feet in depth.



Typical Storefront

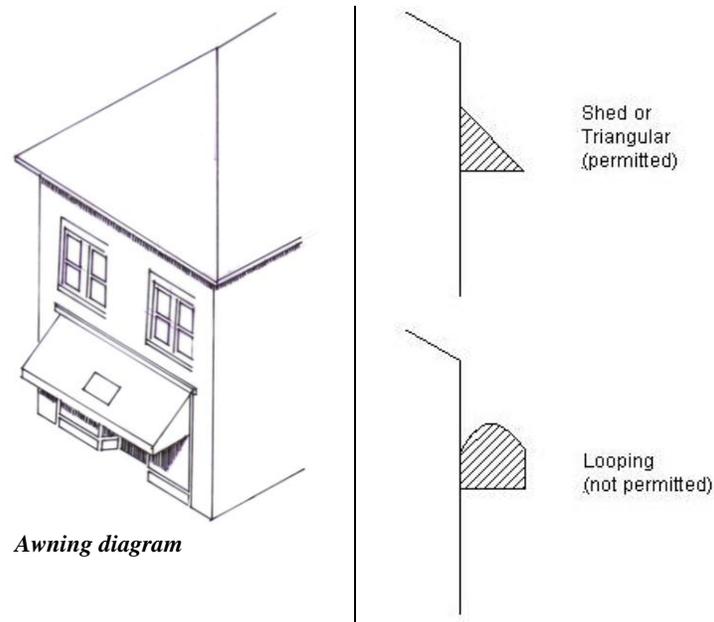
b. Windows

See subsection (b)(5), above.

c. Awnings and canopies

1. Awnings shall have a durable, commercial grade fabric, canvas or similar material having a matte finish. Glossy or shiny plastic or similar awning materials are prohibited.
2. Awnings shall have a single color or two-color stripes. Bright and/or contrasting colors are not permitted. The awning colors shall complement the colors of the building they are intended to serve and the proposed street furnishings. In the event of a dispute between the applicant and the RA as to compliance with the standard, the characteristics of brightness, contrast, or complementary colors shall be measured in accordance with the Pantone® Palette, Ostwald Model, Munsell Model, or other generally accepted color reference system.
3. When there are several businesses in one building, awnings of a compatible color may be used with signs on the valance flap that may vary in type style and color to differentiate the individual businesses within the building.
4. Where the facade is divided into distinct structural bays, awnings shall be placed within the vertical elements rather than overlapping them.
5. Closed sided awnings that cover the awning frames are permitted. If open sided awnings are used, the frames and supports shall be of painted or coated metal or other non-corroding material.
6. Internally illuminated awnings and canopies that glow are prohibited.

7. The awning shape at the front elevation shall relate to the window or door opening. Barrel-shaped awnings shall be used to complement arched windows while square awnings shall be used on rectangular windows.
8. Awnings shall be well-maintained, washed regularly and replaced when faded or torn.
9. Awnings or canopies shall have a shed or triangular shape on its perpendicular side. Awnings and canopies shall not have a looping or circular shape.



d. Grillwork / Metalwork and Other Details

The following details are permitted on the first floor at ground level:

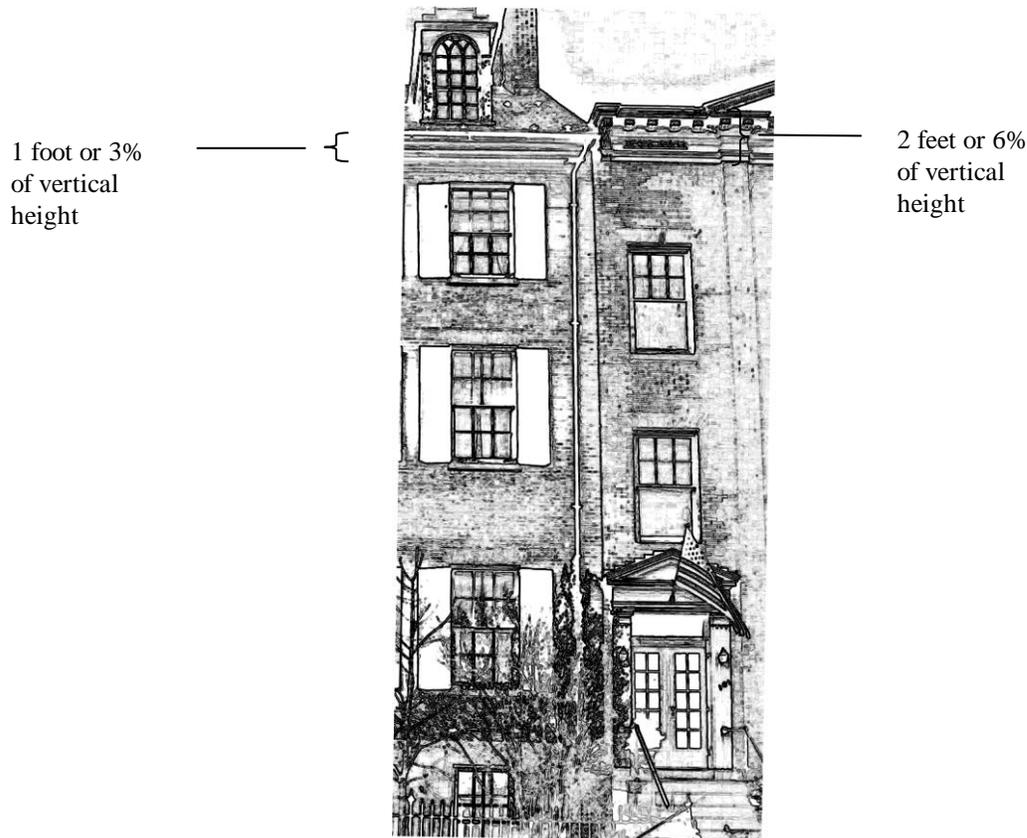
1. Light fixtures that are wall-mounted or hung with decorative metal brackets.
2. Metal grillwork at vent openings or as decorative features at windows, doorways or gates.
3. Decorative scuppers, catches and down-spouts, preferably of copper.
4. Balconies, rails, finials, corbels, plaques, or similar items.
5. Flag or banner pole brackets.
6. Fire sprinkler stand pipe enclosures and hose bib covers, preferably of brass.
7. Security devices.

