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ZONING ORDINANCE

CITY OF FREDERICK, MARYLAND

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PLANNING & ZONING COMMISSION

No. _____

ADOPTED JANUARY 29, 1964 BY THE
MAYOR AND BOARD OF ALDERMEN

The preparation of this ordinance was financed in part through an Urban Planning Grant from the Housing and Home Finance Agency, under the provisions of Section 701 of the Housing Act of 1954, as amended.

PREFACE

Frederick has had a zoning ordinance since 1929. The original ordinance was revised and re-ordained in 1938, and again in 1948. All of these, together with subsequent changes and amendments, were replaced in 1964 by the adoption of the present ordinance, No. G-183.

In addition to Ordinance G-183, reproduced herein, there is an AIRPORT ZONING ORDINANCE, adopted October 18, 1951, restricting the heights of structures in the vicinity of the Frederick Municipal Airport and establishing special use regulations in that area. There is also an HISTORIC FREDERICK DISTRICT ordinance, adopted April 21, 1955, applying to certain parts of the city in the old central area, along Second St., Church St., Bentz St., Record St., Council St., Court St., Market Space, and West Patrick St. Information regarding these two Ordinances may be obtained at the City Engineer's Office, and assistance will be given also with respect to the Zoning Ordinance.

For further information contact:

City Engineer
City Hall
Frederick, Maryland

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**Z O N I N G O R D I N A N C E
O F 1 9 6 4**

Ordinance G-183

CITY OF FREDERICK, MARYLAND

An ORDINANCE to revise and re-enact Article I of Chapter 22, the Frederick City Code, entitled Zoning—In General, and to be known as the Frederick City Zoning Ordinance of 1964.

WHEREAS the Frederick City Planning and Zoning Commission, by authority of Article XV of the Charter of the City of Frederick and by direction of the Mayor and Board of Aldermen, has made a comprehensive study of present conditions and expected future growth of the City of Frederick and vicinity and has drawn up a Master Plan to guide and accomplish a coordinated, adjusted, and harmonious development of the city, and a revised zoning plan and ordinance based on such plan.

NOW, THEREFORE, be it enacted and ordained by the Mayor and Board of Aldermen of Frederick as follows.

Section 1

PURPOSE

- 1.00 The purpose of this ordinance is to promote the health, safety, morals, order, convenience, prosperity, and general welfare of the city, by regulating the location, height, bulk, and size of buildings and other structures, the size of yards, courts, and other open spaces, and the uses of buildings, structures, and land for trade, industry, business, residence, and other purposes;—all with the general purpose of providing for adequate light and air, preventing the over-crowding of land and undue concentration of population, securing safety from fire, panic, and other dangers, conserving the value of property, providing adequately for schools, parks, and other public requirements, and for other lawful purposes.

Section 2

TERRITORIAL LIMITS

- 2.00 This Ordinance shall apply to all lands, buildings, properties, and their uses, within the corporate limits of the City of Frederick and within a radius of one (1) mile therefrom in all directions, except for any U. S. Government properties therein.

Section 3

INTERPRETATION OF STANDARDS

- 3.00 In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. 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, the provisions of this Ordinance shall control.

Section 4

DEFINITIONS

- 4.00 Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of this Ordinance. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word "building" shall include the word "structure"; the word "used" shall include "arranged, designed, constructed, altered, converted, rented, leased, or intended to be used"; the word "occupied" shall include "arranged, intended or designed to be occupied"; and the word "shall" is mandatory and not directory.
- 4.01 **ACCESSORY USE OR STRUCTURE.** A use or structure subordinate to the principal building or use on the same lot and serving a purpose customarily incidental to the use of the principal building or land use.
- 4.02 **AUTOMOBILE SERVICE STATION.** A retail establishment primarily for the serving of passenger automobiles with fuel, oil, water, air, and similar operating necessities, and including customary incidental sales and services but no heavy repairing, tire recapping, or other use classified separately in this ordinance.
- 4.03 **ALLEY.** A public or private way affording secondary means of access to abutting property.
- 4.04 **BASEMENT.** A story where the floor is more than twelve (12) inches, but not more than half of its story height, below the average level of the adjoining ground (as distinguished from a "cellar" which is a story more than one-half below such level).
- 4.05 **BILLBOARD.** Any structure or portion thereof, situated on private premises, on which lettered, figured, or pictorial matter is displayed for advertising purposes, other than the name and occupation of the user of the premises or the nature of the business conducted thereon or the products primarily sold or manufactured thereon.
- 4.06 **BOARD.** The Zoning Board of Appeals of Frederick City.
- 4.07 **BOARDING OR LODGING HOUSE.** A dwelling or part thereof where meals and/or lodging are provided, for compensation, for persons not transients.
- 4.08 **BUILDING.** Structure having a roof supported by columns or walls, used or intended to be used for the shelter

or enclosure of persons, animals, or chattels, including carports, tents, cabins, or trailers. When such a structure is divided by one or more unpierced walls extending from the ground up, but is on one lot and is served by common yards, parking areas, and other facilities, all in one ownership, it shall be considered one building for the purpose of applying the provisions of this Ordinance; provided, however, that such building, if a dwelling, does not exceed 160 feet in length and two habitable rooms in depth.

- 4.09 **BUILDING, HEIGHT OF.** The vertical distance from the average finished grade at the building line to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.
- 4.10 **CELLAR.** A story having more than one-half ($\frac{1}{2}$) of its height below average contact grade. A cellar is counted as a story for the purpose of height regulations only if used as a separate dwelling.
- 4.11 **CONDITIONAL USE.** A use which may be permitted in a district through the granting by the Board of Appeals of an Exception as authorized by Section 188, the Charter of the City of Frederick, upon a finding by the Board that it meets specified conditions.
- 4.12 **CONSTRUCTION, STARTING OF.** The combining of labor and material into any portion of the structure, on the site thereof.
- 4.13 **COURT.** An open, unoccupied, and unobstructed space, other than a yard, on the same lot with a building or a group of buildings.
- 4.14 **DISTRICT.** A portion of the territory to which this Ordinance applies, within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Ordinance. The term "R District" shall mean any "R-1", "R-2", "R-3", or "R-4" District; the term "B District" shall mean any "B-0", "B-1", "B-2", or "B-3" District; and the term "M District" shall mean any "M-1" or "M-2" District.
- 4.15 **DWELLING.** Any building or portion thereof occupied or intended to be occupied exclusively for residence purposes, but not including a tent, cabin, trailer, or mobile home, or a room in a hotel or motel.
- a. **Dwelling, Single-Family.** A detached building designed for or used exclusively for residence purposes by one family or housekeeping unit.

- b. **Dwelling, Two-Family.** A detached building (as defined herein) designed for or used exclusively for residence purposes by not more than two families or housekeeping units, including double houses, flats, and the like.
- c. **Dwelling, Multi-Family.** A detached building, or a group of attached and semi-detached buildings in single ownership (row houses), designed for or used exclusively for residence purposes by more than two families or housekeeping units.

- 4.16 **ESSENTIAL SERVICES.** The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies, in any street, alley or easement provided therefor on a subdivision plat, of underground or overhead electrical, gas, steam, or water transmission, distribution, collection, communication, supply, or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for protection of the public health, safety, or general welfare; but not including buildings nor the storage, repair, or processing of equipment or materials.
- 4.17 **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 boarding house, lodging house, or hotel.
- 4.18 **FARM.** A parcel of land not less than five (5) acres in size used for any agricultural purpose such as general farming, apiculture, horticulture, floriculture, viticulture, dairy farming, horse farming, and animal or poultry husbandry, and the necessary accessory uses for packing, treating, or storing the produce of such farm; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include commercial hog farms or fur farms.
- 4.19 **GARAGE, PRIVATE.** A garage intended for and used for the storage of the private passenger motor vehicles of the families resident upon the premises.
- 4.20 **GARAGE, PUBLIC.** A space or structure other than a private garage, for the storage, sale, hire, care, repair, or refinishing of self-propelled vehicles or trailers.

- 4.21 **GARDEN HOUSING PROJECT.** A group of two (2) or more dwellings located on the same lot and conforming to the special conditions and requirements specified in Section 18.30.
- 4.22 **JUNK YARD.** Any area where waste, discarded, or salvaged materials are bought, sold, exchanged, baled, parked, stored, disassembled, or handled, including auto wrecking yards, house wrecking yards, used lumber yards, and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building, and not including pawn shops and establishments for the sale, purchase, or storage of used furniture and household equipment, used cars in operable condition, salvaged machinery and the processing of used, discarded or salvaged materials as part of manufacturing operations.
- 4.23 **LOT.** A piece or parcel of land occupied or intended to be occupied by a principal building or use, or a group of buildings conforming with the regulations of this Ordinance, and its accessory buildings and uses, including all open spaces required by this Ordinance, and having frontage on a public street as defined herein.
- a. **Lot, Corner.** A lot abutting upon two (2) or more streets at their intersection or upon two parts of the same street, and in either case forming an interior angle of less than one hundred thirty-five (135) degrees.
- b. **Lot, Interior.** A lot other than a corner lot.
- c. **Lot, Through.** A lot having frontage on two (2) non-intersecting streets, as distinguished from a corner lot.
- 4.24 **LOT DEPTH.** The mean horizontal distance between the front and the rear lot lines.
- 4.25 **LOT LINE, FRONT.** The line separating the lot from the street upon which it fronts. A corner lot shall be deemed normally to front upon the street on which it has the least dimension.
- 4.26 **LOT LINE, REAR.** The lot line opposite and most distant from the front lot line.
- 4.27 **LOT LINE, SIDE.** Any lot line other than a front or rear lot line.
- 4.28 **LOT LINE, STREET OR ALLEY.** Any lot line separating the lot from a street or alley.

- 4.29 **LOT WIDTH.** The width of the lot measured at right angles to its center line, at the front building line.
- 4.30 **MINING.** The extraction from the land of any mineral or natural material for the purpose of processing or utilization, including strip mining, borrow pits, soil stripping, quarrying, etc.
- 4.31 **MOTEL.** Any establishment consisting of two (2) or more guest rooms or suites, with separate outside entrances and adjacent parking spaces, designed or maintained for the accommodation of transients; or any establishment for the accommodation of transients which displays the name "motel".
- 4.32 **NON-CONFORMING USE.** A building, structure or premises legally devoted to or occupied by, or for, a use that does not conform with the provisions of this Ordinance or amendments thereto for the district in which located.
- 4.33 **PARKING LOT, COMMERCIAL.** A permanently surfaced area of one (1) or more "Parking Spaces" designed or used for the parking of self-propelled vehicles and available to the public whether for a fee or as an accommodation to clients or customers.
- 4.34 **PARKING SPACE.** A permanently surfaced area of not less than one hundred eighty (180) square feet, either within a structure or in the open, exclusive of driveways or access drives, for the parking of a motor vehicle.
- 4.35 **PLANNING COMMISSION.** The City Planning and Zoning Commission of Frederick, Maryland.
- 4.36 **ROADSIDE STAND.** A temporary structure designed or used for the display or sale of neighborhood agricultural products or other products on the premises upon which such a stand is located.
- 4.37 **STABLE, PRIVATE.** A stable with a capacity of not more than two (2) animals.
- 4.38 **STORY.** That portion of a building other than a cellar as defined herein, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it.
- a. **Story, Ground.** The lowest story, ground story, or first story of any building is the lowest story the floor of which is not more than three and one-half (3½) feet below the average contact ground level at the

exterior walls of the building; except that any basement used as a separate dwelling by other than a janitor or caretaker and his family, shall be deemed a ground or first floor.

b. **Story, Half.** "Half-Story" shall mean a partial story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four (4) feet above the floor of such story; provided, however, that any partial story used as a separate dwelling, other than for a janitor or caretaker and his family, shall be deemed a full story.

- 4.39 **STREET.** A public right-of-way fifty (50) feet or more in width which provides a means of public access to an abutting property, or any public or private right-of-way not less than thirty (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.
- 4.40 **STRUCTURE.** Anything constructed, the use of which requires permanent location on the ground, or attached to something having a permanent location on the ground, but not including fences, sidewalks, driveways, and curbs.
- 4.41 **STRUCTURAL ALTERATION.** Any change in the structural members of a building, such as walls, columns, beams, or girders.
- 4.42 **TRAILER. (including Automobile Trailer, and Mobile Home).** Any vehicle or structure constructed in such a manner as to permit occupancy thereof as sleeping quarters or the conduct of any business, trade or occupation, or use as a selling or advertising device, and so designed that it is or may be mounted on wheels and transported over highways and streets, propelled or drawn by its own or other motive power.
- 4.43 **TRAILER PARK.** Any park, tourist park, camp, court, site, lot, parcel, or tract of land which is designed, maintained, or intended for the purpose of supplying a location or accommodation for two or more trailer coaches for living purposes, or upon which two or more trailer coaches are parked for living purposes.
- 4.44 **USE FIRST PERMITTED (in a specified district).** A use which in the sequence of successively less restricted zoning districts occurs as a permitted use for the first time in the specified Zoning District.

- 4.45 **YARD, FRONT.** An open space extending the full width of the lot between any part of a building not hereinafter excepted and the front lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified in Section 19.70.
- a. **Front Yard, Least Depth.** The shortest distance measured horizontally, between any part of a building, other than such parts as excepted in Section 19.70, and the front lot line.
- 4.46 **YARD, REAR.** An open space extending the full width of the lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified in Sections 6.07 and 19.70.
- a. **Rear Yard, Least Depth.** The shortest distance, measured horizontally, between any part of the building, other than such parts as excepted in Section 19.70, and the rear lot line.
- 4.47 **YARD, SIDE.** An open space extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified in Section 19.70.
- a. **Side Yard, Least Width.** The shortest distance, measured horizontally, between any part of a building, other than such parts hereinafter excepted in Section 19.70, and the nearest side lot line.
- b. **Street Side Yard.** A side yard on the street side of a corner lot.
- 4.48 **ZONING INSPECTOR.** The administrative officer or his authorized representative, appointed by the proper authority of the City of Frederick to administer and enforce the provisions of this Ordinance.
- 4.49 **ZONING MAP.** The Zoning District Map of the City of Frederick, Maryland, and adjacent areas, adopted as part of this Ordinance, together with all amendments thereto subsequently adopted.
- 4.50 **ZONING CERTIFICATE.** Written statement issued by the Zoning Inspector authorizing buildings, structures, or uses consistent with the terms of this Ordinance and for the purpose of carrying out and enforcing its provisions.

Section 5

DISTRICTS AND BOUNDARIES THEREOF

5.00 For the purposes of this Ordinance, the incorporated territory of the City of Frederick, Maryland, and the adjacent unincorporated territory extending one (1) mile beyond the corporate limits thereof, are hereby divided into the following districts:

- "R-1"—Rural Residence District
- "R-2"—One-family Residence District
- "R-3"—One-family Residence District
- "R-4"—Multi-family Residence District
- "B-0"—Limited Business District
- "B-1"—Shopping Center District
- "B-2"—Central Business District
- "B-3"—General Business District
- "M-1"—Light Industrial District
- "M-2"—General Industrial District

5.01 The boundaries of these districts are hereby established as shown on the Zoning Map of the City of Frederick, Maryland, and vicinity, which map is hereby made a part of this Ordinance. The said "Zoning Map" and all notations and references and other matters thereon shall be and are hereby made part of this Ordinance. Said "Zoning Map", properly attested, shall be and remain on file in the office of the Zoning Inspector of the City of Frederick.

5.02 Except where referenced on said map to a street line or other designated line by dimensions shown on said map, the district boundary lines are intended to follow property lines, lot lines, or the center lines of streets, railroads, alleys, or waterways, as they existed at the time of the adoption of this Ordinance; but where a district line obviously does not coincide with a property line, lot line, or such center line, or where it is not designated by dimensions or otherwise clearly defined, its location shall be determined by the scale on the map.

5.03 Where a district boundary line as established in this Section or as shown on the Zoning Map divides a lot which was in single ownership and of record at the time of enactment of this Ordinance, the use authorized thereon and the other district requirements applying to the least restricted portion of such lot under this Ordinance shall be considered as extending to the entire lot, provided the more restricted portion of such lot is entirely within fifty (50) feet of said dividing district boundary line. The use so extended shall be deemed to be conforming.

- 5.04 Questions concerning the exact location of district boundary lines shall be determined by the Board of Appeals as provided in subsection 21.32, and in accordance with rules and regulations which it may adopt.
- 5.05 Whenever any street, alley or other public way is vacated by official action as provided by law, the zoning districts adjoining the sides of such public way shall be automatically extended, depending on the side or sides to which such lands revert, to include the right-of-way of the public way thus vacated, which shall thenceforth be subject to all regulations of the extended district or districts.
- 5.06 In every case where territory has not been specifically included within a district, or where additional territory may come within the territorial limits over which the City of Frederick has zoning jurisdiction, by reason of annexation or otherwise, such territory shall automatically be classified in the "R-1" District until otherwise classified.

