

## ZONING

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## ARTICLE I

### GENERAL PROVISIONS, AMENDMENTS, AND CONDITIONAL USE PERMITS

#### Part 101 – General Provisions

##### § 165-101.01 Intent; purpose.

This chapter is intended to promote the health, safety and general welfare of the public and the orderly development of Frederick County. This chapter is intended to accomplish the purposes listed in § 15.2-2200 of the Code of Virginia, as amended. In addition, it is intended that this chapter provide one means to achieve the goals set forth in the Frederick County Comprehensive Plan.

##### § 165-101.02 Definitions & word usage.

Words and terms set forth below shall have the meanings ascribed to them. Any word, term(s) or phrase used in this Zoning Ordinance not defined below shall have the meaning ascribed to such word, term or phrase in the most recent edition of Merriam-Webster's Dictionary unless, in the opinion of the Zoning Administrator, established customs or practices in Frederick County, Virginia justify a different or additional meaning. Furthermore, for the purpose of this Zoning Ordinance, certain words, terms and phrases are herein defined as follows:

**ABUT** - To physically touch or border upon or to share a common property line.

**ACCESS** - A way or means of vehicular or pedestrian approach to provide physical entrance to a property.

**ACCESSORY OR SECONDARY USE** – A use of land or of a building or portion thereof customarily associated with and incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use. A secondary use shall be a use not already permitted by-right in a zoning district but may be permitted in conjunction with a permitted use.

**ACTIVE DISTANCE BUFFER** - A distance buffer which contains no building or principal structure of activity but which may contain an accessory use or activity.

**ADDITION** - A structure added to the original structure at some time after the completion of the original.

**ADJACENT OR ADJOINING LOT OR LAND** - A lot or parcel of land which shares all or part of a common lot line with another lot or parcel or land or which is immediately across a street or road from said parcel or lot.

**ADULT CARE RESIDENCES** - A public or private establishment operated or maintained for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in a primarily residential setting. Adult care residences do not include facilities or portions of a facility licensed by the State Board of Health or the Department of Mental Health, Mental Retardation and Substance Abuse Services; and the home or residence of an individual who cares for or maintains only

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persons related to him by blood or marriage; and a facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21.

ADULT RETAIL - A retail establishment for which 25% or more of its stock in trade, as determined by floor area, is in videos, magazines, books, publications, tapes, films or other periodicals and paraphernalia which are distinguished or characterized by an emphasis on depicting or describing specified sexual conduct or specified anatomical areas.

ADULT TREATMNT HOME - A residential facility for persons recovering from alcohol abuse where supervision, rehabilitation and counseling are provided to the residents.

AGE-RESTRICTED - Housing intended for and occupied by older persons (as defined in § 36-96.7 of the Code of Virginia, 1950, as amended). The housing must include the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner(s) and manager(s) to provide housing for older persons.

AGRICULTURAL (OR LOCALLY SIGNIFICANT) SOILS - A group of soils identified as prime farmland by the Soil Survey of Frederick County Virginia, prepared by the United States Department of Agriculture.

AGRICULTURE and FARMING - Any of the following activities:

A. Cultivating the soil or raising or harvesting any agricultural or horticultural commodity on a farm, including the raising, shearing, feeding, caring for, training and management of animals.

B. Handling, drying, packing, grading or storing on a farm any agricultural or horticultural commodity in its unmanufactured state but only if the owner, tenant or operator of the farm regularly produces more than 1/2 of the commodity so treated.

C. The proposal to develop or the actual development of a forest either through planting or natural regeneration, or both, or the actual maintenance of a forest by applying proven forest management practices. Such land shall, at the time of consideration as forest land, actually carry sufficient forest growth of suitable character and so distributed to give reasonable assurance that a stand of merchantable timber is developed therefrom.

AIRPORT - Winchester Regional Airport.

AIRPORT ELEVATION - The highest point on any usable landing surface expressed in feet above mean sea level.