(3) The Upper Façade

The following standards apply to floors that lie above the first floor at ground level:

a. Cornice and Fascia

Cornices or fascias shall not exceed four (4) feet in their vertical dimensions or ten percent (10%) of the vertical length of the façade, whichever is less. For purposes of this subsection, the vertical length of the façade is measured from the finished grade to the top of the cornice or eave.



b. Windows

For existing buildings, the proportions of restored windows and the rhythm of the window pattern shall replicate the original façade design as closely as possible.

c. Shutters

Shutters are permitted for residential uses only. Shutters shall be composed of wood, operable, and fit the opening to which they are adjacent. The use of both shutters and awnings for the same window is prohibited.

d. Gutters and Downspouts

Gutters can be a metal ogee, half-round, or integral to the eave or cornice. Round or square downspouts shall be used and held to the corners for a side gable, or placed around the corner for hipped roofs. Intermediate downspouts shall be tucked into an inside corner. If there is no inside corner, a downspout shall be placed at a logical division between two building segments.

e. Roof Form and Materials

1. Permitted styles and forms include gable, shed, hip, flat, or complex roofs.
2. Secondary roof forms created by dormers, porches, entries, bays and projections shall not comprise more than fifty percent (50%) of the roof area. New dormers shall be aligned with the facade windows or located between the openings below. The pitch of the dormer shall conform to that of the main roof. Shed dormers are permitted for roof slopes that are not visible from the street or Carroll Creek Park. If such dormers are to be used in a new construction project, they shall be included in secondary elevations.
3. Permitted roofing materials include standing seam metal or slate. Rubber roofing systems can be used on roofs that are not visible. Buildings that use fiberglass asphalt shingles or other materials shall be considered a special exception, and the asphalt shingles shall be flat and uniform in both color and texture. Wood shingles or synthetic materials that imitate wood are not permitted for new construction.
4. Roof pitches that create overly prominent or out-of-character buildings (e.g., A-frames, or geodesic domes) are prohibited.

f. Balconies and Roof Terraces

Balconies and roof terraces are permitted. If these elements are used, the elevations that incorporate the balconies shall be presented as part of an application for approval of a site plan, special exception, building permit or certificate of appropriateness.

g. Chimney Placement

Chimneys are not required for commercial or residential structures. If chimneys are used, they shall be placed only at either end of a side-gable or symmetrically located toward the center of the building. If the structure is symmetrical, the chimneys shall also be placed symmetrically. If the overall form is irregular, then the chimneys shall be placed where a balance with the overall massing of the structure will be achieved.

h. Skylights

Skylights shall be located only on secondary elevations that are not visible from street level, pedestrian pathways, or the public right-of- ways and shall be integrated into the overall roof form. Skylights shall have a flat, sloped surface. Buildings that incorporate dome or bubble type skylights are considered a special exception. The total skylight area is limited to 10% of the corresponding floor area.

22.12 Streetscape & Creekscape Elements

(a) Retaining Walls

Retaining walls shall be made of brick or stone. The coping cap may be pre-cast concrete, stone or brick. Retaining walls that incorporate Split Face Block/CMU require a modification. The applicant must prove that they are architecturally necessary based on special physical features of the lot. Unfinished and painted CMUs or wood ties are not permitted. Economic hardship will not be considered a reason for varying from any architectural standard.

(b) Fencing and Walls

(1) Fences and decorative railings that are composed of cast iron, metal, fabricated steel and aluminum are permitted. Fences and gates shall be constructed of steel, cast iron, or other painted metal. Chain link, barbwire, stockade, split rail, alternating board, exposed steel, exposed galvanized metal, permanent cyclone, vinyl, and other synthetic fencing types are not allowed. Wood fences are permitted within underlying residential zoning districts when the RA determines that they are architecturally compatible with building forms and materials. Location of fencing must also comply with Section 10.06 and may not be placed in any residential front yard.

(2) Solid brick walls and fences are not permitted for use on individual commercial, retail, and office lot frontages within the Carroll Creek Park Corridor unless they are used to screen surface parking (see § 22.08).

(c) Furnishings

(1) Generally

- a. Furnishings placed along pathways shall maintain a minimum 4 foot wide clear space to comply with ADA standards.
- b. Furniture along a street shall have an adequate minimum setback of 4 feet from the face of the curb to avoid damage from trucks and automobiles.
- c. Furniture colors shall be dark with a glossy, rather than matte, finish. Dark green, dark blue, black and silver are permitted.

(2) Benches

The placement of benches shall not obstruct pedestrian movement. Backed benches are required, except where views are available in both directions, in which case



Example of a Victor Stanley metal bench

unbacked benches may be permitted by the Reviewing Authority. Benches shall have arm rests at least every four linear feet. Art benches of other materials, such as stone or concrete, are permitted and do not require arm rests. The design and location of benches shall be designated on the site plan.

(3) Trash Receptacles

Trash receptacles shall be provided in public plaza areas, open green spaces, parks and other sections of the Carroll Creek Park Corridor designed for pedestrian activity. Permitted materials are stone, pre-cast concrete, and metal. Trash receptacles shall have removable liners and lids. The design, quantity, and locations of trash receptacles shall be designated on the site plan.



Victor Stanley

(4) Bicycle Racks

Bicycle racks shall be located adjacent to bike paths, surface parking lots and in designated areas along Carroll Creek. Bicycle racks shall be painted metal. The design, quantity, and locations of bicycle racks shall be designated on the site plan.

(5) Tree Grates

Tree grates are permitted only on plazas, courtyards, outdoor dining areas, and along streets within the Carroll Creek Park Corridor. Tree grates are permitted only where sidewalk dimensions or pedestrian movement prohibit the use of tree planting beds. If tree grates are used, the maximum size units shall be installed to provide additional root space for the trees. For sidewalks not exceeding eight (8) feet in width, tree grates shall be 4-foot by 8-foot or 5-foot by 10-foot in dimensions. Under no circumstances shall a grate smaller than 4-by-8 feet or 6-by-6 feet be used. Tree grates shall be cast iron with individual openings not exceeding one-quarter ($\frac{1}{4}$) square inch in area.

The planting bed shall be designed so that the sidewalk (if cast-in-place) is suspended over a continuous planting trench in which the soil has been amended. Alternatively, sand set paving units are permitted in a continuous band between the street trees to allow drainage and root growth. Root aeration strips shall be placed parallel to the curb-line between tree pots. Thin strips will provide a place for tree roots to grow.

Electrical service for seasonal lighting shall be provided via flush mounted waterproof outlets at the base of the tree.

(6) In-Ground Planters

In-ground planters shall be elevated with a one foot high maximum coping edge or curb edge and planted with ground cover or low shrub masses. In-ground planters are permitted only in areas where a walkway width of at least eight feet from building face can be maintained.

(7) Container Planters

Seasonal containers are permitted near building entrances and in other approved pedestrian zones. Location, number, and type of containers shall be designated on the site plan. The owner is responsible for planting and maintaining plant material in the containers. Plants in the containers may be counted towards landscaping requirements specified in Section 14. Acceptable materials for containers are concrete, stone, and pottery. Plastic containers are not permitted.