Section 6

GENERAL PROVISIONS

- 6.01 **CONFORMANCE REQUIRED.** Except as hereinafter specified, no land, building, structure, or premises shall hereafter be used, and no building or part thereof or other structure shall be located, erected, reconstructed, extended, enlarged, converted or altered, except in conformity with the regulations herein specified for the district in which it is located.
- 6.02 **CONTINUING EXISTING USES.** Except as provided hereinafter, any use, building, or structure lawfully existing at the time of the enactment of this Ordinance may be continued, even though such use, building, or structure may not conform with the provisions of this Ordinance for the district in which it is located. An existing use or building located in a district in which such use or building is classified herein as a "conditional use" may continue as though it were an authorized conditional use, but may not be changed or enlarged without further authorization as for a new conditional use.
- 6.03 **NON-CONFORMING USES.** No existing building or premises devoted to a use not permitted by this Ordinance in the district in which such building or premises is located, except when required to do so by law or order, shall be enlarged, extended, substituted, or structurally altered, unless the use thereof is changed to a use permitted in the district in which such building or premises is located except as follows:
- 6.031 **SUBSTITUTION.**
- 6.0311 If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or of a more restricted classification.
- 6.0312 Whenever a non-conforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.
- 6.0313 When authorized by the Board of Appeals, according to the provisions of subsection 21.351, one non-conforming use may be substituted for another non-conforming use.
- 6.032 **DISCONTINUANCE.**
- 6.0321 No building, structure, or premises where a non-conforming use has ceased for two (2) years or more shall again be put to a non-conforming use.

- 6.0322 All non-conforming uses of land not involving any building or structure may be continued for a period of two (2) years after the date of enactment of this Ordinance, at the end of which period every such non-conforming use shall cease or shall be changed to a conforming use; **provided**, however, that this requirement shall not apply to sand and gravel pits, quarries, or mines that conform or are made to conform to all of the distance and operating requirements applying to such uses under subsection 18.41.
- 6.0323 All non-conforming buildings or structures each having an assessed value for tax purposes of Five Hundred Dollars (\$500) or less as of the date of the enactment of this Ordinance, and all non-conforming signs, billboards, or commercial advertising structures, may be continued for a period of three (3) years after the date of enactment of this Ordinance, at the end of which period every such non-conforming building and structure shall be made to conform with the regulations herein or shall be removed.
- 6.0324 Any non-conforming building or use existing on the effective date of the adoption of these regulations may continue, except as provided herein; **provided** that the owner of such non-conforming use shall not create a nuisance or allow the use to deteriorate and adversely affect the surrounding neighborhood. Whenever the Zoning Inspector shall discover or be informed that a nuisance does exist or that the neighborhood is becoming deteriorated because of the existence of the use it shall be his duty to make immediate investigation, and if in his judgment any violation of this regulation does exist, he shall forthwith give notice to the owner of the non-conforming use to abate such condition within such reasonable time as may be prescribed in such notice. If the owner of the non-conforming use does not abate the condition to the satisfaction of the Zoning Inspector he shall be given notice to change, discontinue or remove the non-conforming use within 6 months of the date of the notice. The owner of any building or use affected by this regulation may apply to the Board of Appeals for a variance authorizing an extension of time, based on such facts as may be set forth showing that the neighborhood has not depreciated, or that in its current condition the neighborhood is not likely to benefit from the change or removal of the building or use, or that because of adjacent uses or buildings or other special situation or condition of adjacent property the change or removal of such building or use would be untimely and would cause unnecessary hardship without accomplishing the pur-

pose of this Ordinance; and the Board may authorize an extension of time. Nothing shall preclude an application for an additional extension of time. If an extension of time is denied, the owner shall have a period of one (1) year from the date of such denial to change, terminate, or remove the building or use, and no further extension of time shall be permissible. No variance for an extension of time shall be authorized except in accordance with the rules and procedures in Section 21.

6.033 EXTENSIONS.

6.0331 A non-conforming use may be extended throughout those parts of the same building which parts were manifestly arranged, intended, or designed for such use at the time of the enactment of this Ordinance.

6.0332 When authorized by the Board according to the provisions of sub-section 21.352, the extension or completion of a building devoted to a non-conforming use upon a lot occupied by such building or on a lot adjoining may be made.

6.034 REPLACING DAMAGED BUILDINGS. Any non-conforming building or structure or group of related buildings and structures comprising one enterprise or establishment and under one ownership, which may be damaged more than seventy-five (75) per cent of its then fair market value exclusive of the foundations at the time of damage by fire, flood, explosion, war, riot, or Act of God, shall not be restored or reconstructed and used as before such happening; but if less than seventy-five (75) per cent damaged exclusive of the foundation, or if required to be removed because of a public improvement, it may be restored, reconstructed or used as before provided it be done within two (2) years.

6.04 UNSAFE BUILDINGS. Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.

6.05 PENDING APPLICATIONS FOR ZONING CERTIFICATE. Nothing herein contained shall require any change in the overall layout, plans, construction, size or designated use of any development, building, structure or part thereof, for which official approvals and required zoning certificates have been granted before the enactment of this Ordinance, the construction of which conformably with such plans shall have been started within twelve (12) months after the effective date of this Ordinance and completion thereof carried on in a normal manner and not discontinued for reasons other than those beyond the builders' control.

- 6.06 **REAR DWELLINGS.** Except on a farm, and except as provided for dwelling groups, no more than one dwelling shall be permitted on a lot as herein defined; and no dwelling shall be permitted in the rear of another dwelling except where each dwelling is located on a lot as herein defined.
- 6.07 **ACCESSORY BUILDINGS.**
- 6.071 No accessory building shall be erected in any required court or in any yard other than a rear yard, except as provided hereinafter. Accessory buildings not over one and one-half (1½) stories in height may occupy not to exceed thirty (30) per cent of the required minimum area of a rear yard, and shall be distant at least six (6) feet from alley lines and from any other separate building or other structure on the same lot, and at least three (3) feet from lot lines of adjoining lots which are in any "R" District; provided, however, that an accessory building may be permitted on a side or rear lot line, not an alley lot line, by common consent of the adjoining property owners concerned.
- 6.072 Accessory buildings, except stables, may be erected as a part of the principal building, or, if at least six (6) feet therefrom, may be connected thereto by a breeze-way or similar structure, provided all yard requirements for a principal building are complied with.
- 6.073 In any "R" District, where a corner lot adjoins in the rear a lot fronting on the side street and located in an "R" District, whether such rear lot adjoins directly or is across an alley, no part of an accessory building on such corner lot, within twenty-five (25) feet of the lot line or center line of the alley, shall be nearer the side street lot line than the least depth of the front yard required along such side street for a dwelling on such adjoining lot, and in no case shall any part of an accessory building, wherever located on the lot, be nearer to the side street lot line than the least width of the side yard required for the principal building to which it is accessory, nor nearer to the common lot line or center line of the alley than the side yard width required for a principal building on such adjoining lot.
- 6.08 **REQUIRED YARD CANNOT BE REDUCED.**
- 6.081 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. No part of a yard or other open space provided about any building or structure for the purpose of com-

plying with the provisions of this Ordinance shall be included as part of a yard or other open space required under this Ordinance for another building or structure.

- 6.082 Off-street parking and loading areas may occupy all or part of any required yard or other open space except as specified in Sections 17.12 and 17.20.
- 6.09 **OFF-STREET PARKING AND LOADING.** In any district, spaces for off-street parking and for loading or unloading shall be provided in accordance with the provisions in Section 17.
- 6.10 **TRANSITIONAL USES.** In any "R-1", "R-2", or "R-3" District, a transitional use shall be permitted on a lot the side lot line of which adjoins, either directly or across an alley, a "B" or "M" District. The permitted transitional uses for any such lot shall be of any use permitted in the "R-4" District. In such case, the requirements governing lot area per family, off-street parking, yards and other open spaces, shall be the same as in an "R-4" District. Any transitional use shall not extend more than seventy-five (75) feet from the side lot line of the lot which adjoins the district boundary line.
- 6.11 **FRONT YARDS ON LOTS RUNNING THROUGH THE BLOCK.** In any district where a lot runs through a block from street to street, and where a front yard is required, such front yard shall be provided along each street lot line other than a side street lot line.
- 6.12 **FRONT YARD DEPTHS, HOW MEASURED.** The minimum front yard depths, as specified, shall be measured from the recorded street right-of-way lines, except that where the street is to be widened as designated by the official Major Street Plan of Frederick City, or the official Major Road Plan of Frederick County, then the future street right-of-way lines so established shall govern; provided, however, that where these lines may be modified or supplemented by an officially adopted street or road widening or location plan, attested copy of which has been filed with the Zoning Inspector, the latter shall control. In case of uncertainty as to the established right-of-way line, where a street or road is proposed for improvement, the State Roads Commission, County Highways Department, or City Engineer, as the case may be, shall be allowed not over sixty (60) days from the date of the application for a Zoning Certificate within which to establish the existing or future right-of-way line. For the purpose of measuring front yards, no street or road shall be considered as having an established right-of-way less than fifty (50) feet wide.

6.13 COURT REQUIREMENTS.

6.131 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, such court shall be an outer court (open on one side) the least dimensions of which shall be as follows:

6.1311 Least Width: (a) For residential buildings, other than a single-family dwelling, the sum of heights of building wings opposite one another, but not less than forty (40) feet; (b) for non-residence buildings in "B" or "M" Districts, two-thirds the sum of heights of building wings opposite one another, but not less than thirty (30) feet.

6.1312 Maximum Depth: One and one-half (1½) times the width.

6.14 YARD REQUIREMENTS ALONG ZONING BOUNDARY LINE IN THE LESS RESTRICTED DISTRICT.

Along any zoning boundary line, on a lot adjoining such boundary line in the less restricted district, any abutting side yard, rear yard, or court, unless subject to greater restrictions or requirements stipulated by other provisions of this Ordinance, shall have a minimum width and depth equal to the average of the required minimum widths or depths for such side yards, rear yards, or courts in the two districts on either side of such zoning boundary line. In case the height of the proposed structure on such lot in the less restricted district is greater than the maximum height permitted in the adjoining more restricted district, the minimum width or depth of the side yard, rear yard, or court for such structure shall be determined by increasing the minimum width or depth required for the highest structure permitted in such more restricted district by one (1) foot for each two (2) feet by which the proposed structure exceeds the maximum height permitted in said more restricted district.

6.15 **TRAFFIC VISIBILITY ACROSS CORNER LOTS.** In any "R" District on any corner lot, no fence, structure or planting shall be erected or maintained within twenty (20) feet of the "corner" (intersection of the street right-of-way lines) that would interfere with traffic visibility across the corner.

6.16 **CONVERSION OF DWELLING.** 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 similar occupancy would be permitted under this Ordinance, and only when the resulting occupancy will comply with the requirements governing new construction in such district.

- 6.17 **ESSENTIAL SERVICES EXEMPTED.** Essential services, as defined in sub-section 4.16, shall be permitted in any district, as authorized and regulated by law and ordinances of the City of Frederick or of Frederick County, it being the intention hereof to exempt such essential services from the application of this Ordinance.
- 6.18 **DISTANCE REQUIREMENTS.** All uses, buildings, or premises for which compliance with the distance requirements in this sub-section is stipulated elsewhere in this Article, shall be distant at least one hundred (100) feet from any lot in any "R" district, or from any lot in the "B-0" District which is occupied by a dwelling, school, church, or any institution for human care.

Section 7

R-1—RURAL RESIDENCE DISTRICT

- 7.00 The following regulations and the applicable regulations contained in other Sections shall apply in the R-1 Rural Residence District.
- 7.10 **PRINCIPAL PERMITTED USES.**
- 7.101 Single-family detached dwellings.
- 7.102 Churches, church schools, and parish houses.
- 7.103 Schools and colleges for academic instruction, including customary accessory buildings such as dormitories, dining halls, gymnasiums, swimming pools, studios, laundries, and heating or power plants.
- 7.104 Public buildings and properties of a cultural, administrative, or public service type, such as libraries, art galleries, or museums, but not including such uses as storage yards, warehouses, or garages.
- 7.105 Public parks, playgrounds, community centers, golf courses, and other public recreational facilities.
- 7.106 Farms, gardens, orchards, nurseries, and greenhouses; provided that any heating plant or any building in which farm animals are housed shall be distant at least 250 feet from any non-farm dwelling and from any other lot in an "R" District.
- 7.20 **CONDITIONAL USES REQUIRING APPEALS BOARD AUTHORIZATION.**
- 7.201 Country clubs, golf courses, swimming clubs, and other private non-commercial recreation or social facilities and areas, not operated as a business for profit; provided that any principal building or swimming pool shall be located at least 100 feet from any other lot in an "R" District.
- 7.202 Hospitals, sanitoriums, and convalescent or nursing homes, public or private, except those primarily for the insane, feeble-minded, contagious diseases, or chronic alcoholics or drug addicts; religious or charitable institutions; provided that any such buildings shall be located at least 100 feet from any other lot in an "R" District.
- 7.203 Cemeteries, provided that no grave or burial lot shall be located in the required front yard or required street side yard.

- 7.204 Airports and landing fields, publicly or privately owned, provided that all runways, landing strips, taxiways, and other installations or parts of the airport or landing field normally used for aircraft operation shall be located at least 500 feet from any property line, that all hangars, storage buildings, repair shops, and any other buildings or structures shall be located at least 200 feet from any property line, and that the property lying in the line of flight at each end of any landing strip be clear of, and satisfactory arrangements be made to keep it clear of, any dwelling, school, church, or any institution for human care located in any "R" or "B" District, for a distance of one-half mile from the end of the runway and a width of 1000 feet.
- 7.205 Quarrying, mining, and transportation of stone, gravel, sand, soil, or clay (but not including any processing); **provided:** (a) that any building housing power-driven or power-producing machinery or equipment shall be distant at least 500 feet from all adjacent property or road lines; (b) that the extractive operations shall be confined to areas at least 50 feet distant from all adjoining property and 100 feet from any principal building on an adjoining property; and (c) that the requirements in Section 18.40 shall be complied with in all respects.
- 7.206 Radio and similar communications towers, broadcasting stations, and equipment; **provided** that every such tower shall be located as far from its lot lines, in every direction, as the height of the tower, that every building housing such facilities shall be located at least 50 feet from each lot line, and that the style and appearance of such structure shall be in harmony with their surroundings.
- 7.207 Public utility and public service structures and properties other than essential services defined in sub-section 4.16, and which must necessarily, from a functional standpoint, be located in a particular place, such as a telephone exchange or wire center, an electric sub-station, a water treatment plant, tank, standpipe, or pumping station, a sewage pumping station or treatment plant, a railroad line, or a cross-country pipe line, electric transmission line, or telephone cable; but not including any power plants, or any buildings or yards for production, construction, maintenance, or storage purposes, or any railroad yards, depots, or terminal facilities; provided that the style and appearance of any such permitted structure shall be in harmony with its surroundings.

- 7.30 **ACCESSORY USES.** Accessory buildings and uses customarily incidental to any principal use or authorized conditional use, including:
- 7.301 The studio of an artist or musician for practice or teaching, provided that any such studio shall be in his home and purely incidental thereto, and that there shall be no employee or advertising sign.
- 7.302 Customary home and farm occupations such as handicraft, dressmaking, millinery, preserving, and home cooking, provided that no person other than a resident of the premises may be engaged in such occupation; and provided further that such occupation shall not require external or internal alterations or the use of mechanical equipment not customary in dwellings or on farms, and there shall be no advertising sign. The term "customary home and farm occupations" shall not be interpreted to include such activities as real estate or insurance offices, beauty parlors, beauty nooks, barber shops, the repair, sale, or display of radio, television, or other electronic devices, photographic studios, printing shops, shoe repair or shoe shining shops, pet shops, cabinet making or woodworking or the sale or display of such products, tailoring shops or the sale or display of garments, a telephone answering service if advertising, parking, or more than one employee is required, a general repair shop of any kind, or any other trade, service, or occupation normally conducted as a business outside the home or farm.
- 7.303 A private garage or parking area for not more than three (3) motor vehicles in the case of a one-family dwelling and its accessory uses, plus one (1) parking space for each additional dwelling unit; or a private garage or parking area accessory to any other permitted use adequate to meet its requirements.
- 7.304 Summerhouses, private swimming pools, and other customary incidental structures.
- 7.305 Temporary real estate signs subject to the provisions of Section 18.22.
- 7.306 Temporary buildings including trailers, for uses incidental to construction work, which buildings shall comply with requirements of the Health Department and shall be removed upon the completion or abandonment of such work.
- 7.307 One bulletin board or sign not exceeding 24 square feet in area for any permitted church, school, or other public or semi-public building.