AIRPORT HAZARD - Any man-made structure or object of natural growth located on or in the vicinity of a public airport or any use of land near such airport, which obstructs the airspace required for the flight of aircraft in landing or takeoff at such airport or is otherwise hazardous to such landing or takeoff of aircraft.

AISLE - The traveled way by which vehicles enter and depart parking spaces.

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**ALTERATION** - Any change in the total floor area, use or external appearance of an existing structure.

**AMBULANCE SERVICE** - A state-licensed business for operating owned motor vehicles that are designed and used to provide immediate care or to transport any persons who are sick, injured or otherwise incapacitated or helpless.

**APPROACH SURFACE** - A surface longitudinally centered on the extended runway center line, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.

**ARTERIAL HIGHWAY** - A street so classified by the Virginia Department of Highways or by the standards of Frederick County which collects and distributes traffic to and from collector streets.

**ASSISTED-LIVING FACILITY** - A building or series of buildings containing residential living facilities for older, disabled or infirm persons and which provides personal and health care services, twenty-four-hour supervision, and various types of assistance (scheduled and unscheduled) in daily living and meeting the requirements of § 63.2-1800, et seq. of the Code of Virginia (1950), as amended.

**AUCTION HOUSE** - A building in which the commissioned public sales of goods to the highest bidder, conducted by a licensed auctioneer for persons or groups other than community nonprofit organizations, occur more than once a year.

**AUTOMOBILE GRAVEYARD** - Any lot or parcel upon which more than five inoperable motor vehicles which are exposed to the weather are placed, located or found.

**AUTOMOBILE PARKING STRUCTURE** - A building or structure consisting of more than one level designed and used for public or private parking of motor vehicles.

**BASE FLOOD** - The flood having a one percent chance of being equaled or exceeded in any given year.

**BASE FLOOD ELEVATION (BFE)** – The Federal Emergency Management Agency designated one-hundred-year surface water elevation.

**BASEMENT** - Any area of the building having its floor sub-grade (below ground level) on all sides.

**BED AND BREAKFAST**– An owner or operator-occupied single-family detached dwelling unit which contains no more than one (1) kitchen and ten (10) or fewer guest rooms which are occupied for sleeping purposes by guests, other than temporary personal guests of a family in a dwelling unit, for compensation with or without meals. A Bed and Breakfast may include banquet/event facilities for private parties as an accessory use.

**BEDROOM** - A private room planned and intended for sleeping, separable from other rooms by a door and accessible to a bathroom without crossing another bedroom or living room.

**BERM** - A mound of earth utilized to separate and screen land uses.



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**BOARD OF ZONING APPEALS** - A Board whose members are appointed by the Circuit Court for the express purpose of considering and acting on variances and zoning appeals.

**BOARDING- OR ROOMING HOUSE** - A dwelling or part thereof where, for compensation, lodging and meals are provided to boarders.

**BUFFER** - An open area used to separate one use from another.

**BUFFER, ROAD EFFICIENCY** - A linear distance containing landscaping and an opaque element that is intended to separate residential lots from interstate, limited access, arterial and major collector road systems.

**BUFFER, ROAD EFFICIENCY ACTIVE PORTION** - A distance buffer which may be located within a residential lot that is permitted to contain accessory structures.

**BUFFER, ROAD EFFICIENCY INACTIVE PORTION** - A distance buffer which is located outside of a residential lot that is required to contain all landscaping elements of a full-distance buffer or all landscaping and opaque elements of a reduced-distance buffer.

**BUILDING** - Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any persons, animals, processes, equipment, goods or materials of any kind.

**BUILDING HEIGHT** - The vertical distance from the average finished grade at the front of the structure to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip and gambrel roofs. For structures that include appurtenant or other accessory roof features the height shall be measured from the average finished grade at the front of the structure to the highest point of the feature.

**BUSINESS PARK** - A development which includes multiple buildings and uses. Shopping Centers, Industrial Parks, and Office Parks are types of Business Parks.

**CALIPER** - The diameter of a tree as defined by the American Association of Nurserymen.

**CAMPGROUND** - A lot or parcel upon which two or more campsites are located, established or maintained for occupancy by the general public as temporary living quarters for recreation, education or vacation purposes.