(8) Bollards

Bollards may be used to restrict vehicles from entering into or parking in pedestrian only areas. Bollards may be placed at 4- to 8-foot intervals along the street edge and shall be a minimum four (4) to six (6) inches in diameter. Concrete and metal are acceptable materials, but fiberglass or wood materials are not acceptable. If bollards are used in areas requiring emergency vehicle access, removable bollards shall be used.



(9) Telephone Enclosures

Telephone enclosures shall be decorative in nature and integrated into the building facade.



(10) Outdoor Dining

Tables and chairs used for outdoor dining shall be iron or metal. Plastic chairs and tables are prohibited. In outdoor dining areas where alcohol is served, the dining area must be contained by three foot high planters spaced no more than three (3) feet apart, or fencing/screening made of metal, iron, cast iron or brick, or a combination thereof. The area must comply with all Frederick County liquor licensing requirements.

(11) Vending Machines

Outdoor vending machines, such as Automatic Teller Machines (ATMs), food and drink machines and mail drop boxes, are prohibited outside of buildings and in surface parking lots.

(12) Newspaper Stands

Newspaper vending machines shall comply with the existing Frederick Town Historic District Design Guidelines and any other applicable requirements of the Frederick City Code.



Example of a newspaper dispenser

(d) Lighting

(1) Pedestrian Level Lighting

Pedestrian lights shall be set on 12 to 14 foot poles at 70 to 120 foot intervals. "Acorn" fixtures are permitted in any location. Wall-mounted fixtures are permitted only where located in alleys. Double-headed fixtures are permitted only along pedestrian zones. Otherwise, single-headed fixtures shall be used along the streets, Carroll Creek Park, and alleys. Light sources shall have a white color. Sodium Vapor lighting standards are not permitted.

(2) Lighting of Off-Street Parking Areas

Light fixture illumination at motor courts, surface parking lots, and artistic works shall be provided from indirect sources such as landscape lighting, bollard lights, accent uplighting and downlighting. Where used, pole-mounted sources shall have a controlled cutoff reflector and shall match public street lighting fixtures. Light sources shall produce a white light. Colored lenses are prohibited. Lighting shall be positioned and/or screened to minimize light spillover to adjacent sites and communities.

(e) Signage**(1) Generally**

Where not specifically called out below, all signs must comply with Section 15 of the Zoning Ordinance.

(2) Permitted Signs

The following sign categories are permitted in the CCOD:

- a. Panel Signs.
- b. Non-panel Signs.
- c. Projecting or Hanging Signs.
- d. Neon signs may be incorporated into the allowable signage for uses within this district. However, neon signs are not allowed on the exterior of any building, nor are they allowed within 5' of a window or door for any use.

(3) Prohibited Signs

The following signs or sign characteristics are not permitted:

- a. Signs with flashing or blinking lights.
- b. Internally illuminated cabinet signs.

(4) Integration with Buildings

Signage shall not obscure existing architectural details such as windows, awnings, canopies, cornices, fascias, transom windows, or building entrances.

(5) Size and Location

The size and location of all signs shall conform to Section 15 of the Zoning Ordinance, except as follows:

- a. Signs attached to the front façade shall not exceed four (4) feet in the vertical dimension or ten percent (10%) vertical length of the façade, whichever is less.

For purposes of this subsection, the vertical length of the façade is measured from the finished grade to the top of the cornice or eave.

- b. The maximum area of all signs for buildings exceeding fifty (50) feet in length on the front elevation shall not exceed one (1) square feet per linear foot of building frontage.

(6) Projecting and Hanging Signs

Projecting and hanging signs in the Carroll Creek Park Corridor shall not extend more than 30" into the public right-of-way. The bottom of the sign must be at least 8' from the ground. Attachments for projecting signs shall be installed into mortar joints rather than into the brick or stone. A projecting sign may not project more than 30 inches beyond the surface to which it is affixed.

(7) Lettering and Finishing

Lettering and graphics may be painted or carved onto the background of the primary materials.

(8) Lighting

Indirect light, such as gooseneck fixtures, are permitted for signs.

(9) Building Directories

Building directories for multi-tenanted buildings may be substituted for the installation of a sign for each tenant.

(10) Preservation of Sign Features

The following signs or sign features that exist as of the effective date of this ordinance shall be retained:

- a. Painted signs. Painting over or removing painted signs of a historic nature is not permitted and in general, the sign shall remain as it existed on the effective date of this ordinance. This subsection does not apply to a legal nonconforming use or to a sign installed for a new building tenant.
- b. Mosaic and tile sidewalk signs shall remain. Missing or damaged tiles shall be repaired or replaced by the new tenant with materials approved by City Planning Staff.

22.13 Review and Approval Process

The review process for applications for development approval within the CCOD is as follows:

(a) Generally

The Planning Commission shall review site plans and subdivision plats for the entire area of the CCOD. No application for site plan or subdivision plat approval shall be approved by the Planning Commission within the CCOD unless it finds that the applicant conforms to the standards established in this Section 22 as well as all other applicable City standards.

(b) Areas within CCOD and Frederick Town Historic District

Applications for approval within those portions of the CCOD that lie within the Frederick Town Historic District shall be reviewed by the Historic District Commission (HDC). No application for a certificate of approval within the CCOD shall be approved by the HDC unless it finds that the applicant conforms to the standards established in the HDC guidelines or Section 22, whichever is applicable.

(c) Modifications

Modifications to the landscaping, property access, parking and loading, parkland, skywalks, and architectural standards of this section (§§ 22.06-22.10) may be granted by the Planning Commission pursuant to § 6.12. Economic hardship will not be considered a reason for varying from any standard established in § 22.11.

22.14 Terms and Definitions

The words, terms and phrases used in this Section have the meanings assigned in Section 2 of the Zoning Ordinance and the following:

Active Use:

Active Uses are uses that tend to generate high volumes of pedestrian activity, and that are anticipated to provide customers for retail and entertainment businesses located in the CCOD. The following uses are considered Active Uses: multiple-family dwellings; townhouse; indoor sports complexes; retail sales; restaurants; restaurants with entertainment; private clubs; banks or savings and loan offices; barber and beauty shops; bookstores; drug stores; dry-cleaning and laundry pickup stations; florists; food and beverage stores; gift shops; jewelry stores; laundromats; newsstands; doctors and dentists office; restaurants; variety and dry goods stores; child daycare centers; adult day care centers; private business, trade, vocational or technical schools; veterinarian offices; and fast food restaurants without drive-through lanes. The following are not considered Active Uses: automobile filling and service stations; automobile, truck or other vehicle sales; automobile sales and service centers; automobile, truck or fuel sales; industrial uses; group homes; nursing homes; domiciliary care facilities; greenhouses; commercial kennels; private commercial parking lot or structure; manufacturing or processing of chemical or plastic products; fertilizer manufacture; paint and allied products manufacture or processing; paper products manufacturing; primary metal working; funeral homes; storage and warehousing; or any other use not expressly enumerated above as an Active Use. Adult bookstores and adult entertainment centers are not considered “active uses.”

