

THE CITY OF FREDERICK  
MAYOR AND BOARD OF ALDERMEN

ORDINANCE NO: G-16-07

LEGISLATIVE HISTORY

PLANNING COMMISSION

HEARING: January 11, 2016

RESOLUTION SUBMITTED  
TO MAYOR & BOARD: January 19, 2016

MAYOR & BOARD OF ALDERMEN

WORKSHOP: November 18, 2015

PUBLIC HEARING: February 4, 2016

AN ORDINANCE concerning conditional uses

FOR the purpose of providing that conditional uses run with the land; clarifying language; and generally relating to conditional uses of property in The City of Frederick.

BY repealing and reenacting, with amendments,

Section 308  
Appendix A, "Land Management Code"  
The Code of the City of Frederick, 1966 (as amended)

**SECTION I. BE IT ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK**, that Section 308 of the Land Management Code, Appendix A of The Code of The City of Frederick, 1966 (as amended), be repealed and reenacted, with amendments, as follows:

**Sec. 308. CONDITIONAL USES**

**Purpose:** This section establishes procedures for the processing of uses permitted as a conditional use in addition to all other applicable requirements of this Code. They are intended to assure compatibility of certain activities not ordinarily permitted in a district with permitted uses.

- (a) **Applicability.** ~~[(4)]~~ This section applies to any ~~[application for approval of a]~~ conditional use, whether existing as of the effective date of this Code or granted thereafter. ~~[use, under the following conditions:~~

- ~~A.~~ Conditional uses are designated in the Use Matrix (Section 404); or
- ~~B.~~ A substitution of one nonconforming use for another nonconforming use; or
- ~~C.~~ A Conditional Use identified in Section 743(c)(2) (Wellhead Protection).

~~(2) Conditional uses do not run with the property and are not transferable.~~

~~(3)~~

**(b) Transfer.**

**(1) A conditional use runs with the land. It applies to the property for which it is granted, and is not personal to the property owner who receives initial approval. A conditional use is transferable to any future owner of the land, in accordance with this subsection and any other applicable provision of this Code. It cannot be transferred by the applicant to a different site.**

**(2) When the ownership of a [lot or building] property on which a conditional use is located is transferred, the seller [has the responsibility to disclose all conditional uses and conditions of that use to the buyer.] shall provide to the buyer a statement of disclosure stating that conditional use approval has been granted to the property and listing any conditions of such approval.**

**(3) The [Zoning] Board [of Appeals] shall not waive any requirements of this Code due to the failure of the seller to disclose the requirements of this Code to the buyer.**

**[(b)] (c) Initiation.**

**(1) The procedures for processing a conditional use are established in Section 312 (Zoning Board of Appeals Decisions).**

**(2) Application for a conditional use may be filed only by a person or persons with a financial, contractual, or proprietary interest in the property for which the exception is requested.**

**(3) Except for a Home Occupation, a site plan, in accordance with Section 309, is required with the submission of a conditional use.**

**[(c)] (d) Criteria. The [Zoning] Board [of Appeals] may authorize conditional uses only when the Board finds that the following conditions exist:**

**(1) The proposed use is in harmony with the purpose and intent of the Comprehensive Plan and this Code.**

**(2) The characteristics of the use and its operation on the property in question and in relation to adjacent properties will not create any greater adverse impact than the operation of any permitted use not requiring conditional use approval.**

- (3) That the proposed activity will comply with all conditions and requirements set forth in this Code, including any specific standards established in Article 8 of this Code.

**[(d)] (e) Additional Conditions may be Required.**

- a
- (1) The [Zoning] Board [of Appeals] may attach additional reasonable conditions to conditional use upon a specific finding that there is a unique characteristic of the activity or property which, if not addressed, would have substantial adverse impacts on adjacent properties and necessary to protect adjacent properties and the general neighborhood and to carry out the intent of this Code. Any additional condition imposed shall be related to such unique characteristic and shall be the minimum necessary to deal adequately with it.
- (2) ~~[Violation of such additional conditions is a violation of this Code and may be grounds for termination of the conditional use.]~~ Violation of this section or any condition imposed under this section or the applicable section of Article 8 of this LMC is grounds for revocation of the conditional use approval. If the Zoning Administrator determines that grounds for revocation exist, the Zoning Administrator shall deliver to the property owner a written notice of revocation, stating the reasons for revocation. A person aggrieved by a written notice of revocation may appeal that decision, in writing, within 30 days of the decision, to the Board. Such appeals shall be processed in accordance with Section 315 of this LMC.
- (3) The Board may require the installation, operation, and maintenance of devices and methods of operation that are required to prevent or reduce hazardous or congested traffic conditions, odor, dust, smoke, gas, noise, or similar nuisances. The Board may impose such other conditions and requirements as may be necessary in its opinion to protect adjacent properties and neighborhoods and prevent conditions which may become obnoxious or offensive.
- (4) In authorizing a conditional use, subject to compliance with certain conditions, the Board shall require from the owners, lessees, or tenants of the property for which this conditional use is granted such evidence, written agreement, guarantee, or acceptable surety 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.
- ~~[(5)] [The Board shall require the applicant to notify the Zoning Administrator in writing within 14 days of any change in the approved ownership, lease, sublease, or change in Ownership/Occupancy of the premise, which nullifies the conditional use. The Zoning Administrator shall prescribe forms for notification pursuant to this section. The failure to notify the Zoning Administrator is considered a violation of this Code.]~~
- ~~[(6)](5)~~ The conditions recited in ~~[subsections (1), (2) and (3),]~~ above, shall be imposed at a public meeting of the Board. Any applicant at the meeting may request that the Board clarify the conditions. The Board may continue the meeting in order to consider such conditions.

~~[(7)]~~(6) No use or activity permitted by conditional use shall be enlarged or extended beyond the limits authorized in the grant of conditional use.

~~[(8)]~~(7) Changes from one conditional use to another use permitted by conditional use requires approval by the Board.

~~[(e)]~~ (f) **Signs for Conditional Uses.** Signs for any use permitted by conditional use shall be limited as requirements of Section 864 (Sign Regulations).

~~[(f)]~~ (g) **Specific Conditions for Conditional uses.** See Article 8 of this Code.

**SECTION II.** In the event any provision, section, sentence, clause, or part of this ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause, or part of this ordinance, it being the intent of the City that such remainder shall be and shall remain in full force and effect.

**SECTION III.** This ordinance shall take effect on February 14, 2016, and all other ordinances or parts of ordinances inconsistent with the provisions of this ordinance will as of that date be repealed to the extent of such inconsistency.

**NOTE:**

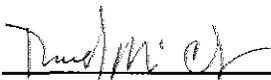
**Bold underlined** = material added.

**~~[Bold brackets]~~** = material deleted.

\*\*\* = no change.

**APPROVED: February 4, 2016**

**PASSED: February 4, 2016**

  
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Randy McClement, Mayor

  
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Randy McClement, President,  
Board of Aldermen

**Approved for Legal Sufficiency:**

  
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City Attorney