- 7.308 The keeping of not more than two (2) roomers or boarders by a resident family.
- 7.309 Roadside stands offering for sale only neighborhood agricultural products and other items produced on the premises.
- 7.310 A private stable, if located at least 250 feet distant from any other lot in an "R" District.
- 7.311 Farm signs identifying the farm and its products, provided that any sign exceeding eight (8) square feet in area shall be considered to be a billboard and shall be subject to the restrictions applying to billboards.
- 7.40 **HEIGHT REGULATIONS.** No principal structure shall exceed two and one-half (2½) stories or thirty (30) feet in height, and no accessory structure shall exceed one and one-half (1½) stories or twenty (20) feet in height; except as provided in Section 19.20 and except that farm structures may be built to any required height.
- 7.50 **LOT AREA, WIDTH, AND YARD REQUIREMENTS.** The following minimum requirements shall be observed, subject to the modified requirements in Section 19.

	Min. Lot Area	Min. Lot Width	Lot Area per Family	Front Yard ⁽¹⁾ (depth)	SIDE YARDS		
					Least Side (width)	Sum of Both Sides	Rear Yard (depth)
	sq. ft.	feet	sq. ft.	feet	feet	feet	feet
Dwellings.....	20,000 ⁽²⁾	100 ⁽²⁾	20,000 ⁽²⁾	40	15	35	50
Churches.....	2 acres	200	....	40	25	50	50
Schools.....	5 acres	200	....	40	25	50	50
Public Utility uses.....	10,000 ⁴	50 ⁽⁴⁾	40	25	50	50
Other Permitted uses.....	20,000	100	20,000	40	25 ⁽³⁾	50 ⁽³⁾	50 ⁽³⁾

(1) For built-up frontage, see Section 19.41.
 (2) For lots in approved subdivisions, see sub-section 19.32.
 (3) Or greater as may be specified elsewhere in this Ordinance.
 (4) Or greater if required by Board of Appeals.

Section 8

R-2—ONE-FAMILY RESIDENCE DISTRICT

- 8.00 The following regulations and the applicable regulations contained in other Sections shall apply in the R-3 One-family Residence District:
- 8.10 **PRINCIPAL PERMITTED USES.** Any Principal use or structure permitted and as regulated in the R-1 District.
- 8.20 **CONDITIONAL USES REQUIRING APPEALS BOARD AUTHORIZATION.**
- 8.201 Country clubs, golf courses, swimming clubs, and other private non-commercial recreation or social facilities and areas, not operated as a business for profit; subject to the same conditions as specified in Section 7.201.
- 8.202 Hospitals, sanitoriums, and convalescent or nursing homes, public or private, except those primarily for the insane, feeble-minded, contagious diseases, or chronic alcoholics or drug addicts; religious or charitable institutions; all subject to the same conditions as specified in Section 7.202.
- 8.203 Cemeteries, provided that no grave or burial lot shall be located in a required front yard or required street side yard.
- 8.30 **ACCESSORY USES.** Accessory buildings and uses customarily incidental to any principal use or authorized conditional use, including those permitted in the R-1 District.
- 8.40 **HEIGHT REGULATIONS.** Same as specified in the R-1 District.
- 8.50 **LOT AREA, WIDTH AND YARD REQUIREMENTS.** The following minimum requirements shall be observed, subject to the modified requirements in Section 19:

	Min. Lot Area	Min. Lot Width	Lot Area per Family	Front Yard ⁽¹⁾ (depth)	SIDE YARDS		
					Least Side (width)	Sum of Both Sides	Rear Yard (depth)
	sq. ft.	feet	sq. ft.	feet	feet	feet	feet
Dwellings.....	10,000 (2)	70 (2)	10,000	30	8	25	30
Other Permitted Uses.....	Same as specified in the "R-1" District.						

(1) For built-up frontage, see Section 19.41.

(2) Subject to requirements of sub-section 19.31.

Section 9

R-3—ONE-FAMILY RESIDENCE DISTRICT

- 9.00 The following regulations and the applicable regulations contained in other Section shall apply in the R-3 One-family Residence District.
- 9.10 **PRINCIPAL PERMITTED USES.** Any Principal use or structure permitted and as regulated in the R-2 District.
- 9.20 **CONDITIONAL USES REQUIRING APPEALS BOARD AUTHORIZATION.**
- 9.201 Any Conditional use or structure permitted and as regulated in the R-2 District.
- 9.202 Kindergartens, nursery schools, and child care centers when located not less than 20 feet from any other lot in an "R" District, and provided there is a completely fenced and screened play lot of adequate size in connection therewith.
- 9.203 Garden Housing Projects for any number of families or housekeeping units, subject to the provisions of Section 18.30.
- 9.30 **ACCESSORY USES.** Accessory buildings and uses customarily incidental to any principal use or authorized conditional use, including those permitted in the R-2 District, and also the following:
- 9.301 The keeping of not more than four (4) roomers or boarders by a resident family.
- 9.302 Tourist homes with not more than three guest rooms, where located on a State or U. S.-numbered highway.
- 9.40 **HEIGHT REGULATIONS.** Same as specified in the R-1 District, except that for Garden Housing Projects authorized under Sec. 18.30 the height limit shall be three (3) stories or forty (40) feet.
- 9.50 **LOT AREA, WIDTH, AND YARD REQUIREMENTS.** The following minimum requirements shall be observed, subject to the modified requirements in Section 19:

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	Min. Lot Area	Min. Lot Width	Lot Area per Family	Front Yard ⁽¹⁾ (depth)	SIDE YARDS		Rear Yard (depth)
					Least Side (width)	Sum of Both Sides	
	<i>sq. ft.</i>	<i>feet</i>	<i>sq. ft.</i>	<i>feet</i>	<i>feet</i>	<i>feet</i>	<i>feet</i>
Dwellings.....	6,000 (²)	60 (²)	6,000	25	8	18	30
Churches.....	1 acre	100	....	25	20	40	40
Public Utility Uses.....	5,000	50	....	25	10	20	40
Kindergartens, Nursery Schools, Child Care Centers.....	20,000	100	6,000	25	20	40	40
Garden Housing Projects 3 acres.....	(³)	....	3,500	25	20	40	40
Other Permitted Uses.....	Same as specified in the "R-1" District.						

(1) For built-up frontage, see Section 19.41.
 (2) Subject to requirements of Section 19.31.
 (3) Subject to requirements of Section 18.30.

Section 10

R-4—MULTI-FAMILY RESIDENCE DISTRICT

- 10.00 The following regulations and the applicable regulations contained in other Sections shall apply in the R-4 Multi-family Residence District:
- 10.10 **PRINCIPAL PERMITTED USES.**
- 10.101 Any Principal use or structure permitted and as regulated in the R-3 District.
- 10.102 Two-family dwellings, apartment houses, and other multi-family dwellings.
- 10.103 Boarding or lodging houses not primarily for transients.
- 10.104 Hospitals, sanitoriums, and convalescent or nursing homes, public or private, except those primarily for the insane, feeble-minded, contagious diseases, or chronic alcoholics or drug addicts; orphanages, homes for the aged, or other religious or charitable institutions; provided that any such building shall be located at least twenty (20) feet from any other lot in an "R" District.
- 10.20 **CONDITIONAL USES REQUIRING APPEALS BOARD AUTHORIZATION.**
- 10.201 Any Conditional use or structure permitted and as regulated in the R-3 District, except as modified in this Section.
- 10.202 Clubs, fraternities, lodges, and meeting places of other non-profit organizations, but not including any use that is customarily conducted as a gainful business.
- 10.203 A compound of private garages or parking spaces for passenger cars, for rental by the month or longer; provided that any such compound be located within the interior of the block, not less than fifty (50) feet from every street line and twenty-five (25) feet from any dwelling on adjacent property, and be provided with adequate and suitable accessways, and that the buildings shall comply with all other requirements of Section 6.071, applying to accessory buildings.
- 10.204 A commercial parking lot or an accessory parking lot, for 15 or more passenger vehicles, where it adjoins a "B-1", "B-2", "B-3", or any "M" District either directly or across an alley, and subject to the conditions and limitations in Section 17.30.
- 10.205 Public utility and public service structures and properties other than essential services defined in sub-section

4.16, and which must necessarily, from a functional standpoint, be located in a particular place, such as a telephone exchange or wire center, an electric sub-station, a water treatment plant, tank, standpipe, or pumping station, a sewage pumping station, a railroad line, or a cross-country pipe line, electric transmission line, or telephone cable; but not including any power plants, or any buildings or yards for production, construction, maintenance, or storage purposes, or any railroad yards, depots, or terminal facilities.

- 10.30 **ACCESSORY USES.** Accessory buildings and uses customarily incidental to any principal use or authorized conditional use, including those permitted in the R-3 District and also the following:
- 10.301 Private garages or parking lots of sufficient capacity to serve the principal uses or authorized conditional use.
- 10.302 The home office of a doctor, engineer, architect, certified public accountant, or attorney, within his home and purely incidental thereto; provided that there shall be no employee or advertising sign. One off-street parking space shall be provided for each office, in addition to all other parking requirements applying to the premises.
- 10.40 **HEIGHT REGULATIONS.** No principal structure shall exceed three (3) stories or forty (40) feet in height, and no accessory structure shall exceed one and one-half (1½) stories or twenty (20) feet in height, except as provided in Section 19.20 and except that farm structures may be built to any required height; and **provided further** that the Board of Appeals, by an Exception, may authorize a building not exceeding six (6) stories or seventy-five (75) feet in height, on condition that the least side yard width required for a three-story multi-family dwelling shall be increased three (3) feet, and the sum of both side yards shall be increased six (6) feet, for each story in excess of three (provided that these requirements shall not apply so as to require any side yard width exceeding ½ the building height), and that the Board may impose such other conditions as it deems necessary to protect adjacent property and the public interest.
- 10.50 **LOT AREA, LOT WIDTH, AND YARD REQUIREMENTS.** The following minimum requirements shall be observed subject to the modified requirements in Section 19:

	Min. Lot Area	Min. Lot Width	Lot Area per Family	Front Yard ⁽¹⁾ (depth)	SIDE YARDS ⁽²⁾		
					Least Side (width)	Sum of Both Sides	Rear Yard (depth)
	<i>sq. ft.</i>	<i>feet</i>	<i>sq. ft.</i>	<i>feet</i>	<i>feet</i>	<i>feet</i>	<i>feet</i>
One-Family Dwellings							
1 and 1½ Stories	5,000	50	5,000	25	4 ⁽³⁾	10 ⁽³⁾	25
2 and 2½ Stories..	5,000	50	5,000	25	5 ⁽³⁾	12 ⁽³⁾	25
3 Stories.....	5,000	50	5,000	25	7	18	25
Two-Family Dwellings⁽⁶⁾							
1 and 1½ Stories..	5,500	50	2,750	25	5 ⁽³⁾	12 ⁽³⁾	25
2 and 2½ Stories..	5,500	50	2,750	25	6 ⁽³⁾	14 ⁽³⁾	25
3 Stories.....	5,500	50	2,750	25	8	18	25
Multi-Family Dwellings							
1 and 1½ Stories..	6,000	50	2,000	25	6	14	25
2 and 2½ Stories..	6,000	50	2,000	25	7	16	25
3 Stories ⁽⁵⁾	6,000	50	2,000	25	9	20	25
Garden Housing Project.....	2 acres ⁽⁴⁾	50	1,750 ⁽⁴⁾	25	20	40	40
Churches.....	20,000	60	....	25	10	20	40
Kindergartens, Nursery Schools, Child Care Centers.....	5,000	50	5,000	25	Same as for Multi- Family Dwellings		
Public Utilities	3,000	30	....	25	5	10	40
Other Permitted Uses.....	Same as specified in the "R-3" District						

(1) For built-up frontage, see Section 19.41.

(2) For interior lots where length of side yard does not exceed 40 ft. For greater lengths see Section 19.62.

(3) For lot less than 40 ft. wide see Section 10.511.

(4) Subject to requirements of Section 18.30.

(5) For multi-family dwellings of greater heights see Section 10.40.

(6) For duplex dwellings, see Section 10.514.

10.51 SIDE YARD VARIATIONS

10.511 Lots less than 40 feet wide. For each foot by which a lot existing and of record at the time of enactment of this ordinance is narrower than forty (40) feet, in the case of buildings not higher than 2½ stories, and where the owner of record does not own any adjacent land, one and one-half (1½) inches may be deducted from the required least width of one side yard, and three (3) inches

from the required sum of the widths of both side yards, on condition that the building depth along any such side yard so reduced in width shall not exceed fifty (50) feet less ten (10) inches for each one (1) inch of reduction from the side yard width required on a lot; and provided that no side yard shall be narrower at any point than three (3) feet in any case.

10.512 Omission of One Side Yard. A side yard may be omitted on a lot existing and of record at the time of enactment of this ordinance, where an existing building on an adjacent lot is built up to the side lot line and has no wall opening on that side, subject to the following conditions:

- A. The building or portion thereof to be erected within the omitted side yard space shall not exceed in depth two (2) rooms used for habitation, unless such portion directly adjoins upon the adjacent building and the rooms therein, if in excess of two (2) rooms deep, are lighted by windows opening on the side yard on the opposite side or on a required court; and
- B. The side yard on the opposite side of the proposed building shall be at least seventy-five (75) per cent as wide as the required sum of side yards for a building of the same height, depth, and occupancy on the same lot.

10.513 Omission of Both Side Yards. Both side yards may be omitted where the situation described in sub-section 10.512 above exists on both sides of a proposed building, provided that:

- A. The proposed building shall not in any case exceed in depth two (2) rooms used for habitation;
- B. A pedestrian passageway at least three (3) feet in width, from front to rear, shall be provided at street level; and
- C. Vehicular access to the required off-street parking space shall be available by alleys or other suitable means.

10.514 Duplex Dwellings. In the case of a duplex dwelling (two dwelling units side-to-side), each unit shall have one side yard equal in width to the required sum of side yard widths for a two-family dwelling of the same height, and the minimum lot width shall be 60 feet.

Section 11

B-0—LIMITED BUSINESS DISTRICT

- 11.00 The following regulations and the applicable regulations contained in other Sections shall apply in the B-0 Limited Business District:
- 11.10 **PRINCIPAL PERMITTED USES.**
- 11.101 Any Principal use or structure permitted and as regulated in the R-4 District, except as hereinafter modified.
- 11.102 Any of the following uses subject to the conditions specified in Section 11.20:
- 11.1021 Medical or dental clinics or dispensaries.
 - 11.1022 Business and professional offices.
 - 11.1023 Artist's studios and galleries.
 - 11.1024 Shops for the sale of gifts, antiques, art goods, flowers, stationery, clothing, jewelry, candy, and similar specialties for personal use.
 - 11.1025 Pharmacies primarily for prescriptions and pharmaceutical items.
- 11.20 **REQUIRED CONDITIONS:** No building or use permitted under Section 11.102 shall have a store front or plate glass show window, nor any goods on outside display, nor any advertising on the building or windows, except that an identification sign displaying the name and nature of the establishment shall be permitted if such sign does not exceed two square feet in area for each 50 feet or less of building frontage.
- 11.30 **CONDITIONAL USES REQUIRING APPEALS BOARD AUTHORIZATION.**
- 11.301 Any Conditional use or structure permitted and as regulated in the R-4 District, except as modified in this Section.
- 11.302 Any of the Principal uses specified under Sec. 11.102 above, without the attached conditions in Sec. 11.20, upon approval by the Board of the design of building front, signs, and the like, as being consistent with the character of surrounding buildings or being desirable for the purpose of creating an attractive and harmonious street scene, calculated to assist in the improvement of property values generally and the constructive use of property, for the public welfare.
- 11.303 Undertaking establishments, provided that all vehicles serving any such establishment shall be housed when not in actual use, that off-street parking and loading spaces are provided for all vehicles participating in

any funeral and for all other patrons—but not in any front yard or street side yard,—and that no sign shall be displayed other than a name sign not exceeding two square feet in area and not containing the words “funeral home”, “undertaker”, or anything similar.

- 11.304 Hotels, inns, cafes, soda fountains, tea rooms, and taverns, not including dancing or entertainment.
- 11.305 Other uses deemed by the Board to be of similar character to those permitted, and not of a general commercial or industrial nature.
- 11.40 **ACCESSORY USES.** Accessory buildings and uses customarily incidental to any principal use or authorized conditional use, including those permitted in the R-4 District and others.
- 11.50 **HEIGHT REGULATIONS.** The same as in the R-4 District.
- 11.60 **LOT AREA, WIDTH, AND YARD REQUIREMENTS.** The following minimum requirements shall be observed, subject to the modified requirements in Section 19:

	Min. Lot Area	Min. Lot Width	Lot Area per Family	Front Yard ⁽¹⁾ (depth)	SIDE YARDS (Lots 40' or more)		
					Least Side (width)	Sum of Both Sides	Rear Yard (depth)
	sq. ft.	feet	sq. ft.	feet	feet	feet	feet
One-Family Dwellings.....	3,500	30	3,500	25	Same as “R-4”	40 ft. adjoining an “R” District; otherwise 20 ft.	
Two-Family Dwellings.....	3,500	30	1,750	25	Same as “R-4”	“	
Multi-Family Dwellings.....	3,500	30	1 or more bedroom apts. = 1,000; efficiency apts. = 750.	25	Same as “R-4”	“	
Stores, shops, offices, clinics, studios, hotels, undertakers, other business places	....	....	....	25	15 ft. adjoining an “R” District, otherwise none.	“	
Other Permitted Uses.....	Same as in “R-4” District.						