Architectural Lighting:

Lighting fixtures that are incorporated into the building facade, such as accent lighting, downlighting, valance lighting, luminous ceilings, or track or fluorescent lighting that is built into a recess or projection of the façade.

Balcony:

An elevated platform of narrow width projecting from the wall of a building and enclosed by a railing or parapet.

Block:

A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to development.

Block Face:

That portion of an exterior boundary of a block that lies between two intersections. For purposes of this definition, an “intersection” means the intersection of two or more streets or another barrier to development as described in the definition of “block,” above.

Block, Concrete Masonry Unit/Concrete Block (CMU):

A hollow or solid Portland cement product, fine aggregate, and water, that is molded into various shapes.

Block Core:

The internal area within a block.

Block, Parged:

Concrete block with a coat of plaster.

Brick:

Baked clay or shale product that is solid or cored not in excess of 25%.

Building Story, Building Floor:

For the determination of building height, 12 feet of exterior elevation shall be considered one story or floor.

Bulkhead:

A base that supports a storefront display window.

Character Defining Elements:

Building features that: (1) make a structure unique and different from other buildings, or (2) are characteristic elements of a particular architectural style, technique or architect, or (3) provide a building its unique identity. These include, but are not limited to, exterior building materials that include brick, stone, stucco, terra cotta, or wood; windows, shutters, and transoms; porches; roofs; cornices; bulkheads; piers; display windows; transoms; entrances; doors; parapets; or exterior or attached lighting.



Transom

Pier

Display window

Recessed entrance

Bulkhead or kickplate

Character Defining Elements for Storefront

(Source: Frederick Town Historic District Design Guidelines)

Commercial District:

Any of the following zoning districts: R-O Residential - Office; B-O Office Commercial; B-1 Neighborhood Commercial; B-3 General Commercial; DR-B Downtown Residential Limited Commercial; DB-O Downtown Office Commercial; DB Downtown Commercial/Residential; M-1 Limited Employment (Mixed-Use; Employment Development); M-2 General Employment (Mixed-Use; Employment Development); M-O Planned Industrial.

Concrete Paver:

A Portland cement product formed to a selected shape to be used for a paved surface.

Continuity:

The rhythm formed by the spacing and juxtaposition of buildings and streetscape elements along a sidewalk or Carroll Creek Park.

Cornice:

The horizontal top of a façade that projects from the surface, typically where the roof intersects the wall.

Creekscape:

The general appearance of Carroll Creek Park with respect to the structures, trails, sidewalks, open space and the number and proportion of trees and other vegetation within Carroll Creek Park.

Decorative:

Special treatment or application such as texture or color used in building materials, walls, concrete finishes, or other building elements in order to provide ornamentation, but not required for the operation of the essential systems and components of a building. For walls or fences, “decorative” refers to fences constructed of masonry or ornamental iron, or white picket fences, but does not include wood slats, wire mesh or chain link fencing. The reviewing agency may approve other treatments, materials, applications, or colors that are substantially similar to those enumerated in this section.

Drive-Through Use:

An establishment that by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services, obtain goods, or to be entertained while remaining in their motor vehicles.

Exterior Insulation and Finishing System (EIFS):

An exterior finish for a building composed of polystyrene foam covered with a synthetic stucco; this type of stucco (in contrast to traditional, porous cement-based stucco) is water proof and is sprayed on.

Fascia:

A flat board with a vertical face that forms the trim along the edge of a flat roof, or along the eaves of a pitched roof. The rain gutter is often mounted to the fascia.

Form:

The physical configuration of a structure or building and its components including roofs, doors, windows, and facades.

Entrance, Main or “Main Pedestrian Entrance”:

An entry into a building that faces or abuts a sidewalk, walkway, or a plaza, and that is open to customers, employees, and other users of a building during normal business hours. A loading area does not constitute the “Main Pedestrian Entrance” for a building. In parking decks the main entrance is the principle means of ingress and egress by vehicles.

Entrance, Primary or “Primary Pedestrian Entrance”:

The main pedestrian entrance located along a street, Carroll Creek or both.

Entrance, Secondary:

Entrances that are not intended for public use.

Glass Curtain Wall:

An external non load-bearing wall that is suspended on the face of a building like a curtain.

Glazing or Glazed Materials:

The panes or sheets of glass or other transparent material made to be set in frames, as in windows, doors, or mirrors.

HDC Guidelines:

The *Frederick Town Historic District Design Guidelines*, which requirements are incorporated by reference.

Infill Development:

A structure placed between two existing buildings.

Loading Area:

An off-street space used exclusively for loading and unloading of goods and materials from delivery vehicles.

Manual on Uniform Traffic Control Devices:

The Manual on Uniform Traffic Control Devices adopted by State Highway Administration pursuant to the Maryland Transportation Code, § 25-104.

Massing:

The form and shape of the various parts or elements of a building or structure and their relationship to each other in the overall design of the building or structure or a sequence of buildings or structures.

Motor Court:

A paved outdoor area adjacent to a building used by vehicles for short term parking and for dropping off and picking up pedestrians.

New Construction:

A new structure of any size.

Parapet:

A protective wall that extends above the roof of a building.

Parking Structure:

A structure that includes at least one (1) level or floor that is used exclusively for the parking or storage of motor vehicles. A parking structure may be totally below grade (as in an underground parking garage) or either partially or totally above grade. Levels located at grade are enclosed by walls and a ceiling. Levels or floors that are located above grade may be either open or enclosed.

Pedestrian Zone:

Building entrances, sidewalks abutting the front façade of a building or parking area, pedestrian pathways, or similar areas that the Reviewing Authority determines will receive pedestrian traffic volumes similar to these areas.

Pier:

A vertical façade element that frames an opening. An “opening” includes a window, door, or similar break in the facade.

Primary Façade:

The elevation of the building that is facing a street, Carroll Creek or both; the "architectural front(s)" of a building.

Recessed Entry:

A recess or niche located on the front façade of a building and which leads to a principal entry. A recessed entryway is unenclosed on the side adjoining the sidewalk, plaza or public right-of-way, enclosed on the opposite side with a wall containing a doorway, and enclosed on the other sides.

Rehabilitation, Building or Rehabilitation of Buildings:

Any of the following work, as defined by the Rehabilitation Code, which is undertaken in an existing building:

- Repair;
- Renovation;
- Modification;
- Reconstruction;
- Change of occupancy; and
- Addition.