**CAPITAL IMPROVEMENTS PLAN OR PROGRAM** - A plan or program adopted by the Frederick County Board of Supervisors according to the provisions of the Virginia Code, which recommends capital outlays by the County for a five-year period.

**CHANNEL SCAR LINE** - The sloping margin of, or the ground bordering, a stream and serving to confine the water to the natural channel during the normal course of flow. It is best marked where a distinct channel has been eroded to the valley floor or where there is a cessation of land vegetation.

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**CHURCH** - Buildings or structures primarily intended for the conduct of organized religious services and associated accessory uses.

**CLEAR ZONE** - A designated area void of buildings, structures, fences, berms and vegetation.

**COMMERCIAL INDOOR RECREATION** - Private, fee-supported, indoor facilities used for athletic, training or recreational purposes.

**COMMERCIAL OUTDOOR RECREATION** - Private, fee-supported, outdoor facilities used for athletic, training, recreational or park purposes that utilizes supervised athletic or recreational activities.

**COMMERCIAL SPORT AND RECREATION CLUBS** - A public or private fee-supported recreational facility located indoors or outdoors that may include swimming pools, court games and other similar activities.

**COMMERCIAL TELECOMMUNICATION FACILITY** - A structure, including the tower, antennas, panels, microwave dishes, receiving dishes, equipment building, other transmitting and receiving components and other accessory structures, used for the wireless electromagnetic transmission of information, excluding structures utilized as satellite earth stations and structures utilized for amateur or recreational purposes such as ham radio or citizen band radio.

**COMMERCIAL VEHICLE** – Any vehicle (1) with a gross vehicle weight registered with the Virginia Department of Motor Vehicles or any other state or government agency as twelve thousand (12,000) pounds and greater and used for commercial purposes, or (2) any vehicle, regardless of weight, licensed as a “for hire” vehicle, or any limousine or bus used as a common or contract carrier vehicle. For purposes of this chapter, a “commercial vehicle” shall not be deemed to include any of the following: police vehicle, emergency vehicle, commuter van, motor home, camping trailer, boat trailer or similar recreational equipment used as a personal property and not for hire or used as a school van or bus.

**COMMON OPEN SPACE** - Land that is used for recreational purposes, environmental resource protection, buffer areas, stormwater management areas and passive areas that are dedicated to the residents of a development for use and maintenance, and is protected to ensure that it remains in such uses, unless utilized under the provisions of § 165-402.07A of this chapter.

**COMPATIBLE** - Capable of existing together in harmony; congruous.

**COMPREHENSIVE PLAN** - A general plan for the future development of Frederick County, adopted by the Frederick County Board of Supervisors according to the provisions of the Virginia Code.

**CONDITIONAL USE** - A use permitted in a particular zoning district only with the granting of a conditional use permit by the Board of Supervisors.

**CONFERENCE/EVENT CENTER** - A structure or facility designed to accommodate meetings and other events with or without food service developed to be either stand-alone or within a hotel or motel.

**CONGREGATE-CARE FACILITY** - A building containing residential living facilities intended as housing for older persons and which offers the residents of such facility the opportunity to receive their meals in a

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central dining facility, to receive housekeeping services and to participate in activities, health services, and other services offered through a central management structure/service.

CONICAL SURFACE - A surface extending horizontally 20 feet for every one foot vertically from the periphery of the horizontal surface.

CONTIGUOUS - Next to, abutting, or touching and having a boundary, or portion thereof, that is coterminous.

CONSTRUCTION EQUIPMENT – Heavy equipment or vehicles of a type used primarily by the construction industries. Such equipment may include, but is not limited to, bulldozers, backhoes, cement trucks, concrete mixers, construction tractors, cranes, derricks, dredging machinery, dump trucks, excavators, graders, hosts, pavers, power shovels, road construction and maintenance machinery, scaffolds, tank trucks, trenching machines, and water well drilling machinery.