(1) For built-up frontage, see Section 19.41.

Section 12

B-1—SHOPPING CENTER DISTRICT

- 12.00 The following regulations and other applicable regulations contained in other Sections shall apply in the B-1 Shopping Center District:
- 12.10 **PRINCIPAL PERMITTED USES**
- 12.101 Any Principal use or structure permitted and as regulated in the R-4 District, except as hereinafter modified.
- 12.102 A Unified Shopping Center consisting of a group of retail stores and personal service establishments, with their customary accessory uses and structures, intended primarily for the convenience of persons residing in the adjacent residential neighborhoods, and complying with the conditions specified in Section 12.30.
- 12.20 **ACCESSORY USES.** Accessory buildings and uses customarily incidental to any principal use, including those permitted in the R-4 District and others.
- 12.30 **REQUIRED CONDITIONS.** A Unified Shopping Center shall be permitted only after submission to and approval by the Planning Commission of the site plans and general building plans therefor, together with such specifications as may be required for the purpose of administering these regulations. Enlargement or reconstruction of an existing center shall be subject to the same approval. No such center shall be approved unless it is found by the Planning Commission to meet with the following requirements:
- 12.301 Each Unified 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.
- 12.302 The uses to be permitted in any Unified Shopping Center shall be limited to the following:
- 12.302a Any Principal use permitted in the B-0 District except a dwelling, and without the conditions specified in Section 11.20.
- 12.302b Retail stores, shops, and service establishments supplying commodities or performing services primarily to meet the ordinary day-to-day needs of the residents of nearby areas,—such as food stores, bakeries, drug stores, shoe and clothing stores or repair shops, laundries, clothes cleaning shops, barber and beauty shops, hardware and accessory stores, variety stores, antique shops, gift shops, record shops, branch

- banks, savings and loan offices, doctor's offices, real estate offices, and the like.
- 12.302c Restaurants, cafes, or soda fountains, not including dancing or entertainment.
- 12.302d Automobile service stations.
- 12.302e Any other retail business or service establishment that may be determined by the Commission to be of the same general character as the above-permitted uses and consistent with the over-all objectives and purposes of the Unified Shopping Center, but not including any use first permitted in the B-2 District and which, in the judgment of the Commission, would likely be objectionable in such center, nor any use not permitted in the B-2 District.
- 12.302f The manufacturing, processing, or treatment of goods for sale primarily at retail on the premises, or the cleaning, laundering, repairing, or other treatment of objects as a retail service to customers on the premises, in which manufacturing, processing, cleaning, laundering, repairing, and treatment not more than 5 persons shall be engaged at any one time.
- 12.303 All businesses, services, or processing 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 Planning Commission in connection with site plan approval.
- 12.304 Goods shall consist primarily of new merchandise or of bona-fide antiques.
- 12.305 Processes and equipment employed and goods processed or sold 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.
- 12.306 No building within the center shall be used for dwelling purposes.
- 12.307 The aggregate site area of all buildings shall not exceed twenty-five (25) per cent of the lot area.
- 12.308 Paved parking areas shall be provided on the site, with a gross area at least twice as great as the gross site area of the buildings, but in no case less than 75 per cent of the aggregate of individual requirements specified in Sections 17.20 and 17.21.
- 12.309 Paved truck-loading and delivery spaces shall be provided on the site separate from the parking areas, and adequate to meet the needs of the several component establishments.

- 12.310 Where located directly opposite the frontage of any lots in an "R" District, the parking and loading areas shall be distant at least 25 feet from the established street right-of-way line, and the buildings at least 100 feet from such line; otherwise, such areas shall be at least 10 feet from every property line and the buildings at least 50 feet therefrom; and the intervening spaces shall be landscaped and well maintained.
- 12.311 Flood-lights or spot-lights 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.
- 12.312 The site plan shall make adequate provision for the effective separation and protection of pedestrians from traffic, by sidewalks, islands, and otherwise; for well-defined entrances and exits with proper consideration for traffic controls and movements; and for effective drainage, lighting, directory signs, landscaping, and all other pertinent features of a thoroughly well-designed, safe, and attractive shopping center.
- 12.313 Exterior signs shall pertain only to the uses conducted on the premises, and shall not exceed in the aggregate two (2) square feet of area for each linear foot of building frontage. Such signs shall be integral with or attached to the principal building and shall not project more than two (2) feet from the front thereof unless attached to a marquee or sidewalk canopy, nor more than three (3) feet above the parapet wall or roof line; provided, however, that for an automobile service station such a sign, displaying only the identifying name or symbol of such station, may be supported on a free-standing structure located in front of such station but not projecting over the street line and not located within less than fifty (50) feet of the side of any adjacent lot in any "R" or "B-0" District. No such free-standing sign shall exceed fifteen (15) feet in total height and its sign areas together with all other signs on the lot shall not exceed in the aggregate the maximum permitted hereinabove.
- 12.314 In addition to the signs permitted by Section 12.313, each Unified Shopping Center shall be permitted one (1) free-standing sign for each of not more than two major streets upon which such center fronts, displaying only the name of the shopping center as a whole and a subordinate bulletin board. Every such sign shall be located at

least twenty-five (25) feet back from the right-of-way lines of all streets and at least fifty (50) feet from the side lot line of any adjacent lot in any "R" or "B-0" District. No such sign shall exceed twenty-five (25) feet in total height and the total area of all such signs on any shopping center shall not exceed one hundred (100) square feet. A double-faced sign shall be counted and measured as one sign.

- 12.315 Directional and other incidental signs, not exceeding four (4) square feet in area for any one sign, nor an aggregate of sixteen (16) square feet for any one establishment, shall be permitted in connection with the operation of an automobile service station or similar facility—provided such signs do not extend over any street right-of-way lines nor otherwise obstruct or impair the safety of pedestrians or motorists.
- 12.316 All signs within a center shall be controlled by written agreement between the owners and tenants thereof, or otherwise, to avoid excessive advertising and insure a harmonious appearance to the center as a whole.
- 12.40 **PROCEDURE.** In considering an application and plans for a Unified Shopping Center, the Planning Commission shall investigate and ascertain whether the location, size, and other characteristics of the site, and the proposed plan, comply with the following conditions:
- 12.401 The proposed shopping center is adequate, but not excessive, in size to provide adequate neighborhood or community shopping facilities, as the case may be, for the population which reasonably may be expected to be served by such shopping facilities.
- 12.402 The proposed shopping center is at a location where traffic congestion does not exist at present on the streets or roads to be utilized for access to the proposed shopping center, and where such congestion will not likely be created by the proposed center; or where such congestion will be obviated by presently projected improvements of access roads, by demonstrable provision in the plan for proper entrances and exists, and by internal provisions for traffic and parking.
- 12.403 The plan provides for a shopping center consisting of one or more groups of establishments in buildings of integrated and harmonious design, together with adequate and properly arranged traffic and parking facilities and landscaping, which will be an attractive and efficient shopping center, convenient, pleasant and safe to use, and which will fit harmoniously into, and will have no adverse effects upon, the adjoining or surrounding development.

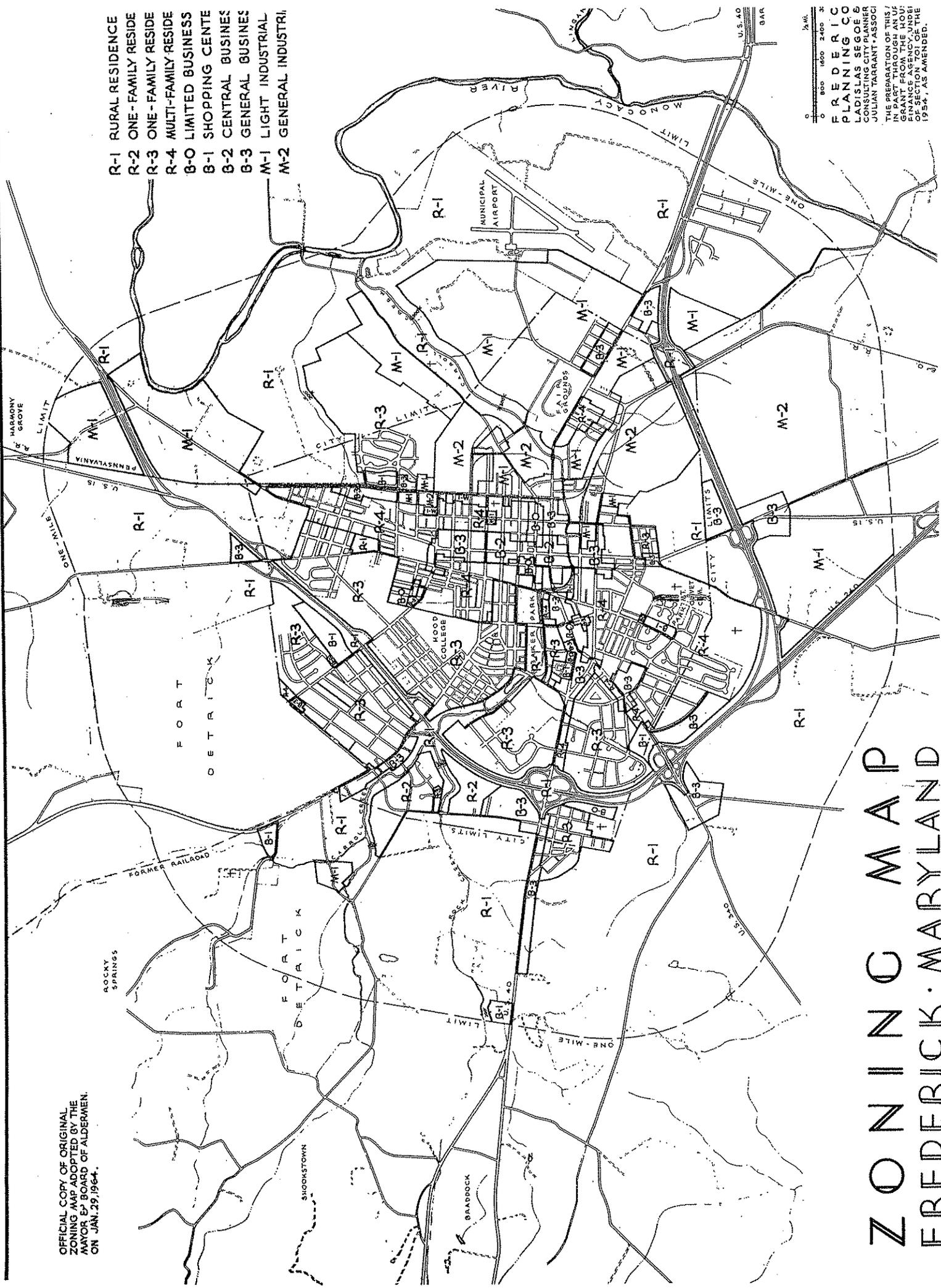
- 12.41 If such project is found by the Commission to comply with these requirements and conditions, and to be acceptable in all other respects as well, it shall approve the plans and specifications and authorize the issuance of building permits in accordance therewith; otherwise the Commission shall disapprove such plans or specifications and no building permit shall be issued.
- 12.50 **HEIGHT REGULATIONS.** No structure shall exceed two (2) stories or thirty (30) feet, except as provided in Section 19.20 and except that farm structures may be built to any required height.
- 12.60 **LOT AREA, LOT WIDTH, AND YARD REQUIREMENTS.** The following minimum requirements shall be observed, subject to the modified requirements contained in Section 19:

	Min. Lot Area	Min. Lot Width	Lot Area per Family	Front Yard ⁽¹⁾ (depth)	SIDE YARDS	
					(width—each side)	Rear Yard (depth)
<i>feet</i>						
Dwellings or residential parts of other buildings			Same as in "R-4" District.			
Other Principal Permitted Uses	25 (²)	None required except adjoining any "R" or "B-O" District, in which case not less than 15 feet.	40 ft. adjoining an "R" or "B-O" District; otherwise none.
Unified Shopping Center.....	(³)	(³)	(³)

(1) For built-up frontages, see Section 19.41.
 (2) Or greater as may be specified elsewhere in this Ordinance.
 (3) See Section 12.40.

OFFICIAL COPY OF ORIGINAL ZONING MAP ADOPTED BY THE MAYOR & BOARD OF ALDERMEN. ON JAN. 29, 1964.

- R-1 RURAL RESIDENCE
- R-2 ONE-FAMILY RESIDE
- R-3 ONE-FAMILY RESIDE
- R-4 MULTI-FAMILY RESIDE
- B-0 LIMITED BUSINESS
- B-1 SHOPPING CENTRE
- B-2 CENTRAL BUSINESS
- B-3 GENERAL BUSINESS
- M-1 LIGHT INDUSTRIAL
- M-2 GENERAL INDUSTRIAL



0 500 1000 2400 3000
 1/4 MI.
FREDERICK PLANNING CO.
 LADYSLAS SEGOE
 CONSULTING CITY PLANNER
 JULIAN TARRANT - ASSOCI
 THE PREPARATION OF THIS MAP WAS PART OF A PROJECT GRANT FROM THE HOUSING AND COMMUNITY DEVELOPMENT FINANCE AGENCY UNDER THE HOUSING ACT OF 1954, AS AMENDED.

ZONING MAP FREDERICK · MARYLAND

Section 13

B-2—CENTRAL BUSINESS DISTRICT

- 13.00 The following regulations and other applicable regulations contained in other sections shall apply in the B-2 Central Business District:
- 13.10 **PRINCIPAL PERMITTED USES**—subject to the conditions in Section 13.30:
- 13.101 Any Principal or Conditional Use or structure permitted in the B-0 and B-1 Districts (without the same conditions), except an automobile service station, and except as otherwise modified by this Section.
- 13.102 Any retail store, shop or service establishment such as a department store, specialty shop, theatre, hotel, motel, undertaker, bus depot, radio broadcasting studio, newspaper plant, bank, small loan office, furniture, radio or appliance store, or automobile supply or service store,—except any use first permitted in the B-3 District or any use not permitted in the B-3 District.
- 13.103 Commercial or municipal parking lots and structures.
- 13.104 Radio and similar communications towers, broadcasting stations, and equipment.
- 13.20 **ACCESSORY USES.** Accessory buildings and uses customarily incidental to any principal use, including those permitted in the B-0 and B-1 Districts and also the following:
- 13.201 Exterior signs pertaining only to the uses conducted on the premises, and not exceeding in the aggregate three (3) square feet in area for each linear foot of building frontage. Such signs shall be integral with or attached to the principal building and shall not project more than thirty (30) inches into a street right-of-way, unless attached to a marquee or sidewalk canopy.
- 13.30 **REQUIRED CONDITIONS.**
- 13.301 All businesses, services, or processing shall be conducted within buildings except for the parking, loading, unloading or servicing of vehicles, or unless permitted by the Board of Appeals as an Exception.
- 13.302 Goods shall consist primarily of new merchandise or of bona fide antiques.
- 13.303 Processes and equipment employed and goods processed, stored, or sold 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.

13.40 **HEIGHT REGULATIONS.** No structure shall exceed eight (8) stories or ninety (90) feet, except as provided in Section 19.20 and except that farm structures may be built to any required height.

13.50 **LOT AREA, LOT WIDTH, AND YARD REQUIREMENTS.** The following minimum requirements shall be observed, subject to the modified requirements in Section 19:

	Min. Lot Area	Min. Lot Width	Front Yard (depth)	SIDE YARDS		Rear Yard (depth)
				Least Width	Sum of Least Widths	
Dwellings or residential parts of other buildings			Same as in "B-O" District.			
Non-residential buildings.....	None	None	None	None except when adjoining "R" or "B-O" District, then not less than 3 ft.		20 ft. adjoining an "R" or "B-O" District, otherwise none.