For purpose of this definition, the “Rehabilitation Code” means the *Maryland Building Rehabilitation Code* (2001) published by the published by the Maryland Department of Housing and Community Development, Maryland Revitalization Center, which document is hereby incorporated by reference.

Replacement Building:

New construction in the Frederick Town Historic District of any size or use that is built on a lot or lots where a contributing historic structure was originally sited and subsequently destroyed, in any manner whatsoever including by neglect, since the adoption of this Ordinance on September 2, 2004.

Residential District:

Any of the following zoning districts: A-1 Agriculture; R-1 Low Density Residential; R-2 Low Density Residential; R-3 Medium Density Residential; R-4 Medium Density Residential; R-5 High

Density Residential; R-6 High Density Residential; R-7 High Density Residential; DR Downtown Residential; DRB Downtown Residential, Limited Commercial; and R-O Residential-Office.

Reviewing Authority:

For applications that are within the CCOD but not the Frederick Town Historic District, the “Reviewing Authority” means the Planning Commission. For applications that are within the CCOD and the Frederick Town Historic District, the “Reviewing Authority” means the Historic District Commission and the Planning Commission.

Rhythm:

A regular pattern of shapes that occur within a building or structure, including windows, doors, façade projections, and heights.

Roof, Complex:

A roof that consists of more than one roof form, and including at least one of the following: cross gables, towers, steeples, spires, cupulas, pyramids, parallel or cross-hipped forms, hip-on-gable forms, dual-pitched with hipped forms, or gable-on-hip forms.



Complex Roof

Roof Terrace:

An open air structure on a roof serving as an outdoor living area.

Satellite Dish:

An accessory structure that allows the direct reception and/or broadcast of signals to or from geostationary earth communications satellites.

Scale:

The proportions of parts of a building or structure to one another and to the human figure.

Sign, Hanging:

A Projecting Sign that hangs from a bracket or support and is suspended by chains or hooks.

Sign, Internally Illuminated Cabinet:

A sign attached to a building that is formed by an enclosed cabinet with copy on one or more sides, and which encloses an integrated light source that can shine through the sides or face of the sign.

Sign, Neon:

A sign comprised of or containing gas-filled tubing exposed to view.

Sign, Non-panel:

Sign that is applied directly to a display or transom window, an awning valence or the building surface.

Sign, Panel:

Sign that is applied directly onto a placard or panel. The placard or panel is attached to a wall surface other than a window, door, or similar architecturally open space.

Sign, Projecting:

A sign, other than a wall sign, that is attached to and projects in a perpendicular fashion more than twelve (12) inches, but not more than 30 inches, beyond the surface to which it is affixed.

Split Face Block CMU:

A CMU, split lengthwise by a machine after curing to produce a rough, fractured face texture.

Storefront:

That portion of the ground floor of a non-residential building consisting of an entryway and windows, and that is leased to or occupied by an individual tenant, business, or other entity. The term “Storefront” does not necessarily imply that a building has a retail commercial use; storefronts are simply the first floor facade of a building that faces the street and connects with the sidewalk.

Streetscape:

The general appearance of a block or group of blocks with respect to the structures, setbacks from public rights-of-way, open space and the number and proportion of trees and other vegetation.

Streetside:

For the purposes of defining on what building face upper floor step backs shall be placed, the street side is the street on which the new building has a City of Frederick approved address.

Street Edge:

The exterior boundary of the public right of way the encompasses a street.

Structural Bay:

Building elevation sections that are defined by vertical architectural elements, such as masonry piers.

Stucco:

A course plaster composed of Portland or masonry cement, sand, and hydrated lime, mixed with water and applied in plastic state to form a hard covering for exterior walls.

Terra Cotta:

A hard, semifired, waterproof ceramic clay used in pottery and building construction.

Transom:

A window or series of windows located above a door or a display window.

Transit Station:

A building, structure, or area designed located on a commuter rail line and used for passenger pickup, drop off, embarking, or changing transportation modes. Facilities and improvements may include shelters, benches, signs, structures, and other improvements that provide security, weather protection, and access to nearby services.

Underlying Zoning District:

Any of the zoning districts established by § 3.01 of the Zoning Ordinance, at any location where there is also an overlay district.

Vertical Orientation:

A vertical length that is at least twice the horizontal length.

Visible:

An object, location or feature is “visible” when it is capable of being seen and is legible without visual aid by a person of normal visual acuity, and has no obstructions that hide it from view.

Window, Display:

Transparent glass that is used to display items for sale in a business. “Transparent glass” does not include glass block or glass that is tinted so as to obscure the display items.

¹⁸¹SECTION 23. MIXED-USE EMPLOYMENT CENTER DEVELOPMENT**23.01^{182,183} Purpose**

1. The purpose of this Section is to encourage the incorporation into larger industrial/light industrial developments of a compatible mixture of commercial, employment, recreational, civic and/or cultural uses, and limited multi-family residential use in larger developments, which are developed under an overall master plan of the unified planned development. The primary objective for a property developed under the Mixed Use Employment Center (MXE) zoning district is to provide for a mixture of uses in an integrated manner while encouraging efficient use of the land, in an environment that ensures the integration and compatibility of the project with existing and proposed surrounding developments, while acting as a focal point for the area of the City in which the MXE is proposed. The limited multi-family residential use, if included in the MXE, is intended to provide a limited housing component, the need for which is or is expected to be generated, to a significant degree, by the users of specific components included within the MXE and is proportionate in scale to the other components included in the MXE. All MXE development should be designed to foster a pedestrian-friendly environment by the development of a comprehensive non-vehicular circulation network which would link commercial and employment areas, as well as open spaces, public facilities and recreation areas, along with adjoining existing or planned residential communities. The MXE district is intended to allow for development and design flexibility, which should take into account the preservation and integration into the MXE project existing structures or features of the site which are, or are eligible, to be placed on the National Register of Historic Places, or are otherwise historically significant. Furthermore, efforts will be made to accommodate mass transit services which exist or are planned in the vicinity of the MXE project.
2. The MXE district shall not be used without an overall master plan for all the property proposed to be included within the MXE, so as to compensate for the absence of more conventional requirements so that the intent of this Ordinance, and especially of this Section, is met.
3. The MXE district is a floating zone which may be approved by the Mayor and Board of Aldermen on any property located within the City and zoned M-1 (Limited Employment) or M-2 (General Employment), or a combination thereof,

¹⁸¹ Section 23 added Sept 14, 2000, Zoning Text Amendment Case PC00-105TXT, Ordinance G-00-23.

¹⁸² Section 23.01 added Sept 14, 2000, Zoning Text Amendment Case PC00-105TXT, Ordinance G-00-24.