CONTINUING-CARE RETIREMENT COMMUNITY (CCRC) - A housing development on one parcel of land that meets the requirements for housing for older persons (as defined in § 36-96.7 of the Code of Virginia, 1950, as amended) that is planned, designed and operated to provide a full range of accommodations for older persons, including independent-living facilities, congregate-care facilities, assisted-living facilities and nursing home (skilled-care) facilities. CCRCs must also include ancillary facilities for the further enjoyment, service or care of the residents. In a CCRC residents may move from one level to another level of housing accommodations as their needs change. Continuing care residential communities may not contain individual parcels and may not include condominium options; the community must be developed as one parcel that is owned and operated by one entity that offers rental options for the residential units.

CONTRIBUTING STRUCTURE OR SITE - A structure or site within an HA District, at least 50 years of age, which possesses historical, architectural or cultural significance and has not been physically altered enough to substantially detract from its historical integrity. In addition, structures or sites at least 50 years of age which might not possess significant merit when considered alone may be considered contributing if they have significance relative to their patterns of development and/or their relationships with landmarks, buildings, structures or sites determined to be of historical, cultural and/or architectural significance.

CONVALESCENT AND NURSING HOMES - An extended- or intermediate-care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

COTTAGE OCCUPATION - An occupation or profession customarily carried on in a dwelling unit or an accessory building, which:

- A. Actually is carried on wholly within the principal residential building or an accessory building or structure;

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B. Is carried on by no more than one person other than members of the family residing on the premises; and

C. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes.

**COUNTRY CLUB** – A land area and buildings containing recreational facilities, club house and usual accessory uses, primarily open to members and their guests for a membership fee or daily fee; may include but are not limited to swimming pools, tennis courts, golf courses, stables and riding facilities.

**COUNTRY GENERAL STORE** - A retail business allowed where specified in the rural zoning districts which sells groceries along with a variety of other retail goods.

**DAIRY** - A commercial establishment for the manufacture and sale of dairy products.

**DAY-CARE FACILITY** - A facility in which more than five children, not including children who are related by blood, marriage or adoption to the people who maintain the facility, are received for care, protection and guidance during only part of the twenty-four-hour day.

**DEDICATE** - The transfer of property by the owner to another party.

**DEMOLITION** - Complete or partial disturbance, dismantling or taking down of a structure or site by human effort.

**DENSITY** - The number of dwellings per area of land.

**DEVELOPER** - The legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase, or other persons having enforceable proprietary interests in such land.

**DEVELOPMENT** - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**DEVELOPMENT RIGHTS** - the permitted density of development that is allowed on a sending property under any zoning ordinance of the County on a date of transfer of such rights.

**DIRECTOR OF CODE ADMINISTRATION** - The Director of the Frederick County Inspections Department.

**DIRECTOR OF PLANNING AND DEVELOPMENT** - The Director of the Frederick County Department of Planning and Community Development.

**DISPLAY AREA** - A specific area used for the purpose of displaying products and services offered by a business or organization located on the same property or a contiguous property which is appropriately zoned and with an approved site plan.

**DISTANCE BUFFER** - A buffer based upon a required distance between the use to be buffered and the lot line of adjoining lots or parcels, within which a buffer is to be provided.

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DISTRICT - A zoning district established by this chapter.

DISTURBANCE - The act of stripping vegetation, disturbing the soil, regrading or development of the land.

DORMITORY, MEDICAL AND ALLIED HEALTH - A building used as a group living quarters for students and medical and allied health personnel that is owned by a hospital, medical center, clinic, university, college or professional school.

DRAINAGE EASEMENT - An easement established to maintain and protect a drainageway.

DRAINAGEWAY - Any natural or artificial watercourse, trench, ditch, swale or similar depression through which surface water flows.

DRIVE-IN LANE - Any driveway, aisle or travel lane which allows customers to receive goods or services while they remain in their vehicles.

DRIVEWAY - A private travelway for vehicles which provides access to a public street or road from a parking space, garage, dwelling, structure or use.