Section 14

B-3—GENERAL BUSINESS DISTRICT

- 14.00 The following regulations and the applicable regulations contained in other Sections shall apply in the B-3 General Business District:
- 14.10 **PRINCIPAL PERMITTED USES**—subject to the conditions in Sec. 14.40:
- 14.101 Any use or structure permitted and as regulated in the B-2 District, except as hereinafter modified.
- 14.102 Automobile, tire, battery, bicycle, or mobile-home sales, service, hire, or repairing; provided that all repairing operations shall be conducted within enclosed buildings.
- 14.103 Garages and automobile repair shops; provided that all repairing operations shall be conducted within enclosed buildings.
- 14.104 Tourist homes (other than accessory uses permitted in the R-3 District).
- 14.105 Bowling alleys, skating rinks, pool halls, and other commercial recreation or amusement places if within enclosed buildings.
- 14.106 Automobile service stations.
- 14.107 Printing and publishing establishments, upholstery shops, carpenter shops, and sign painting shops.
- 14.108 Retail lumber and building supply yard, including incidental mill work, provided such yard is enclosed on all sides by a secure chain-link or painted picket fence not less than six (6) feet high, without advertising matter thereon.
- 14.109 Sales stands.
- 14.110 Wholesale houses having display and sales rooms,—not including flammable liquids or explosives.
- 14.111 The following uses subject to compliance with the distance requirements in Section 6.18:
- 14.1111 Drive-in eating and drinking places, summer gardens, and road houses, including dancing and entertainment—provided the principal building shall comply with the specified distance requirements.
- 14.1112 Truck, trailer, tractor, farm implement, road machinery, motorcycle, and similar equipment sales, service, hire, or light repairing.
- 14.1113 Commercial swimming pools, golf driving ranges, and miniature golf.

- 14.112 Any other use that may be determined by the Board of Appeals to be of the same general character as the foregoing permitted uses, including any kind of manufacturing or treatment incidental to the conduct of a retail business on the premises, except a use that is first permitted or is prohibited in the M-1 District.
- 14.20 **CONDITIONAL USES REQUIRING APPEALS BOARD AUTHORIZATION.**
- 14.201 Riding academies, pony rides, and other commercial places where horses and similar animals are kept.—subject to two (2) times the distance requirements in sub-section 6.18.
- 14.202 Drive-in theatres, ball parks,—subject to two times the distance requirements in sub-section 6.18.
- 14.203 Carnivals, amusement parks, and circuses—subject to 3 times the distance requirements in sub-section 6.18.
- 14.204 Veterinary hospitals and clinics, on sites of not less than two (2) acres each, subject to the distance requirements in sub-section 6.18 and provided that all facilities for the keeping and handling of animals, including loading docks, exercise areas, etc., are within the buildings and are fully sound-proofed and air-conditioned with no open runways, pens, animal lots, refuse piles, or the like.
- 14.30 **ACCESSORY USES.** Accessory buildings and uses customarily incidental to any principal use, including those permitted in the B-2 District and also the following:
- 14.301 Exterior signs pertaining to the uses conducted on the premises and not exceeding in the aggregate two (2) square feet in area for each linear foot of building frontage. Such signs may be located anywhere on the lot but shall not project more than thirty (30) inches into a street right-of-way unless attached to a marquee or sidewalk canopy. If attached to a free-standing structure, no such sign and structure shall exceed 25 feet in height. If attached to a building, no such sign shall project above the height limit prescribed herein for a building. No sign or billboard shall face upon any adjoining lot in an "R" or "B-0" District.
- 14.40 **REQUIRED CONDITIONS.** Processes and equipment employed and goods processed, stored, or sold 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.

14.50 **HEIGHT REGULATIONS.** No building or structure shall exceed three (3) stories or forty (40) feet in height, except as provided in Sec. 19.20 and except that farm structures may be built to any required height.

14.60 **LOT AREA, LOT WIDTH, AND YARD REQUIREMENTS.** The following minimum requirements shall be observed, subject to the modified requirements contained in Section 19:

	Min. Lot Area	Min. Lot Width	Lot Area per Family	Front Yard ⁽¹⁾ (depth)	SIDE YARDS	
					(width—each side)	Rear Yard (depth)
Dwellings and other "R" District Uses.....			Same as "B-O" Dist.-	20 ft.	—Same as in "B-O" Dist.	
Other Permitted Uses.....	20 ft. (²)	10 ft. adjoining "R" or "B-O" Dist., otherwise none (²)	20 ft. adjoining "R" or "B-O" Dist., otherwise none (²)

(1) For built-up frontage, see Section 19.41.
 (2) Except as may be specified elsewhere in this Ordinance.

Section 15

M-1—LIGHT INDUSTRIAL DISTRICT

- 15.00 The following regulations, and the applicable regulations contained in other Sections, shall apply in the M-1 Light Industrial District:
- 15.10 **PRINCIPAL PERMITTED USES**—subject to the conditions in Sec. 15.30:
- 15.101 Any use or structure permitted and as regulated in the B-3 District, **except** dwellings, schools, hospitals, churches, clinics, and other institutions for human care; provided, however, that any of such excepted uses legally existing in the M-1 District at the time of the adoption of this Ordinance, or any amendment hereto, shall not be subject to any of the limitations or other regulations prescribed in this Ordinance for non-conforming uses.
- 15.102 The manufacturing, compounding, processing, canning, packaging, or treatment of cosmetics, pharmaceuticals, and food products **except** fish and meat products, sauerkraut, vinegar, yeast, and the rendering or refining of fats and oils. (See Sec. 15.301).
- 15.103 The manufacturing, compounding, assembling, or treatment of articles of merchandise from previously prepared materials such as bone, cloth, cork, fibre, leather, paper, plastics, metals (except where punch presses of over twenty (20) tons rated capacity are employed), stone, thread, tobacco, wax, yarns, or wood (except where saw mills or planing mills are employed). (See Sec. 15.301).
- 15.104 Manufacture of musical instruments, novelties, and moulded rubber or plastic products. (See Sec. 15.301).
- 15.105 Manufacture or assembly of electrical appliances, instruments, and devices. (See Sec. 15.301).
- 15.106 Manufacture of pottery or other similar ceramic products using only previously pulverized clay and kilns fired only by electricity or gas (See Sec. 15.301).
- 15.107 Laboratories—chemical, physical, and biological. (See Sec. 15.301).
- 15.108 The manufacture and repair of electric signs, advertising structures, and light sheet metal products such as heating and ventilating equipment. (See Sec. 15.301).
- 15.109 Plumbing and roofing shops. (See Sec. 15.301).
- 15.110 Enameling, lacquering, or japanning, when accessory to a principal permitted use. (See Sec. 15.301).

- 15.111 Storage warehouses or distributing plants, except for flammable liquids or explosives. (See Sec. 15.301).
- 15.112 The following uses subject to compliance with two (2) times the distance requirements in Sec. 6.18, as well as the conditions in Sec. 15.30:
- 15.11201 Automobile, truck, trailer, bus, implement, or similar equipment assembly or major repair shops; auto body or paint shops; tire recapping plant. (See Sec. 15.301).
 - 15.11202 Bakeries, laundries, and dry cleaning and dyeing plants, not elsewhere permitted. (See Sec. 15.301).
 - 15.11203 Blacksmith, welding or machine shops, excluding drop hammers and the like. (See Sec. 15.301).
 - 15.11204 Bottling plants for soft drinks. (See Sec. 15.301).
 - 15.11205 Creameries or milk processing and bottling plants, or distribution stations for dairy products. (See Sec. 15.301).
 - 15.11206 Ice or cold storage plant. (See Sec. 15.301).
 - 15.11207 Foundry casting lightweight non-ferrous metals, or electric foundry not producing noxious fumes or odors. (See Sec. 15.301).
 - 15.11208 Freight stations or truck terminals (See Sec. 15.301).
 - 15.11209 Bag, carpet, and rug cleaning plants, provided necessary equipment is installed and operated for the effective precipitation or recovery of dust. (See Sec. 15.301).
 - 15.11210 Building material sales or storage yards; lumber yards, including millwork; contractor's equipment storage yards or plants or storage and rental of equipment commonly used by contractors; storage and sale of feed or solid fuel, including custom grinding of feed, provided dust is effectively controlled; storage yards for vehicles of a delivery or draying service; storage of construction or maintenance vehicles, equipment, and supplies (such as poles, pipe, cable, or wire).
 - 15.11211 Underground storage of inflammable liquids, not to exceed 40,000 gallons.
 - 15.11212 Railroad yards and engine service facilities.
 - 15.11213 Electric sub-stations, water treatment plants and water tanks, standpipes, and pumping stations.
- 15.113 Billboards, not exceeding 500 square feet in area or 25 feet in height, each.
- 15.114 Fairgrounds maintained and operated by a public agency or a recognized non-profit fair association; provided

that any part of such grounds used for a carnival, amusement park, circus, motor drome, or racetrack, for motor vehicles, or livestock barns and sheds, shall be located at least 60 feet from any "R" district or "B-0" district.

- 15.115 Any other use that may be determined by the Board of Appeals to be of the same general character as the foregoing permitted uses, but not including any use that is first permitted or is prohibited in the M-2 District.
- 15.20 **ACCESSORY USES.** Accessory buildings and uses customarily incidental to any principal use, including those permitted in the B-3 District and others.
- 15.30 **REQUIRED CONDITIONS.**
- 15.301 All uses specified in Sections 15.102 through 15.11209, inclusive, shall be conducted wholly within a completely enclosed building, except for parking, loading, and unloading facilities.
- 15.302 No use shall be permitted to be established or maintained which by reason of its nature or manner of operation is or may become hazardous, objectionable, or offensive, by explosion, fire, or the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, radiation, refuse matter, or water-carried waste.
- 15.40 **HEIGHT REGULATIONS.** No structure shall exceed three (3) stories or forty (40) feet in height; except as provided in Section 19.20 and except that farm structures may be built to any required height.
- 15.50 **YARD REQUIREMENTS.** The following requirements shall be observed subject to the modified requirements contained in Section 19:

Front yard Depth	Side yard Widths	Rear yard Depth
25 ft. (1)	10 ft. adjoining an "R" or "B-O" dis- trict; otherwise none (1)	30 ft. adjoining an "R" or "B-O" dis- trict; otherwise none (1)

(1) Or greater as may be specified elsewhere in this Ordinance.

Section 16

M-2—GENERAL INDUSTRIAL DISTRICT

- 16.00 The following regulations and the applicable regulations contained in other Sections shall apply in the M-2 General Industrial District:
- 16.10 **PRINCIPAL PERMITTED USES**—subject to the conditions in Sec. 16.50:
- 16.101 Any use not prohibited altogether in the M-2 District, by this Section or by any other law or ordinance, subject to the following locational restrictions for specified uses:
- 16.102 The following uses when located not less than 300 feet from any "R" or "B-0" District and not less than 100 feet from any other "B" District:
- Asbestos manufacturing.
 - Boiler shops, structural steel fabricating shops, car or locomotive shops, metalworking shops employing any reciprocating hammers or any punch presses over 20 ton rated capacity.
 - Brewery, or distillation of alcohol.
 - Brick, pottery, tile or terra cotta manufacturing.
 - Candle or sperm oil manufacturing.
 - Coal yards.
 - Concrete or paving materials mixing or batching plants, and manufacturing of concrete products.
 - Cooperage works.
 - Crematory.
 - Creosoting or pressure-treating of wood.
 - Disinfectant, insecticide, or poison manufacturing.
 - Dye or dyestuff manufacturing.
 - Electric generating plant.
 - Enameling, lacquering, or japanning.
 - Emory cloth or sandpaper manufacturing.
 - Feed, flour, or grain mill.
 - Felt manufacturing.
 - Forge or foundry works.
 - Gas generation or storage, for heating or illumination, including liquefied gas.
 - Grain drying, or poultry feed manufacturing from refuse, mash, or grain.
 - Hair or hair products manufacturing.
 - Inflammable liquid storage, underground in any amount, or above ground if less than 40,000 gallons.
 - Linoleum, celluloid, oil cloth, or oiled goods manufacturing.
 - Livestock sales yards and buildings.
 - Match manufacturing.
 - Meat packing; but not stockyards or slaughterhouses.

Oil, paint, shellac, turpentine, varnish, or enamel manufacturing, or the grinding of colors by machine.

Paper or pulp manufacturing.

Perfume manufacturing.

Pickle, sauerkraut, or sausage manufacturing.

Plaster manufacturing.

Poultry slaughtering, including packing and storage, for wholesale.

Printing ink manufacturing.

Radium extraction.

Rubber, caoutchouc, gutta percha, or balata manufacturing or treatment.

Sandblasting or cutting.

Sawmill, planing mill, or the manufacture of excelsior, wood fibre, or sawdust products.

Sewage disposal plant.

Shoddy manufacturing.

Shoe blacking or polish or stove polish manufacturing.

Stone or monument works employing power-driven tools.

Sugar refining.

Tar or asphalt roofing or water-proofing manufacturing.

Tar distillation or manufacturing.

Veterinary hospital or clinic.

Vinegar manufacturing.

Wire or rod drawing, or nut, screw, or bolt manufacturing.

Yeast manufacturing.

Any other use which, in the opinion of the Board, is of a similar character to those specified above.

16.103 Quarrying, mining, crushing, washing, screening, storage, and transportation of stone, gravel, sand, soil, or clay, on land already owned by a company engaged in such operations on May 1, 1962; **provided** no such quarrying or mining operations shall be conducted within 100 feet of any property line and no crushing, washing, or screening plant shall be located within 600 feet of any "R" or "B-0" District or within less than 200 feet of any other "B" District; and **provided also** that all such uses shall comply with the pertinent requirements in Sec. 18.40.

16.20 **CONDITIONAL USES REQUIRING APPEALS BOARD AUTHORIZATION**—and subject to the conditions in Sec. 16.50:

16.201 The following uses when the location of each use shall have been authorized by the Board of Appeals, provided

that any such use shall be located at least 600 feet from any "R" or "B-0" District and at least 200 feet from any other "B" District:

Abattoirs and slaughter houses or stock yards.
 Acetylene manufacture or storage in excess of 15 pounds pressure per square inch.
 Acid manufacturing or wholesale storage of acids.
 Ammonia or bleaching powder manufacturing or bleaching plants.
 Asphalt products plants.
 Cement plants, lime kilns.
 Distillation of bones, coal, wood, turpentine, or varnish.
 Explosives or fireworks manufacturing or storage.
 Fat rendering.
 Fertilizer manufacturing.
 Garbage, offal, or dead animal reduction or dumping.
 Glue manufacturing.
 Inflammable liquids refining, or storage above ground in excess of 40,000 gallons.
 Junk yards including auto wrecking yards, provided every such premises shall be enclosed by a solid board fence or wall not less than 6 feet high.
 Quarrying, mining, crushing, washing, screening, storage, and transportation of stone, gravel, sand, soil, or clay; provided that all such uses shall comply with the requirements in Sec. 18.40.
 Smelting or reduction of ores or metallurgical products.
 Soap manufacturing, except from vegetable oils.
 Any other use which in the opinion of the Board is of a similar character to those specified above.

- 16.30 **ACCESSORY USES**—subject to the conditions in Section 16.50:
- 16.301 Accessory uses and structures permitted and as regulated in the M-1 District, except as hereinafter modified.
- 16.302 Other uses and structures customarily accessory and incidental to a permitted principal use or an authorized conditional use, except of a type which is permitted only subject to Board Authorization.
- 16.40 **PROHIBITED USES**
- 16.401 Any use in conflict with any Ordinance of the City of Frederick or of Frederick County, or law of the State of Maryland, regulating nuisances.
- 16.402 Any dwelling, school, hospital, church, clinic or other institution for human care; provided, however, that any

such use which is incidental to a permitted principal use shall be a permitted use, and provided further that any such use legally existing in the M-2 District at the time of the enactment of this Ordinance, or any amendment hereto, shall not be subject to any of the limitations or other regulations prescribed for non-conforming uses elsewhere in this Ordinance.

16.403 Any trailer park.

16.50 **REQUIRED CONDITIONS**

16.501 The best practicable means available for the disposal of refuse matter of water-carried waste, the abatement of obnoxious or offensive odors, dust, smoke, gas, noise, vibration, radiation, or similar nuisance, and protection against fire and explosion, shall be employed.

16.502 The requirement in Sec. 15.301, that certain businesses, services, or processing permitted in the M-1 District be conducted within a completely enclosed building, shall not apply in the M-2 District.

16.60 **HEIGHT REGULATIONS.** No structure within six hundred (600) feet of any "R" or "B-0" District shall exceed three (3) stories or fifty (50) feet in height, except as provided in Section 19.20 and except that farm structures may be built to any required height.

16.70 **YARD REQUIREMENTS.** The following requirements shall be observed, subject to the modified requirements contained in Section 19:

Front yard Depth	Side yard Widths	Rear yard Depth
25 ft. (1)	50 ft. adjoining an "R" or "B-O" dis- trict; otherwise none (1)	50 ft. adjoining an "R" or "B-O" dis- trict; otherwise none (1)

(1) Or greater as may be specified elsewhere in this Ordinance.