¹⁸³ Section 23.01 amended March 15, 2001, Zoning Text Amendment PC01-220TXT, Ordinance 01-12

provided that the Mayor and Board of Aldermen find that the general requirements set forth in Section 23.05 have been met.

23.02¹⁸⁴ Districts and Sites Where Applicable

1. The MXE district may be applied to any tract not less than fifty (50) acres in any area zoned M-1 or M-2, or a combination thereof.
2. Tracts of land eligible for the MXE district will be one (1) or more contiguous tracts of land under the ownership or control of a single developer or owner, or two (2) or more contiguous tracts of land owned by two (2) or more owners if they have filed for the MXE district under a joint application. Tracts separated by only a public or private street or other right-of-way shall be deemed to be contiguous for purposes of this Section, provided pedestrian linkages and connectivity between the tracts can be provided to meet the purpose, objectives and standards of the MXE district.

23.03^{185,186} Permitted Land Uses

Land uses permitted within an MXE development are limited to only the following uses, located within the following four (4) general land use categories, which categories shall be located within the MXE and approved at the Phase I Concept Plan stage:

1. Commercial:
 - (a) All uses permitted in the B-3 General Commercial District, and
 - (b) Multi-family residential dwellings which may be permitted provided the requirements set forth in Section 23.04.2(a) below are met; under no circumstances shall residential dwellings in an MXE development include single family homes, townhouses, or duplexes. The multi-family residential element of the commercial land use category shall be complimentary and proportionate in scale to the other uses to be developed within the commercial areas of the MXE, and to the development within the employment area of the MXE.
2. Recreational: Passive and active recreational activities such as health club, tennis club, sports playing field, swimming pool, skating rink, indoor or outdoor theatre, jogging paths, parks and similar uses as permitted by the Planning Commission and which are consistent with the approved Phase I Concept Plan.

¹⁸⁴ Section 23.02 added Sept 14, 2000, Zoning Text Amendment Case PC00-105TXT, Ordinance G-00-25.

¹⁸⁵ Section 23.03 added Sept 14, 2000, Zoning Text Amendment Case PC00-105TXT, Ordinance G-00-26.

¹⁸⁶ Section 23.03 amended March 15, 2001, Zoning Text Amendment PC01-220TXT, Ordinance 01-13

3. Employment: All uses permitted in either the M-O or M-1 employment districts. Uses permitted only in the M-2 district, but excluded from both the M-1 and M-O districts shall not be permitted.
4. Civic/institutional and cultural: Libraries, meeting halls, fire and rescue stations, post offices, government buildings, civic parks, memorials, amphitheaters, bandstands, museums, and similar facilities and uses as permitted by the Planning Commission and which are consistent with the approved Phase I Concept Plan.

23.04^{187,188} Land Use Mix Determination

1. The amount and intensity of each land use permitted within an MXE shall be determined by the following criteria:
 - (a) The relationship of the site to the Comprehensive Plan.
 - (b) The gross acreage of the tract of land on which the MXE is proposed to be established.
 - (c) Availability of existing and planned public services.
 - (d) Access to existing or planned major thoroughfares and transportation systems.
 - (e) Ability to serve the specific needs of the total site or project and the surrounding service area.
 - (f) Physical characteristics of the site.
 - (g) The amount of dedicated open space proposed within the MXE and adjacent thereto or nearby.
 - (h) Compatibility with surrounding uses and the ability to provide for transition between different uses.
 - (i) External and internal relationships which allow for compatibility and transitioning between uses.
 - (j) Efficient use of the land.

¹⁸⁷ Section 23.04 added Sept 14, 2000, Zoning Text Amendment Case PC00-105TXT, Ordinance G-00-27.

¹⁸⁸ Section 23.04.2(a) amended March 15, 2001, Zoning Text Amendment PC01-220TXT, Ordinance G-01-14.

2. Maximum Area of Certain Components of the MXE.
 - (a) The commercial components of the MXE as defined in 23.03 above cannot exceed twenty-five percent (25%) of the gross project acreage, exclusive of floodplain areas. Additionally, in an MXE development of greater than two hundred (200) acres in overall size, a portion of the commercial area may be utilized for multi-family residential development. The number of multi-family dwelling units in an MXE shall not exceed two (2) units for every acre of the MXE (excluding 100-year floodplain) over and above the two hundred (200) acre threshold. Multi-family residential dwellings shall, if consistent with the requirements of this subsection, be a permitted use in areas of the MXE approved for commercial use on the Phase I Concept Plan, subject to the approval of the Planning Commission during the execution phase. At the execution phase, an applicant shall demonstrate to the Planning Commission that the location of the limited housing component within the MXE, the scale of the limited housing component relative to the overall MXE, the unit size and the unit mix and amenities of the limited housing component must all be consistent with the purposes as set forth in Section 23.01 above. Development regulations for multi-family residential dwellings in an MXE shall be as generally provided for multi-family residential development in an R-6 Residential zone, with the Planning Commission having the authority to modify such regulations during the execution phase if deemed appropriate to further the intent of this Section 23.
 - (b) The MXE project shall be required to leave within preserved and/or dedicated open space, within the MXE project, land equal to twenty percent (20%) of the total area devoted to commercial and employment/industrial uses. Existing floodplain areas and areas subject to forest conservation easements may be used as part of this open space requirement. Required on lot landscaping on development parcels shall not be counted toward the twenty percent (20%) open space requirement. Public and non-commercial recreational, cultural and civic activities and facilities may be established in the required open space areas. Open space may be dedicated to the public or maintained by a property owners' association or other private entity.
 - (c) Vertical and horizontal integration of uses is encouraged.

23.05¹⁸⁹ General Requirements for MXE

1. The location, design and extent of public facilities shall comply with the following requirements:
 - (a) Water and sewer. All MXE's shall be served by public water and sewer.
 - (b) Transportation. The location, hierarchy and design of roads will be in accordance with the Comprehensive Plan, the City subdivision regulations, and the City of Frederick Standard Specifications and Details. However, flexibility in the application of these regulations will be permitted insofar as those ordinances allow for modifications.
 - (c) Recreation/civic/cultural and public facilities. The provision for these facilities is encouraged as they act as a catalyst in fulfilling the objectives of the MXE, such as creating a place, achieving a strong sense of identity and creating activity centers. The selection, mixture and location of these facilities shall be compatible with the proposed uses and the overall objectives of the MXE, as determined by the Mayor and Board of Aldermen.