DRUG TREATMENT HOME - A residential facility for persons recovering from drug or controlled substance abuse where supervision, rehabilitation and counseling are provided to the residents.

DWELLING - A residential structure or portion thereof which is used exclusively for human habitation.

- A. DWELLING, MULTIFAMILY — A building or portion thereof containing more than two (2) dwelling units and not classified as a single-family attached dwelling with not more than one (1) family occupying each dwelling unit.
- B. DWELLING, SINGLE-FAMILY — A structure, not including mobile homes, arranged or designed to be occupied by one household.
- C. DWELLING, DETACHED — A dwelling that is not attached to any other dwelling by any means.
- D. DWELLING, SEMI-DETACHED — A dwelling attached to one or more dwellings by a common vertical wall, with each dwelling located on a separate lot.
- E. DWELLING, ATTACHED — A dwelling with two (2) or more single family dwelling units which are generally joined together by an above grade common party wall extending from the lowest floor to the roof or by a common floor-ceiling. A common floor-ceiling shall be the floor of one unit that is shared with the ceiling of another unit in vertically stacked dwelling units. Townhouse units may be attached by a garage or a connecting permanent architecturally unified structure such as a breezeway, carport, or wall, where structures

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continue the design, pattern and/or materials of the façade from one (1) dwelling unit to another.

**EASEMENT** - A grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.

**ELEVATED BUILDING** - A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

**ENCROACHMENT** - With respect to a floodplain an encroachment shall be the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

**ENVIRONMENTAL EASEMENT** - An easement established to protect and maintain particular environmental features according to the environmental protection requirements of this chapter.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**EXTINGUISHMENT OF DEVELOPMENT RIGHTS** - The process by which development rights from a sending property are severed from the sending property to a receiving property or transferee, pursuant to the transfer of development rights program under Chapter 165 of the County Code.

**FAMILY CARE HOME** - A residential facility intended primarily for mentally retarded or developmentally disabled residents, or residents with emotional or behavioral problems who are provided with a program of services and protective supervision in a home setting.

**FARMER'S MARKET** – Retail of fresh fruit and vegetables, and other food and related items, horticultural products and livestock at a facility with space occupied by one or several different tenants on a short term or daily basis; may be indoor or outdoor; this term does not include wayside stands, roadside stands or wayside markets.

**FARM WINERY**– An establishment (i) located on a farm in the Commonwealth with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 18 percent alcohol by volume or (ii) located in the Commonwealth with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the

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Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 18 percent alcohol by volume. A minimum of 51 percent of the fresh fruits or agricultural products used at the winery for the production of wine shall be grown or produced on the farm and no more than 25 percent of the fruits, fruit juices or other agricultural products may be grown outside of the Commonwealth. Accessory uses shall include wine tasting rooms, accessory food sales related to wine tasting, and the sale of wines produced on site.

**FAST-FOOD RESTAURANT** - Any establishment whose principal business is the sale of food or beverages in a ready-to-consume state with a rapid turnover of customers. Food is provided for consumption on or off the premises. Such establishments usually involve customer self-service and the serving of food in disposable or edible containers.

**FIRE CODE** - The fire protection regulations adopted by the Frederick County Board of Supervisors.

**FLEA MARKET:** An occasional or periodic sales activity held within a building, structure, or outdoor where groups of individual sellers offer goods for sale to the public, not to include private garage sales. Such sellers may set up temporary stalls or tables for the sale of their products. Such sales may involve new and/or used items to include but are not limited to, household items, antiques, rare items, decorations, used books, used magazines, jewelry, clothing, and/or a variety of merchandise and may also include the sale of fruits, vegetables and other eatable items. The sale of vehicles, heavy equipment, boats, watercraft, agricultural machinery, or the like shall be prohibited. The individual sellers at the flea market need not be the same each time the market is in operation.

**FOOT-CANDLE** – A measure of light falling on a surface. One (1) foot-candle is equal to the amount of light generated by one (1) candle shining on one (1) square foot surface located one (1) foot away. Foot-candle measurements shall be made with a photometric light meter with a specified horizontal orientation.