Section 17

**PARKING AND LOADING AREAS, PUBLIC GARAGES,
PARKING LOTS AND FILLING STATIONS**

- 17.10 **OFF-STREET LOADING SPACES REQUIRED.** In any district, in connection with every building or part thereof hereafter erected having a gross floor area of ten thousand (10,000) square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning, or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one (1) off-street loading space, plus one (1) additional such loading space for each twenty thousand (20,000) square feet or major fraction thereof gross floor area so used in excess of the first twenty thousand (20,000) square feet.
- 17.11 Each loading space shall be not less than ten (10) feet in width, forty-five (45) feet in length, and fourteen (14) feet in clear height.
- 17.12 Such space may occupy all or any part of any required yard or court space, except a front yard.
- 17.13 No such space shall be located closer than fifty (50) feet to any other lot located in any "R" or "B-0" District, unless the loading space is wholly within a completely enclosed building or unless enclosed on all sides by a wall or uniformly painted board fence not less than six (6) feet in height.
- 17.20 **OFF-STREET PARKING AREAS REQUIRED.** In all districts there shall be provided in connection with every industrial, commercial, business, trade, institution, recreational, dwelling, or other use, space for the parking and storage of vehicles off the street sufficient to meet the full requirements of each use, but not less than indicated by the following schedule:
- Automobile Sales and Service Garages—50 percent of gross floor area.
 - Banks, Business and Professional Offices other than a physician's office—50 percent of gross floor area.
 - Bowling Alleys—5 spaces for each alley.
 - Churches and Schools—1 space for each 4 seats in a principal auditorium or one space for each 10 classroom seats, whichever is greater.
 - Dance Halls, Assembly Halls, Skating Rinks—200 percent of floor area used for dancing, assembly, or skating.

- Dwellings—1 parking space for each family or dwelling unit.
- Funeral Homes, Mortuaries—4 spaces for each parlor or 1 space for each 50 square feet of gross floor area, whichever is greater.
- Furniture and Appliance Store, Household Equipment or Furniture Repair Shops, over 1,000 square feet of gross floor area—100 percent of gross floor area.
- Hospitals and Nursing Homes—1 space for each 2 beds.
- Hotels, Lodging Houses—1 space for each 2 bedrooms.
- Manufacturing Plants—1 space for each 2 employees on the maximum working shift or 25 percent of gross floor area, whichever is greater.
- Doctor's Office (except an accessory home office without employees)—8 parking spaces per doctor.
- Restaurants, Beer Parlors and Night Clubs, over 1,000 square feet gross floor area—200 percent of gross floor area.
- Retail Stores, Supermarkets, etc., over 2,000 square feet gross floor area—200 percent of gross floor area.
- Retail Stores, shops, etc., under 2,000 square feet gross floor area—100 percent of gross floor area.
- Sports Arenas, Auditoriums other than in Schools—1 parking space for each 2 seats.
- Theatres, Assembly Halls with fixed seats—1 parking space for each 2 seats.
- Wholesale Establishments or Warehouses—1 space for each 2 employees or 10 percent of gross floor area, whichever is greater.
- 17.201 **Exception.** In the B-2 Central Business District no off-street parking areas shall be required for existing buildings; nor shall any such parking areas be required for any new building, addition, or use, for which the off-street parking requirement, as determined by the foregoing schedule, would be less than 100 spaces or 30,000 square feet; but for other buildings and uses the full parking requirement shall be met.
- 17.21 In the case of any building, structure, or premises, the use of which is not specifically mentioned herein, the provisions for the use which is so mentioned and to which said use is similar shall apply.
- 17.22 Except in the case of dwellings, no parking area provided hereunder shall be less than one thousand (1000) square feet in area.
- 17.23 Every parcel of land hereafter used as a public or private parking area for more than five (5) vehicles, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements:

- 17.231 It shall be effectively screened on each side which adjoins or is faced by any residential premises situated in any "R" or "B-0" District, or institutional premises, by an ornamental wall, or fence and compact evergreen hedge, except that no wall, fence, or hedge shall be required next to an existing wall or fence. Such wall or hedge shall be not less than four (4) feet or more than six (6) feet in height and shall be maintained in good condition without any advertising thereon.
- 17.232 Every such parking area shall be separated from any adjacent public walkway by an ornamental and protective wall at least two (2) feet high, located inside the property line; or in lieu of such wall, by a landscaped strip at least ten (10) feet wide protected by a wheel curb on the parking area side. In no case, however, shall any such parking area be closer to any street or alley than would be permissible for a principal or accessory building on the same premises.
- 17.233 It shall be surfaced so as to provide a durable and dustless surface, shall be so graded and drained as to dispose of all surface water accumulating within the area, and shall be so arranged and marked as to provide for orderly and safe loading or unloading and parking and storage of self-propelled vehicles.
- 17.234 Any lighting used to illuminate any off-street parking area, including any commercial parking lot, shall be so arranged as to direct the light away from adjoining premises in any "R" or "B-0" Districts, and from public streets.
- 17.235 All entrances and exists to and from such area shall open on or lead directly to a thoroughfare, insofar as practicable.
- 17.24 The Board of Zoning Appeals may authorize, in accordance with the provisions of Section 21.30, a modification, reduction, or waiver of any of the foregoing requirements if it should find, in the particular case appealed, that the peculiar nature of the residential, business, trade, industrial, or other use, or the exceptional situation or condition, would justify such modification, reduction, or waiver. In the "B-0" District, and in other districts as well, the Board shall give special consideration to the preservation of historic buildings and other buildings having special architectural or civic value, as a significant factor in authorizing a modification, reduction, or waiver of parking requirements. The Board shall also take into account, in any case appealed, any available or planned community parking area in the vicinity

of any building or use for which an off-street parking area is required hereunder, and may modify, reduce, or waive the individual requirement accordingly.

- 17.30 RESTRICTED ACCESSORY PARKING AREAS.** The Board of Appeals may authorize, subject to the provisions of Section 21.30, the establishment and operation of off-street parking areas in any "R" or "B-0" District adjoining any "B-1", "B-2", "B-3" or "M" District, subject to the following conditions and limitations:
- 17.301 The parking lot shall provide parking space for fifteen (15) or more self-propelled passenger vehicles.
- 17.302 It shall be accessory to and for use of one or more business or industrial establishments located in the adjoining "B" or "M" District; or it may be a municipally operated public parking lot.
- 17.303 It shall be located on premises having an area of not less than five thousand (5,000) square feet, which shall abut at least fifty (50) feet on a "B" or "M" District.
- 17.304 No charge shall be made for parking or storage of vehicles on any non-municipal lot.
- 17.305 Entrances and exits shall be located within the adjoining business or industrial district, or may be directly to a street or alley adjacent to the adjoining business or industrial district.
- 17.306 No commercial repair work, servicing, or selling of any kind shall be conducted on such areas, and no sign of any kind other than those indicating entrances, exits, and conditions of use shall be erected thereon.
- 17.307 The application shall be accompanied by the names and addresses of all property owners within one hundred (100) feet of the premises in question, in the "R" or "B-0" District, who shall be given an opportunity to be heard at a public hearing by the Board in connection with the consideration of such application.
- 17.308 In addition to the above, the Board may prescribe further requirements or conditions deemed necessary or desirable in respect to surfacing, marking, lighting, wall, fencing, planting, conditions of operation, and the like, for protection of the adjacent property and the public safety.
- 17.31 A zoning certificate issued for such accessory parking areas under the above provisions shall be revocable, subject to continued compliance with the requirements and conditions.

17.40 FILLING STATIONS, PUBLIC GARAGES AND PARKING LOTS.

- 17.41 No gasoline filling station, or a commercial, customer, or employee parking lot for more than five (5) motor vehicles, or a public garage or automobile repair shop, shall have an entrance or exit for vehicles within three hundred (300) feet along the same side of a street of the premises of any school, public playground, church, hospital, public library, or institution for dependents or for children, except where such property is in another block or on another street which the lot in question does not abut, or is accessory to such use; and no part of any such gasoline filling station, parking lot, garage or shop shall be located within one hundred (100) feet of any of the said public, semi-public, or institutional buildings or properties.
- 17.42 No gasoline filling station or public garage shall be permitted where any oil draining pit or visible appliance for any such purpose, other than filling caps, is located within twelve (12) feet of any street lot line or within twenty-five (25) feet of any "R" or "B-0" District, except where such appliance or pit is within a building.
- 17.43 On all corner lots, all vehicular entrances to or exits from any gasoline filling station, or commercial, customer or employee parking lot for more than five (5) motor vehicles, or public garage or automobile repair shop, shall be set back a minimum of twenty-five (25) feet from the corner property lines extended or from the right-of-way lines determined as specified in Section 6.12. No such vehicular entrance or exit, whether on a corner lot or not, shall exceed forty (40) feet in width at the curb line, or thirty (30) feet at the property line; and there shall be a minimum of twenty (20) feet, measured along the curb line, between any two successive vehicular entrances or exits unless such entrances or exits are within 5 feet of one another.

Section 18

SPECIAL PROVISIONS

- 18.10 **TRAILER COACHES.** Parking of a trailer for residence purposes in any District shall be prohibited, except that one (1) trailer may be parked or stored in an enclosed garage or other accessory building provided it shall not be occupied for living or business purposes while parked or stored. Provided, however, that on a farm one trailer may be used as living quarters by 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 trailer shall be subject to the Distance Requirements in sub-section 6.18; and provided also that this regulation shall not prohibit the temporary parking, display, or storage of any trailer, or its temporary use as an office or other place of business, in any district in which such sales or business is permitted, on condition that such parking, display, storage, or use shall not continue for more than six (6) months.
- 18.20 **BILLBOARDS AND REAL ESTATE SIGNS**
- 18.21 **Outdoor Advertising Signs and Billboards.** Billboards, where permitted, shall be set back from the established right-of-way line of any street or highway at least as far as the required front yard depth for a principal building; provided, however, that at an intersection along any major street or highway any outdoor advertising sign or billboard shall not be less than one hundred (100) feet from the established right-of-way line of the intersecting road, unless separated therefrom by an existing building.
- 18.211 No such sign or billboard shall face any lot in any "R" or "B-0" District within one hundred (100) feet thereof; or any public park, public square, public or parochial school, library, church, or similar institution, or a historical shrine, building, or other landmark maintained as such by a public agency or a non-profit private organization such as a historical society, within three hundred (300) feet thereof.
- 18.22 **Real Estate Signs;** Temporary real estate signs advertising improved property shall be set back from the front lot line at least one-half ($\frac{1}{2}$) the distance required for a principal building; and no Zoning Certificate for the erection of such real estate sign shall be required provided it conforms with this and other provisions of this Ordinance. Other real estate signs shall be set back

from every street line at least a distance in feet equal to one-half ($\frac{1}{2}$) the number of square feet area of the sign; provided that such setback shall be not less than forty (40) feet from the established right-of-way line in any "R" District and not less than the front yard depth required for a principal building in any "B" or "M" District, except that such setback need not be more than one hundred (100) feet.

- 18.30 GARDEN HOUSING PROJECTS.** A housing project consisting of two or more single-family, two-family, or multi-family dwellings, and their customary accessory buildings and uses, arranged on a single lot in one ownership and meeting the lot area, height, yard, and other applicable requirements specified for the district in which it is proposed to be located, may be authorized by the Board of Appeals after public notice and hearing in accordance with Section 21.33. If proposed in the "R-3" District, such authorization shall not be granted until after receipt by the Board of a report from the Planning Commission approving the project as to location and other planning consideration, as follows:
- 18.301** Suitability of location in relation to major streets, other access streets, traffic conditions, adjacent land utilization, parks or other open spaces, water and sewer facilities, and the like.
- 18.302** Acceptability of proposed building arrangement and site development plan in relation to adjacent properties and to the public street system.
- 18.303** Provision as a part of the project of adequate recreational areas to serve the needs of the anticipated population to be housed in such project, but not less than five (5) per cent of the total area, and not less than six hundred (600) square feet for any one recreation area.
- 18.31** Upon receipt by the Board of the Planning Commission's approval and if the Board finds after public hearing that the proposed project will constitute a residential environment of continuing desirability and stability, in harmony with the character of the surrounding neighborhood and ensuing substantially the same or a higher standard of occupancy as obtains or may be expected to obtain in said neighborhood, that it will produce a degree of open space commensurate with that prevailing or specified in the district in which it is located, that there will be no use of the property other than for residential purposes and their customary accessory uses such as private garages, storage spaces, and recreational and community activities, that adjacent property will not be adversely

affected, and that the proposed project will be consistent with the intent and purpose of this Article to promote the public health, safety, morals, and general welfare, it may authorize the issuance of a Zoning Certificate therefor, under such conditions and limitations as it may specify in order to secure the foregoing objectives.

- 18.32 In the case of a garden housing project, in any district in which such project may be permitted, where the contemplated arrangement of buildings makes it impracticable to apply the normal lot, yard, and other requirements of this Article to the individual buildings in the project, the Board of Appeals may authorize such project notwithstanding its irregular arrangement, subject to the following conditions:
- 18.321 Every dwelling in such project shall front either on a street or other permanent public open space at least thirty (30) feet wide, or on a common yard or outer court. The width of such yard, if flanked by buildings on one side only, shall be at least equal to the height of the highest building fronting thereon, but not less than thirty (30) feet in any case; and if flanked on both sides by buildings, at least equal to one-half ($\frac{1}{2}$) the sum of the heights of said buildings, but shall not be less than fifty (50) feet in any case, and need not exceed eighty (80) feet. The width of an outer court shall conform to the requirements for such courts in sub-section 6.13. No structure of any sort other than an unenclosed shelter, terrace, fountain, or other ornamental feature shall be erected in any such yard or court.
- 18.322 Every dwelling in such project shall be not farther than sixty (60) feet from a roadway or drive having a right-of-way at least twenty (20) feet wide providing vehicular access to a public street, and not farther than five hundred (500) feet, measured along the route of vehicular access, from a public street or from a private street which has a paved width of at least twenty-four (24) feet and which connects with a public street at two (2) or more places.
- 18.323 Every room in each dwelling unit in such project, other than a bathroom, pantry, or other accessory room not for living or sleeping purposes, shall open upon a yard or outer court.
- 18.324 In respect to use, height, minimum lot size, lot area per family, and minimum yard requirements for the lot as a whole, such project shall conform to the requirements of this Article for the district in which it is to be located, except as modified hereinafter.

- 18.325 The least distances between separate buildings for dwelling purposes, wherein the "end" of a building shall be a wall, other than a front or rear wall, not longer than fifty (50) feet, shall not be less than the following:
- a. Between the front or rear of one building and the front or rear of another building: one-half ($\frac{1}{2}$) the sum of the heights of the opposing buildings, but not less than forty (40) feet in any case and need not exceed sixty (60) feet.
 - b. Between the front or rear of one building and the end of another building: three-tenths ($\frac{3}{10}$) of the sum of the heights of opposing buildings, but not less than thirty (30) feet in any case and need not exceed fifty (50) feet.
 - c. Between the end of one building and the end of another building, or between any part of any two buildings other than as hereinbefore provided: one-fifth ($\frac{1}{5}$) of the sum of the heights of opposing buildings, but not less than twenty (20) feet in any case and need not exceed forty (40) feet,—except that this distance may be reduced to ten (10) feet in case the perpendicular projection of a wall of one building would not overlap the other building more than ten (10) feet and provided there is no window in any wall thus overlapped.
- 18.326 The least distance between a building for dwelling purposes and an accessory building not for dwelling purposes, or between two such accessory buildings, shall not be less than one-half ($\frac{1}{2}$) the height of the higher of the two buildings, but not less than ten (10) feet in any case and need not exceed thirty (30) feet.
- 18.327 Off-street parking facilities shall be provided in accordance at least with the requirements of Section 17.20.
- 18.328 Recreation areas shall be provided in accordance with the requirements in sub-section 18.303.
- 18.40 **QUARRYING AND MINING.** The following provisions shall apply to all quarrying and mining operations, including strip mining, borrow pits, soil stripping, and the like, wherever permitted by this Ordinance:
- 18.401 All roads within the premises, and all machinery and equipment, shall be maintained and operated in such a manner as to minimize dust, noise, vibration, and other adverse features. In no event shall such machinery or equipment, whether movable or fixed, be permitted to create conditions hazardous to health or safety.
- 18.402 Access to such operations shall be from major streets or highways as directly as possible, avoiding residential streets.

- 18.403 Protective fencing shall be erected and maintained between any quarry or other pit and any public road or property line located within 100 feet thereof, and also about any quarry where the mining operations have ceased for a period of three (3) years. Such fencing shall be a chain-link fence at least six (6) feet high.
- 18.404 Whenever all mining operations on the premises are terminated, all quarries and pits not already fenced shall be fenced in the manner specified in the foregoing paragraph 18.403 and all fences previously erected shall be placed 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. Responsibility for so protecting, using, or disposing of the property shall rest in the owner of the property or his successors in title.
- 18.405 Mined-out areas shall be rehabilitated for some further use, and shall be placed in a safe and sightly condition. Sand, gravel, clay, or soil pits shall be drained if feasible, regraded, and planted if necessary, so as to minimize erosion and leave the property in a healthy and usable condition. Steep banks shall be graded down to not to exceed a four-to-one slope. In the case of borrow pits, the topsoil shall first be removed and stockpiled and then re-spread at the completion of the mining operation.
- 18.406 An application for a zoning permit for any use specified in this Section shall set forth the following information:
- (a) Name of the owner or owners of the property on which the mining or processing operation is to be conducted;
 - (b) Name of the applicant for the zoning permit;
 - (c) Name of the person or corporation which is to conduct the mining or processing operation;
 - (d) Location, size, general description, and a map of the area from which the removal is to be made;
 - (e) Kinds of materials to be removed;
 - (f) Proposed method of mining and processing;
 - (g) Description of the mining equipment to be used;
 - (h) Location and nature of the processing plant;
 - (i) Fuels to be used in the operation;
 - (j) Methods of dust control to be employed;
 - (k) Mode of transportation of materials, including access roads to be used from nearest major street or highway;
 - (l) Proposed methods of rehabilitation of mined-out areas.
- 18.407 Before authorizing any use specified in this Section, the Board shall obtain an adequate bond or other satisfac-

tory guarantee to ensure the provision of adequate fencing and the rehabilitation of the land as required herein.