2. Ownership and maintenance of public facilities:
 - (a) All water and sewer facilities will be publicly owned and maintained unless otherwise approved.
 - (b)¹⁹⁰ Streets will be owned and maintained by the City if consistent with City policy. Notwithstanding the above, and notwithstanding any dedication requirements set forth elsewhere in this Ordinance or in the Frederick City Subdivision Regulations (City Code, Appendix C), upon application of the developer, certain streets within the MXE may be privately owned and maintained if such private ownership is approved by the Board of Aldermen and provided the covenants which address maintenance issues and funding are approved by the City Department of Legal Services. Streets or parking areas not dedicated to and accepted by the Board of Aldermen shall be maintained by a property owners' association or similar organization.
 - (b) Open space, stormwater management facilities and recreation areas will be owned and maintained by the City if consistent with City policy. Those not dedicated to and accepted by the Board of Aldermen shall be maintained by a property owners' association, or similar organization. The covenants establishing the same shall be subject to the approval of the City

¹⁸⁹ Section 23.05 added Sept 14, 2000, Zoning Text Amendment PC00-105TXT, Ordinance G-00-28.

¹⁹⁰ Section 23.05.2(b) amended March 15, 2001, Zoning Text Amendment PC01-220TXT, Ordinance G-01-15

Department of Legal Services and other appropriate City authority. To the extent it is in the best interest of the City, the Board of Aldermen will have the option of accepting dedication of some or all of such facilities.

3. Phasing. Construction of the MXE project should be phased to fulfill the overall objectives of this district as set forth in Section 23.01 above. Some permitted employment uses must exist on the MXE project prior to, or be developed on the MXE project simultaneously with, the establishment of other uses allowed under this option. The timing of development of the various uses approved within the MXE project shall be addressed in the phasing schedule provided pursuant to Section 23.06.3(e) below. Phasing should be designed to fulfill on-site and off-site needs, to compliment the provision of services, and to fulfill the purpose and objectives of the district.

23.06¹⁹¹ Review and Approval of an MXE Project

1. Phase I: Concept Plan. An application for approval of the MXE floating zone shall be filed with the Planning Department. The application will include an overall concept plan for the MXE, and will contain the items set forth below. Fees associated with the application shall be paid at the time of filing, and shall be computed according to the City's fee schedule. All owners of property comprising the MXE must sign the application. The application shall contain sufficient information for the Board of Aldermen to make a decision pursuant to Section 23.
2. The MXE project will be approved if it satisfies the objectives and requirements as set forth in Section 23. The applicant has the burden of proof on all issues.
3. The initial application for MXE Phase I Concept Plan approval must include twenty (20) copies each of the following:
 - (a) A map of the land to be included in the MXE at a convenient scale.
 - (b) A vicinity map at a scale of one (1) inch equals two thousand (2,000) feet or more to the inch, indicating the location of the property with respect to surrounding property and streets. The map will show all streets and highways within one mile of the applicant's property.
 - (c) A topographic map of the property, at a minimum of five-foot contour intervals, unless otherwise specified, showing the existing surface of the land and the location of natural features, such as streams, rock outcrops and wooded areas.

¹⁹¹ Section 23.06 added Sept 14, 2000, Zoning Text Amendment PC00-105TXT, Ordinance G-00-29.

- (d) A generalized overall land use plan, sometimes referred to as the Phase I Concept Plan, at a minimum 1" = 100' scale, showing the type, location, acreage and density of all proposed land uses as well as the general street layout and circulation pattern.
- (e) A phasing schedule describing the timing and sequence of development.
- (f) A forest stand delineation as provided for in Section 3.1 of the Frederick City Forest Conservation Ordinance.
- (g) A justification statement addressing each of the following:
 - 1) Relationship to Comprehensive Plan, Zoning Ordinance and other development regulations.
 - 2) Integration and relationship of uses within the project and with existing uses in the neighborhood of the project.
 - 3) Long-term implications on local development patterns, facilities and services.
 - 4) Topography and relationship to on-site and off-site natural and man-made features.
 - 5) The timing of the construction of the MXE project as it relates to the provision of facilities and services.
 - 6) Availability and suitability of pedestrian and vehicular access: transportation system.
 - 7) Water and sewer facilities and capacity availability, and any proposal to supply them.
 - 8) Preservation and integration into the project of any existing historic structures on the MXE site.

23.07¹⁹² Notice of Application and Public Hearing by the Planning Commission

1. Upon acceptance of the proper application for an MXE floating zone and concept plan, the Department shall refer the application to the Planning Commission for its review and recommendation to the Mayor and Board of Aldermen and shall set a date for public hearing by the Commission within forty-five (45) days of the date of filing the application. The Department shall further cause notice of the

¹⁹² Section 23.07 added Sept 14, 2000, Zoning Text Amendment PC00-105TXT, Ordinance G-00-30.

application and the date of the Planning Commission hearing to be published at least twice in successive weeks in a newspaper of general circulation in the City not less than fifteen (15) days prior to the date set for the hearing.

2. The Department shall require the applicant to post the property no later than fifteen (15) days prior to the date set for the hearing by the Planning Commission. The sign(s) shall indicate the nature of the application and the time, date, and place of the hearing and shall be placed and maintained during the fifteen (15) day period in a location which is clearly visible from the primary street(s) upon which the property fronts. Such sign shall be removed within five (5) days following the Planning Commission's final action.
3. The Planning Commission shall hold a public hearing on the proposed MXE concept plan. Any interested person shall have the right to appear and testify at the hearing. A complete and permanent record of all testimony shall be kept by the Department. The Commission may order a continuance of the hearing for up to two (2) additional months to obtain further information.

23.08¹⁹³ Action by the Planning Commission

1. Within forty-five (45) days of the closing of the public hearing, the Commission, at a public hearing, shall recommend either the approval, denial, or modification of the proposed MXE district and concept plan, and shall forward its recommendation in writing to the Mayor for action by the Board of Aldermen. A recommendation for approval will be accompanied by a recommendation for land use mix percentages for the project.

23.09¹⁹⁴ Notice and Public Hearing by the Board of Aldermen

1. Within thirty (30) days of the receipt of the recommendation of the Planning Commission or within ninety (90) days of the date of the first Planning Commission hearing, if no recommendation has been delivered, the Mayor shall schedule a public hearing by the Board of Aldermen. The Mayor shall cause notice of the public hearing and the nature of the application to be published at least once in two (2) successive weeks in a newspaper of general circulation in the City not less than fifteen (15) days prior to the date of the public hearing. The applicant shall post a sign noting the application and the date of the Board of Aldermen hearing in the same manner as set forth above for posting prior to the Planning Commission hearing, and the applicant shall make all reasonable effort to see that the sign remains posted in good condition until after the Board of Aldermen public hearing or until the application is withdrawn, whichever occurs first.

¹⁹³ Section 23.08 added Sept 14, 2000, Zoning Text Amendment PC00-105TXT, Ordinance G-00-31.

¹⁹⁴ Section 23.09 added Sept 14, 2000, Zoning Text Amendment PC00-105TXT, Ordinance G-00-32.