- 18.41 Existing quarries, mines, and their buildings and other facilities, as of the time of enactment of this Ordinance, shall be subject to the following requirements:
- A. Where existing operation, buildings, or facilities meet the distance requirements specified in this Ordinance for the district in which they are located, such distances shall not be reduced to less than said distance requirements, and where the existing distances are already less they shall not be further reduced.
 - B. All such existing establishments shall be subject to compliance with the requirements and provisions of the foregoing sub-sections 18.401 through 18.405 inclusive.
- 18.50 **FALL-OUT SHELTERS.** Fall-out shelters, consisting of a structure or portion thereof designed for and intended to provide protection to human life during periods of danger to human life from nuclear fall-out, air raids, storms, or other emergencies, may be constructed, erected and maintained in any district as principal or accessory uses, subject to all yard and area requirements applicable in the district where located.
- 18.51 **Location and Yard Encroachments:** Such shelters may be contained in other structures or may be constructed separately. In "R" or "B-0" Districts, fall-out shelters may occupy any area or yard which may be occupied by a principal or accessory building. If entirely underground, fall-out shelters may be constructed within any yard, including front yards, which otherwise are required by this article to be kept and maintained free from buildings and structures; provided that no part of said underground shelter shall project above the average grade of such yard, including ventilating devices, and provided that no entrance or exit shall open into such yard.
- 18.52 **Joint Shelters:** The Board of Appeals may authorize, as a conditional use, construction of joint shelters by one or more property owners. In authorizing such joint shelters, the Board may modify or waive the side and rear yard requirements on the lot or lots directly involved in the construction of the joint shelter; provided that all applicable yard requirements shall be met where the lot involved in the joint shelter abuts property not included in the project.
- 18.53 **Other Uses for Shelters:** The Board of Appeals may permit a fall-out shelter to be used also for other pur-

poses permissible in the district in which the shelter is located, if the Board finds that all of the general requirements of this Article concerning such uses are satisfied, and also: (a) that the use other than as a shelter is compatible with the shelter proposed; (b) that the function as a shelter would not be materially impaired by the proposed use; and (c) that the use in question other than the shelter would have been authorized regardless of whether the shelter was involved.

- 18.54 **Approval by Civil Defense Authority.** As a precondition to the authorization by the Board of Appeals of any shelter for which such authorization is required herein, the applicant shall obtain from the local Civil Defense Authority a certificate of approval concerning the suitability and adequacy of the design of the proposed shelter.
- 18.60 **PLANNED UNIT DEVELOPMENTS.** In any "R" District, a plan for the subdividing and development of a tract of land comprising not less than thirty (30) acres may be submitted to the Planning Commission with written application for its approval, which development may include lots having less area or width than herein prescribed for the district in which it is located, and the Planning Commission, at its discretion, may approve such development and authorize the use of such lots provided the following conditions are met:
- 18.601 No lot in such development shall be reduced by more than twenty (20) per cent in area or width, or to less width than fifty (50) feet in any case.
- 18.602 The side yard widths may be reduced in proportion to the reduction in lot width.
- 18.603 The total number of lots in the development shall not exceed the number that would have been produced by a conventional plan in which all the lots are of at least the minimum size prescribed for the district.
- 18.604 Not less than twenty (20) per cent of the net residential area not including streets, church sites, or sites for other non-residential uses, nor less than five (5) acres altogether for any one development, shall be set aside for public or community uses such as recreation, education, or conservation, which areas shall be dedicated to the public. The locations, sizes, shapes, and other aspects of such open spaces shall be subject to approval by the Planning Commission, but no such area shall be less than three (3) acres in area unless it is an addition to an existing area intended for similar use.

- 18.605 The average area per lot of all lots in the subdivision (excluding non-residential lots) shall be not less than the minimum lot area prescribed for the same class of dwellings in the same district. For the purpose of determining such average, the areas of open space provided under sub-section 18.604 above shall be included.
- 18.606 Where any lots adjoin, a major highway or railroad, or a multi-family, commercial, industrial, or other non-residential area, the Planning Commission may require such lots to have at least the minimum size prescribed for the district.
- 18.61 In exercising its discretion as to the approval or disapproval of a Planned Unit Development, the Planning Commission shall be guided by considerations 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 residential environment of continuing desirability and stability, in harmony with the character of the surrounding neighborhood and ensuring substantially the same or a higher standard of occupancy as obtains or may be expected to obtain in said neighborhood, and that it will be desirable for the community in all other respects as well.

Section 19

GENERAL EXCEPTIONS AND MODIFICATIONS

- 19.00 The regulations specified in this Section shall be subject to the following exceptions, modifications, and interpretations:
- 19.10 **Use of Existing Lots of Record.** In any district where dwellings are permitted, a single-family dwelling may be located on any lot or plot of official record as of the effective date of this Ordinance, the owner 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 requirements:
- A. In the "R-1", "R-2", and "R-3" districts, the sum of the side yard widths of any such lot or plot need not exceed thirty-five (35) per cent of the width of the lot, but in no case shall any one side yard be less than fifteen (15) per cent of the width of the lot. In the "R-4" and "B" districts, the provisions of Section 10.51 shall govern.
 - B. The depth of the rear yard of any such lot need not exceed forty (40) per cent of the depth of the lot, but in no case shall it be less than twenty (20) feet.
 - C. In case the right-of-way of the street on which the lot fronts is less than fifty (50) feet wide, the depth of the front yard shall be the required depth for the district plus twenty-five (25) feet, measured from the center line of the street.
- 19.20 **Structures permitted above Height Limit.** The building height limitations of this Ordinance shall not apply to:
- 19.21 Penthouses or roof structures for housing stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building; fire or parapet walls, belfries, towers, steeples, domes, flag poles, silos, smoke stacks, chimneys, masts, water tanks, monuments, or other roof superstructures that project into the air.
- 19.22 Bulkheads, elevator pent houses, water tanks, monitors, and scenery lofts, provided no linear dimension of any such structure exceeds fifty (50) per cent of the corresponding street lot line frontage; or to towers, monuments, fire towers, hose towers, cooling towers, grain elevators, gas holders, derricks, 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 twenty-five (25) per cent of the area of the lot and shall be distant not less than twenty-five (25) feet in all parts from every lot line not a street lot line.

- 19.23 Churches, schools, institutional buildings, public utility buildings and structures, and any buildings or structure in the "M-2" district if not less than six hundred (600) feet distant from any "R" or "B-0" district; provided that for each three (3) 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 (1) foot for each three (3) feet of such excess height.
- 19.30 **Area Requirement Modifications.**
- 19.31 In any district or in any case where lots of less than twenty thousand (20,000) square feet area or one hundred (100) feet width are permitted, such lots shall be connected to the city water and sewer systems; otherwise, every lot shall meet the requirements for lots in the "R-1" District.
- 19.32 In the "R-1" District, the otherwise specified lot area and frontage requirements for a single-family dwelling may be reduced to not less than fifteen thousand (15,000) square feet and eighty-five (85) feet, respectively, provided the lot on which such dwelling is proposed to be built meets all the following conditions:
- A. Said lot is located in and is a part of an officially approved and recorded subdivision.
 - B. Said lot has no immediate vehicular access (private driveway) and will not have such access to any State or County highway or other major street designated on the Major Street Plans of Frederick and vicinity.
 - C. The appropriate Health Officer has certified that the area of said lot at the proposed site will be large enough to satisfy all applicable requirements concerning water supply and the disposal of sanitary wastes.
- 19.40 **Front Yard Modifications.**
- 19.41 In built-up areas, where the average depth of at least two (2) existing front yards on developed lots within one

hundred (100) feet of a lot in question and within the same block front is less or greater than the least front yard depth prescribed elsewhere in this Ordinance, the required depth of the front yard on such lot in question shall be modified. In such case, this shall not be less than the average depth of said existing front yards, or the average depth of the existing front yards on the two (2) lots immediately adjoining if shallower, or, in the case of a corner lot, the depth of the front yard on the lot immediately adjoining; provided, however, that the depth of a front yard on any lot in any "R" or "B-0" district shall be at least ten (10) feet and need not exceed fifty (50) feet. In the case of an existing front yard for a building so old, dilapidated, or insignificant that in the opinion of the Zoning Inspector it should be disregarded in determining the proper front yard for a proposed building, the Zoning Inspector shall disregard it and shall determine the proper front yard depth from other applicable criteria. Such a decision by the Zoning Inspector may be appealed to the Board of Appeals as provided in Section 21.31.

- 19.42 In the case of a subdivision for which a plat has been officially and properly recorded, on which plat any building setback or yard lines are designated which differ from those prescribed in this Article for the district in which such subdivision or part thereof is located, then such setback lines shall govern; and the establishment of such setback lines by deed or covenant, recorded in a court of record, instead of by depiction on a plat, shall have the same effect.
- 19.43 In the case of any street having a right-of-way less than fifty (50) feet wide, no building shall hereafter be placed within twenty-five (25) feet of the center line of such street, any other provision hereof to the contrary notwithstanding.
- 19.50 **Through Lots.** Buildings on through lots shall provide the required front yards on both streets, but need not provide the required rear yard in case an equivalent open space is provided in lieu of such required rear yard.
- 19.60 **Rear and Side Yard Modifications.**
- 19.61 **Adjoining an Alley.** In computing the depth of a rear yard or the width of a side yard, where the rear or side yard opens on an alley, one-half ($\frac{1}{2}$) of the alley width may be included as a portion of the rear or side yard as the case may be, except that no building or structure for which a side yard is required shall be erected within three (3) feet of such an alley.

- 19.62 **Building Over Forty Feet Deep.** Where the length of a side yard adjacent to the side wall of a building is more than 40 feet, measured parallel to the adjoining side lot line, the otherwise specified least widths shall be increased by 2 inches, and the sum of both side yards by 4 inches, for each foot by which such length exceeds 40 feet; provided that no side yard need exceed in width one-half of the average of the side wall of the building along which it is located.
- 19.63 **Irregular Side Wall of Building.** The side yard width may be varied where the side wall of a building is not parallel with the side lot line or is broken or otherwise irregular. In such case the average width of the side yard shall not be less than the otherwise required least width; provided, however, that such side yard shall not be narrower at any point than one-half ($\frac{1}{2}$) the otherwise required least width, or narrower than three (3) feet in any case.
- 19.64 **Corner Lots.** A side yard along the side street lot line of a corner lot, which lot abuts in the rear either directly or across an alley the side lot line of another lot in an "R" or "B-0" District, shall have a width of not less than one-half ($\frac{1}{2}$) the required depth of the front yard on such other lot fronting on the side street.
- 19.70 **Projections & Encroachments.**
- 19.71 The following architectural features may project into the required yards or courts as hereinafter set forth:
- 19.711 Into any required front yard, rear yard, outer court, or required side yard adjoining a street side lot line;
- 19.7111 Cornices, canopies, eaves or other architectural features may project a distance not exceeding two (2) feet six (6) inches.
- 19.7112 Fire escapes may project a distance not exceeding four (4) feet six (6) inches.
- 19.7113 An uncovered stair and necessary landings may project a distance not to exceed six (6) feet; provided that such stair and landing shall not extend above the entrance floor of the building except for a railing not to exceed three (3) feet in height.
- 19.7114 Bay windows, balconies, and chimneys may project a distance not to exceed three (3) feet; provided that such features do not occupy, in the aggregate, more than one-third ($\frac{1}{3}$) of the length of the wall on which they are located.
- 19.7115 Open porches and open carports may project to within not less than 5 feet of a side lot line.

19.712 Subject to the conditions specified above, the above-named features may project into any required side yard adjoining an interior side lot line a distance not to exceed one-fifth ($1/5$) of the required least width of such side yard, but not to exceed three (3) feet in any case.

19.72 Fences, walls, and hedges may not be located in required yards or courts except as follows, and subject to the limitation in sub-section 6.15:

19.721 Fences and walls not exceeding at any point six (6) feet in height above the elevation of the surface of the ground at such point may be located in any rear yard or side yard area; provided, that on a reversed corner lot no such fence, wall or hedge, within twenty-five (25) feet of the side lot line of the adjoining lot, shall be closer to the street side lot line than a distance equal to the least depth of the front yard required for a one (1) story building on such adjoining lot.

Section 20

ADMINISTRATION AND ENFORCEMENT

- 20.10 ADMINISTRATION BY THE ZONING INSPECTOR.**
There is hereby established the office of Zoning Inspector. It shall be the duty of the Zoning Inspector to administer and cause the enforcement of the provisions of this Article in accordance with its administrative provisions. All departments, officials, and public employees vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Article and shall issue no permit or license for any use, building, or purpose, if the same would be in conflict with the provisions hereof. Any permit or license issued in conflict with the provisions of this Article shall be null or void.
- 20.20 ZONING CERTIFICATE.**
- 20.21** It shall be unlawful for anyone to begin an excavation for or start the construction, reconstruction, extension, conversion, or structural alteration of any building or structure, or to place any building or structure on any land, or to change the use of any land or building from one zoning classification to another, without first obtaining a Zoning Certificate therefor from the Zoning Inspector. Such Zoning Certificate shall show that such building or premises or part thereof, and the proposed use thereof, are in conformity with the provisions of this Article. No Zoning Certificate, however, shall be required for any agriculture building or use when located more than 250 feet from any non-farm dwelling and from any other lot in any "R" district, and more than 100 feet from any public street.
- 20.22** Every application for a Zoning Certificate shall be signed by the applicant, and shall be accompanied by a plat in triplicate, drawn to such scale as the Zoning Inspector may require, showing the location and actual shape and dimensions of the lot to be built upon or used, the names of adjacent streets and the house number for the lot, the locations, sizes, and heights of any existing buildings or structures on the lot, or adjacent thereto and having a bearing thereon, the location, size, and height of the building or part thereof to be constructed, the existing and intended use of each building or structure or part thereof; the number of families or housekeeping units the building is designed to accommodate, and (if no buildings are involved) the location of the present use and the proposed use to be made of the lot, and such other information with regard to the lot and neighboring lots as may be necessary to provide for the enforcement

of this Article. All dimensions shown on these plans, relating to the location and size of the lot to be built upon, shall be based on actual survey or deed description, or on an officially recorded subdivision plat. The lot and the location of the building or other improvements to be erected thereon shall be staked out on the ground and an inspection thereof obtained from the Zoning Inspector, before construction is started.

- 20.23 The Zoning Inspector shall arrange for the issuance of Zoning Certificates in coordination with the building permits or other required permits. In the case of a building or land situated outside the corporate limits of the City but within one mile radius thereof, the Zoning Inspector, upon issuing a Zoning Certificate, shall forward it to the County Zoning Inspector for coordination with the required County permits; but if no county permit is required, he shall forward the Zoning Certificate directly to the applicant. If any approval is required of the location or design of any driveway, drainage structure, well, septic tank, or other matter in such one-mile area, then the County Zoning Inspector is hereby authorized to retain the city Zoning Certificate until such approvals or permits are issued.
- 20.24 A Zoning Certificate shall become void six (6) months after the date of issuance if the construction or use for which the Certificate was issued has not been started.
- 20.30 **CERTIFICATE OF OCCUPANCY.** Upon the completion of any building or structure, or its reconstruction, extension, conversion, or structural alteration, for which a Zoning Certificate was issued, such building or structure shall not be occupied or used until a Certificate of Occupancy shall have been issued by the Zoning Inspector. Such Certificate shall show that the building or premises or part thereof, and the authorized use thereof, are in conformity with the provisions of this Article. It shall be the duty of the Zoning Inspector to issue a Certificate of Occupancy upon completion of the building or structure, provided he finds upon inspection that such building, structure, and use do comply with these provisions.
- 20.31 The Zoning Inspector may issue a Temporary Certificate of Occupancy, for all or part of a building pending its completion, or for a temporary use in connection with a construction project, but not for any period exceeding one (1) year.
- 20.32 Upon written request from the owner or tenant, the Zoning Inspector shall issue a Certificate of Occupancy

for any building or premises lawfully existing at the time of enactment of this Article, certifying, after inspection, the extent and kind of use made of the building or premises and whether such use conforms to the provisions of this Article.

- 20.33 The owner or operator of every sand, gravel, or clay pit, mine, quarry, or related processing establishment existing at the time of adoption of this Article shall apply within six (6) months for a Certificate of Occupancy, and such Certificate shall be issued showing the nature and extent of such operations as of that date.
- 20.40 **Fees.** A filing fee shall accompany each application for a Zoning Certificate, and also each application for a Certificate of Occupancy where no Zoning Certificate is required, as may be fixed from time to time by order of the Mayor and Board of Aldermen; except that no fee shall be charged to any government agency.
- 20.50 **VIOLATIONS AND PENALTIES.** It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain, or use any building or land in violation of any regulation in or any provision of this Article or any amendment or supplement thereto, or to fail to comply with any reasonable requirement or condition imposed by the Board of Appeals. Any person, firm or corporation violating any regulation in or any provision of this Article, or of any amendment or supplement thereto, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided by Charter.
- 20.51 All Zoning Certificates and Certificates of Occupancy shall be valid subject to continued compliance with all requirements and conditions; otherwise they shall be revocable.
- 20.60 **VIOLATIONS—HOW PREVENTED.** In case any building is or is proposed to be located, erected, constructed, reconstructed, altered, extended, repaired, converted, maintained, or used, or any land is or is proposed to be used, in violation of this Article or any amendment or supplement thereof, the Mayor and Board of Aldermen, said Zoning Inspector, or any adjacent or neighboring property owner who would be specifically damaged by such violation, in addition to other remedies provided by law, may bring proceedings for injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, restrain, correct, or abate such unlawful location, erection, construction, reconstruction, alteration, extension, repair, conversion, maintenance or use, to prevent the occupancy of said building or land, or to prevent any illegal act, conduct, business, or use in or about such premises.

Section 21

ZONING BOARD OF APPEALS

- 21.10 **APPOINTMENT.** The Zoning Board of Appeals heretofore established and appointed in accordance with Section 22.30 of the City Code adopted June 14, 1951, and with the provisions of Article XV of the Charter of the City of Frederick, is hereby continued and confirmed. The number of members of said Board, their terms of office, succession, removal, filling of vacancies, and their general powers and duties shall all be as provided in said Article XV. The members of the Board in office at the time this Article becomes effective shall continue to serve until the expiration of their respective terms of office, and their successors shall then be appointed for terms of four years each, continuing the established arrangement whereby at least one term expires each year. The Board of Aldermen may determine from time to time the compensation to be made to the members of the Zoning Board of Appeals and its employees.
- 21.11 **ORGANIZATION.** The Board shall be organized in accordance with Article XV of the Charter. It shall adopt rules necessary for conducting its business and carrying out the provisions of this Article. It may appoint such employees as may be authorized from time to time by the Board of Aldermen. Meetings of the Board shall be held at the call of the chairman, and at such other times as the Board may determine. The Chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed immediately in the office of the Board and shall be a public record. The Board may call upon any city official or department head for assistance in the performance of its duties, and it shall be the duty of such officers to render such assistance to the Board as may reasonably be required.
- 21.20 **APPLICATIONS, APPEALS. HEARINGS AND STAY OF PROCEEDINGS.**
- 21.21 **APPLICATIONS—WHEN AND BY WHOM TAKEN.** An application, in cases in which the Board has original jurisdiction under the provisions of this Article, may be taken by any property owner, including a tenant, or by a governmental officer, department, board or bureau.

Such application shall be filed with the Zoning Inspector who shall transmit it to the Board, and the Board shall return the same to the Zoning Inspector with the Board's action noted thereon.

- 21.22 **APPEALS—WHEN AND BY WHOM TAKEN.** An Appeal to the Board may be taken by any person aggrieved, or by any officer, department, board or bureau of the city affected, by any decision of the Zoning Inspector. Such appeal shall be taken within twenty (20) days after the decision, by filing with the Zoning Inspector and with the Board a notice of appeal specifying the grounds thereof. The Zoning Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- 21.23 **HEARINGS.** The Board shall fix a reasonable time for the hearing of the application or appeal, shall give at least ten (10) days notice of the time and place thereof in a newspaper of general circulation in the city, as well as due notice to the parties in interest, shall cause the property to be posted conspicuously with a notice of the hearing to be prescribed by the Board, and shall decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.
- 21.24 **STAY OF PROCEEDINGS.** An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Inspector certifies to the Board, after notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by restraining order which may be granted by the Board or by a court of record on application, after notice to the Zoning Inspector and on due cause shown.
- 21.25 **ACTION BY THE BOARD.** In exercising its powers, the Board may, in conformity with the provisions of the Charter and of this Article, reverse or affirm, wholly or partly, or may modify, the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of at least four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Inspector, or to decide in favor of the applicant on any matter upon which it is required to pass under this Article.
- 21.26 **REPEATED APPLICATIONS.** If an application or ap-

peal is disapproved by the Board of Appeals, thereafter the Board shall not be required to consider another application for substantially the same proposal, on the same premises, until after one year from the date of such disapproval. If an application or appeal to the Board is perfected and the public hearing advertised, and thereafter the applicant withdraws the application or appeal, he shall be precluded from filing another application or appeal for substantially the same proposal on the same premises for six months.

21.27 **FEES.** A filing fee of twenty (20) dollars shall accompany each application or appeal to the Board.

21.30 **POWERS OF THE BOARD OF APPEALS.**

21.31 **ADMINISTRATIVE ERRORS.** The Board of Appeals shall have the power to hear and decide Appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this Article.

21.32 **INTERPRETATION AND ADJUSTMENT OF ZONING MAP AND DISTRICT LINES.** The Board may determine, after notice to the owners of the properties affected and after public hearing, boundaries of districts as follows:

21.321 Where the street or lot layout actually on the ground, or as recorded, differs from the street and 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 this Article for the particular section or district in question.

21.322 Where the boundary line of a district divides a lot held in a single ownership on the effective date of this Article, the Board may permit the extension of a district, but not more than one hundred (100) feet beyond said boundary line.

21.33 **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 Article 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 twelve (12) month period subject to such conditions as will safeguard the public health, safety, convenience and general welfare.

- 21.34** **CONDITIONAL USES AND EXCEPTIONS.** The Board shall have the power to hear and decide applications for Conditional Uses, or for decisions upon other special questions on which the Board is authorized by this Article to pass. All such applications shall be deemed to be for Exceptions authorized by Section 188 of the City Charter. In considering an application for a conditional use or other exception, the Board shall give due regard to the nature and condition of all adjacent uses and structures; and in authorizing a conditional use or exception the Board may impose such requirements and conditions with respect to location, construction, maintenance and operation—in addition to those expressly stipulated in this Article for the particular conditional use or exception—as the Board may deem necessary for the protection of adjacent properties and the public interest.
- 21.341** In addition to permitting the conditional uses and exceptions hereinbefore specified, the Board shall have the power to permit the following conditional uses and special exceptions:
- A. A business use in any "R" District, next door to a non-conforming business or industrial use or between two such uses.
 - B. On a lot adjoining or in a building adjoining a non-conforming use, a use of the next higher classification.
 - C. A transitional use on the boundary of an "R-1", "R-2", or "R-3" district where it adjoins a "B" district, but not extending more than 100 feet into the "R" district, consisting of any use permitted in the "R-4" district; or where any "R" or "B-0" district adjoins an "M" District, a use permitted in any "B" district.
 - D. Within an "R-1" or "M" district, the disposal of wastes by the sanitary fill method.
- 21.342** In connection with the authorization of any conditional use or exception, the Board may require the installation, operation, and maintenance in or in connection with the proposed use, of such 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, and it 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 conditional use or exception, subject to compliance with certain conditions, the Board shall require from the

owners, lessees, or tenants of the property for which this conditional use or 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.

- 21.35 **NON-CONFORMING USES.** The Board may authorize issuance of a Zoning Certificate, after public hearing, for the following:
- 21.351 The substitution for a non-conforming use of another non-conforming use, if no structural alterations are made except those required by law or regulation, provided, however, that in any "R" District no change shall be permitted to any use prohibited in a "B" district, and in any "B" district no change shall be permitted to any use prohibited in an "M-1" district.
- 21.352 The extension or completion of a building devoted to a non-conforming use, or the construction of other buildings in addition thereto, upon a lot occupied by such building, or on a lot adjoining provided that such lot was under the same ownership as the lot in question on the date such building became non-conforming, and where such extension is necessary and incidental to the existing use of such building; provided, however, that the floor areas of such extensions or additions shall not exceed, in all, thirty-five (35) per cent of the floor area of the existing building or buildings devoted to a non-conforming use, and provided, further, that such extensions or additions shall be undertaken within five (5) years of the date when the use of such building became non-conforming.
- 21.353 The extension of a non-conforming use throughout those parts of a building which were manifestly designed or arranged for such use prior to the effective date of this Article, if no structural alterations, except those required by law, are made therein.
- 21.36 **VARIANCES.** Where by reason of the exceptional narrowness, shallowness, or unusual shape of a specific piece of property on the effective date of this Article, or by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjoining the piece of property in question, the literal enforcement of the requirements of this Article would involve practical difficulty or would cause

unnecessary hardship—unnecessary to carry out the spirit and purpose of this Article—the Board shall have power upon appeal in specific cases, filed as hereinbefore provided, to authorize a variance from the terms of this Article so as to relieve such hardship and so that the spirit and purpose of this Article shall be observed and substantial justice done. In authorizing a variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the interest of the furtherance of the purposes of this Article and in the public interest. In authorizing a variance, with attached conditions, the Board shall require such evidence and guarantee or bond as it may deem to be necessary, that the conditions attached are being, and will be complied with.

- 21.361 No such variance in the provisions or requirements of this Article shall be authorized by the Board unless the Board finds, beyond reasonable doubt, that all the following facts and conditions exist;
- A. That there are exceptional or extraordinary circumstances or conditions applying to the property in question, or to the intended use of the property, that do not apply generally to other properties or classes of uses in the same zoning district.
 - B. That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity.
 - C. That the authorizing of such variance will not be a substantial detriment to adjacent property, and will not materially impair the purposes of this Article or the public interest.
- 21.362 No grant of a variance shall be authorized unless the Board specifically finds that the condition or situation of the specific piece of property, or the intended use of said property, for which variance is sought—one or the other or in combination—is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation, to be adopted by the Mayor and Board of Alderman as an amendment to this Article.
- 21.40 **LIMITATIONS, GUIDES AND STANDARDS.** Where in this Article 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, such Board shall study the specific property involved and the neigh-

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 issuance of the permit. 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:

- a. The purpose, application, interpretation, and standards of these regulations as set forth in Sections 1, 2, and 3.
- b. Decisions of the Circuit Court for Frederick County and the Court of Appeals of Maryland.
- c. The orderly growth and improvement of the neighborhood and community.
- d. The most appropriate use of land and structures in accordance with a comprehensive plan.
- e. Facilities for sewers, water, schools, transportation, and other services, and the ability of the City or County to supply such services.
- f. The limitations of fire-fighting equipment, and the means of access for fire and police protection.
- g. The effect of such use upon the peaceful enjoyment of people in their homes.
- h. The number of people residing, working, or studying in the immediate areas.
- i. The type, character, and use of structures in the vicinity, especially where people are apt to gather in large numbers such as schools, churches, theatres, hospitals, and the like.
- j. Traffic conditions including facilities for pedestrians, such as sidewalks and safety zones, and parking facilities available and the access of cars to highways.
- k. The preservation of cultural and historic landmarks.
- l. The conservation of property values.
- m. The effect of odors, dust, gas, smoke, fumes, vibration, glare, or noise upon the uses of surrounding properties.
- n. The contribution, if any, such proposed use, building or addition would make toward the deterioration of areas and neighborhoods.

- 21.50 LIMITED EFFECT OF AN EXCEPTION, VARIANCE, ETC.** Where the Board approves an exception, variance, or other application or appeal under these regulations, such approval shall not change the use classification of the building, nor give it any status as a non-conforming use other than it may already have had, nor qualify any adjacent property for any special treatment such as an exception or variance, nor shall there be another change of use without approval of the Board.
- 21.60 COURT REVIEW.** Any person jointly or severally aggrieved by any decision of the Zoning Board of Appeals, or any taxpayer, or any officer, department, board, or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after filing of the decision in the office of the Board.
- 21.61** Upon the presentation of such petition the court may allow an appeal to review such decision of the Zoning Board of Appeals and shall prescribe therein the time within which a return thereto must be made and served upon the appellant's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the appeal shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.
- 21.62** The Zoning Board of Appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or such portions thereof as may be called for by such appeal. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- 21.63** If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify, the decision brought up for review.

- 21.64 All issues in any proceeding under this section shall have preference over all other civil actions and proceedings.
- 21.65 An appeal may be taken to the court of appeals from any decision of the court of record reviewing the decisions of the Zoning Board of Appeals.

Section 22

DISTRICT CHANGES AND OTHER AMENDMENTS

- 22.10 **GENERAL.** Whenever the public necessity, convenience, general welfare, or good zoning practice require, the Mayor and Board of Aldermen may, by ordinance, after recommendation by the City Planning and Zoning Commission and subject to the procedure set forth hereinafter, amend, supplement or change the regulations, district boundaries, or classifications of property now or hereafter established by this Article, or amendments thereof. Such an amendment, supplement, or change may be initiated by resolution of the Mayor and Board of Aldermen, by motion of the Planning and Zoning Commission, or by petition of any property owner addressed to the Mayor and Board of Aldermen.
- 22.11 The Mayor and Board of Aldermen hereby express recognition of the fact that sections of the city and environs are changing from a rural to an urban character, or otherwise, and, although an attempt has been made in the official Master or Land Use Plan to anticipate and direct such growth along desirable lines, it is inevitable that no such plan can be perfect or everlastingly valid. The Mayor and Board of Aldermen therefore anticipate that the said Master or Land Use Plan will need amending from time to time as contemplated and authorized by the City Charter, and that the Zoning Map must also be amended from time to time in order that it may continue to be in conformity with such comprehensive plan.
- 22.20 **PROCEDURE FOR CHANGE.** Any proposed amendment, supplement, or change originating with or received by the Mayor and Board of Aldermen shall first be referred by such Board to the City Planning and Zoning Commission for an investigation and recommendation. The Planning Commission shall cause such investigation to be made as it deems necessary and for this purpose may require the submission of all pertinent data and information by any person concerned, may hold such public hearings as provided by its own rules, and shall submit its report and recommendation to the Mayor and Board of Aldermen within sixty (60) days unless an extension of time is granted.
- 22.21 After receiving the recommendation of the Planning Commission on any proposed amendment, supplement, or change, and before adopting such amendment, the Mayor and Board of Aldermen shall hold a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least ten

- (10) days notice of the time and place of such hearing shall be published in a paper of general circulation in the city.
- 22.22 No change in or departure from the proposed amendment as recommended by the Planning Commission shall be made unless the same be resubmitted to said Commission for its further recommendations. No amendment, supplement, or change shall be adopted contrary to the recommendations of the Planning Commission except by a two-thirds vote of the Mayor and Board of Aldermen.
- 22.23 In case of a protest against any proposed amendment, supplement, or change, signed by the owners of twenty (20) per cent or more of the area of the lots included in such proposed change, or by the owners of twenty (20) per cent or more of the area of the properties adjacent thereto on the sides, in the rear, and directly opposite, and extending one hundred (100) feet therefrom to the rear or directly opposite and fifty (50) feet therefrom to the sides, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of the Board of Aldermen.
- 22.25 Every application for a change in zoning district boundaries shall be accompanied by a plat drawn to such scale as the Zoning Inspector shall require, showing the existing and proposed boundaries and such other information as he may need to enable him to plot the amendment on the official Zoning Map.
- 22.26 An official copy of the Zoning Map shall be kept for public inspection in the office of the Zoning Inspector, and immediately upon the passage of any amendment changing such map or the boundaries of districts shown thereon the Zoning Inspector shall add the changes or amendments to said map so that it shall always be an up-to-date public record of the zoning districts of the city.

Section 23

VALIDITY AND REPEAL

- 23.10 **VALIDITY.** If any section, sub-section, part, paragraph, sentence or phrase of this Article is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Article.
- 23.20 **REPEAL.** Article I of Chapter 22 of the Frederick City Code, adopted June 14, 1951, and all ordinances amendatory thereof, as well as all ordinances or parts thereof which are in conflict with the provisions of this Article, are hereby repealed.

BE IT FURTHER ENACTED AND ORDAINED BY THE AUTHORITY AFORESAID, that this Ordinance shall take effect from the date of its passage and that all Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance be and the same are hereby repealed to the extent of such inconsistency.

Approved: January 29, 1964
E. Paul Magaha
Chairman, Board of Aldermen

Passed: January 29, 1964
E. Paul Magaha
Mayor