2. The Board of Aldermen shall hold a public hearing as required. Any interested person shall have the right to appear and testify at the hearing. A complete and permanent record of all testimony shall be kept by the Mayor. The Board may order a continuance of the hearing for a specified reason to a specific date, time and place.

23.10¹⁹⁵ Action by the Board of Aldermen

1. Within thirty (30) days of the closing of the Board's public hearing, unless such time is extended by the Board for a specific reason, the Board shall approve, deny, or approve with modification the proposed MXE district and concept plan. A record of the votes of the Board shall be kept by the Legislative Clerk.
2. The Board may approve the MXE district and concept plan as submitted, or approve the district and concept plan with modifications, provided that the Board shall not approve a commercial component of the MXE concept plan of a larger size than that contained in the application.
3. The Board shall make findings of fact as to the application's compliance with the requirements for the MXE district as set forth in Section 23.05 above. The MXE district being a floating zone, findings of fact shall refer to the findings of the Board of Aldermen concerning whether the applicant has met the requirements of this Section, including findings concerning the compatibility of the proposed MXE with neighboring and surrounding land uses. Findings concerning substantial change in the character of the neighborhood, mistake in zoning, or other matters applicable to traditional Euclidian zoning map amendment, shall not be applicable to the MXE floating zone district. Any requirements set forth elsewhere in this Ordinance requiring findings of either substantial change in the character of the neighborhood or mistake in zoning as a prerequisite for approval of a zoning map amendment shall be of no force and effect with regard to an application for an MXE district, it being the express intent of this Ordinance that the MXE district be a floating zone, which may be approved upon express finding that the applicant has met the criteria of this Section, and that requirements concerning change in the character of the neighborhood and/or mistaken zoning shall not be applicable to the MXE zoning district.
4. The applicant shall at any time after approval by the Board of Aldermen of the Phase I Concept Plan have the right to apply to the Board of Aldermen for amendment or modification to the concept plan. Any such application for amendment shall have the same requirements concerning fee, notice, hearing, posting and other technical requirements as are required for the initial Phase I application.

23.11¹⁹⁶ Withdrawal or Denial of Application

¹⁹⁵ Section 23.10 added Sept 14, 2000, Zoning Text Amendment PC00-105TXT, Ordinance G-00-33.

¹⁹⁶ Section 23.11 added Sept 14, 2000, Zoning Text Amendment PC00-105TXT, Ordinance G-00-34.

1. The applicant may withdraw in writing a proposed MXE district from consideration prior to either the Planning Commission or Board of Aldermen public hearing. If withdrawn, no application for the same MXE district shall be accepted by the Department within ninety (90) days of the date of withdrawal.
2. If a MXE district application is denied by the Board of Aldermen, no new application for the same amendment shall be accepted by the Department within six (6) months of the date of Board's action.

23.12¹⁹⁷ Phase II: Execution Phase

1. In order to achieve design excellence, sound planning and the achievement of the MXE objectives, the applicant may propose and the Planning Commission may approve design criteria and/or other dimension requirements that are not in complete conformance with existing zoning for the various land uses and zones.
2. Preliminary and final platting in accordance with the City subdivision regulations is required in addition to submission of five (5) copies of any covenants to be attached to the property.
3. Site plan review shall be in accordance with Section 6 of this Ordinance. All setbacks, buffer area, right-of-way requirements, height limitations, signage allowance and requirements and other similar development criteria within the MXE shall be determined by the Planning Commission with consideration given to applicable standards for similar uses in existing zoning districts. Flexibility in the application of these setback, buffer, signage and right-of-way requirements may be allowed by the Planning Commission to achieve excellence of design, an appropriate mix of the elements of the MXE, the efficient use of land, the provision of suitable amenities for the MXE neighborhood, and the fostering of a common theme of the MXE development. There will be no minimum lot areas or lot widths within the MXE. Any outdoor storage proposed in conjunction with any use in the MXE development shall be landscaped and/or screened so as to be not visible from public and/or private roads.
4. As part of the execution phase, the Planning Commission may approve changes to the location of land uses on the concept plan, provided that the amount or percentage of commercial development on the site does not increase from the Phase I Concept Plan approval, and further provided that any such amendments do not cause any land use components of the MXE to be changed by more than 25% of the land area previously designated for that particular component. Any increase in the amount of commercial development as a percentage of the overall MXE site, or any change in any land use designation which creates more than a 25% variation

¹⁹⁷ Section 23.12 added Sept 14, 2000, Zoning Text Amendment PC00-105TXT, Ordinance G-00-35.

from that approved by the Mayor and Board of Aldermen, shall require a modification to the Phase I Concept Plan by the Mayor and Board of Aldermen. Furthermore, notwithstanding anything set forth in this paragraph, any proposed change to the Phase I Concept Plan which would result in a change of land use of any portion of the MXE project which borders an adjacent residentially zoned property shall be submitted to the Board of Aldermen for approval of such modification of the Phase I Concept Plan.

5. The Planning Commission may require that architectural renderings of buildings, streetscapes or public areas be presented to assure that the appearance, size and type of building material or other aspects of the design are in keeping with the purposes and intent of the MXE district. Or, in the alternative, the applicant may submit a set of architectural covenants to be recorded on all or part of the MXE land area, and upon approval of these covenants by the Planning Commission, individual architectural review of buildings by the Planning Commission in the areas subject to the covenants shall not be required, provided that evidence is provided to the Planning Commission and the Office of Legal Services that the covenants have been duly recorded.
6. After approval of any site plans by the Planning Commission as part of the execution phase set forth in this Section, the Department shall have the right, without the need for Planning Commission approval, to approve minor modifications to any such approved plans, provided that no change in conditions result and that such modifications do not involve change of more than ten percent (10%) of any buildings by gross floor area or parking area. It is the intent of this Section that the Department have the right to make minor routine modifications to approved plans without the need for additional Planning Commission hearings, provided that such modifications do not result in a plan materially different from that approved by the Planning Commission.
7. Should the execution phase, as described herein, not have commenced within five (5) years of approval of the MXE Concept Plan, the Board of Aldermen shall review the Concept Plan to determine if the MXE is still an appropriate use for the property. The Board of Aldermen may then at its discretion grant an extension(s) of the approval, or rescind the MXE approval after expiration of such five (5) year period, such extension(s) not to exceed an additional five (5) year term. After concept plan approval, the owner/developer shall submit annual reports detailing the current status of the MXE project, including projected phasing or construction schedules, and potential users, such reports to commence approximately one (1) year from the date of initial approval by the Board of Aldermen. Such reports shall include the percentage of the MXE project completed to date, and the corresponding ratio of AM and PM peak hour traffic achieved as compared with the project's traffic projections. Such reports shall be provided prior to December 1 of each year.