**FOOT-CANDLE (AVERAGE MAINTAINED)** – The average of a number of points of foot-candle calculations or foot-candle readings in a given area which have been adjusted to account for maintenance which includes luminaire dirt depreciation and lamp lumen depreciation.

**FLEET MAINTENANCE FACILITY, MEDICAL AND ALLIED HEALTH** - A structure or facility designed to maintain vehicles, aircraft and equipment associated with medical and allied health services.

**FLEX-TECH** - A development concept that accommodates aspects of retail, manufacturing, wholesale and warehousing by an individual user within a single structure. Such development is designed to accommodate users that require flexibility in their square footage allocation. A typical flex-tech user would be a small business that initially requires a relatively small square footage but may increase the business' square footage as the strength of the business improves.

### FLOOD OR FLOODING

1. A general or temporary condition of partial or complete inundation of normally dry land areas from:

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- a. the overflow of inland or tidal waters; or,
  - b. the unusual and rapid accumulation or runoff of surface waters from any source.
2. The collapse or subsistence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.
  3. Mudflows which are proximately caused by flooding as defined in paragraph 1 and 2 of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

FLOOD INSURANCE RATE MAP (FIRM) – An official map of a community on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) – An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

FLOODPLAIN OR FLOOD-PRONE AREA - Any land area susceptible to being inundated by water from any source.

FLOODPROOFING – Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FLOOR AREA, GROSS - The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls or from the center line of a wall separating two buildings.

FLOOR AREA RATIO - The gross floor area of all buildings divided by the lot area.

FREEBOARD - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.



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FULL SCREEN - Elements of landscape screen plus a six-foot in height opaque fence, hedge, wall, mound or berm.

GARAGE, BODY REPAIR - A building or portion thereof, other than a private garage or public garage, designed or used for body or fender repair or spray painting.

GARAGE, PRIVATE - A deck, building or structure or part thereof used or intended to be used for the parking and storage of vehicles.

GARAGE, PUBLIC - A building or portion thereof, other than a private garage, designed or used for servicing, repairing or equipping motor vehicles, but not including spray painting, body or fender repair, service stations or vehicle sales.

GLARE - The sensation produced by a bright source within the visual field that is sufficiently brighter than the level to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility. The magnitude of glare depends on such factors as the size, position, brightness of the source, and on the brightness level to which the eyes are adapted.

GOLF COURSE - A tract of land used for playing golf, improved with tees, greens, fairways and other features, including accessory uses and structures.

GOLF DRIVING RANGE - An area in which individuals drive golf balls from a central tee.

GOVERNMENT SERVICES OFFICE - Offices or facilities owned, leased or operated by government agencies for government services. See "school" for school use.

GROSS AREA - The total area of the land contained within the boundaries of the lot or tract or within the perimeter boundaries of a development.

GROSS DENSITY - The total number of dwellings divided by the total gross area within the perimeter boundaries of a development. The "gross density" within a section of a development shall be the number of dwellings in the section divided by the total area of residential lots, common yard areas, common open space required in the section and right-of-way areas of roads and easements that are interior to the section.

GROUP HOME - A residential facility for mentally retarded or developmentally disabled persons who may require personal care and supervision, and who may be considered to be potential candidates for independent living.

HABITABLE FLOOR - Any floor usable for living purposes, which includes working, sleeping, eating, cooking, or recreation, or a combination thereof, except for a floor used only for storage purposes.

HALFWAY HOUSE - A residential facility for persons on release from more restrictive custodial confinement where supervision, rehabilitation and counseling are provided to mainstream residents back into society, enabling them to live independently.

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HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - Any structure that is

1. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either
  - a. by an approved state program as determined by the Secretary of the Interior; or,
  - b. directly by the Secretary of the Interior in states without approved programs.

HOG FARM - A farm where hogs are produced and kept.

HOME OCCUPATION - An occupation or profession customarily carried on in a dwelling unit, which:

- A. Actually is carried on wholly within the principle building or structure;
- B. Is carried on by members of the household residing on the premises;
- C. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes with no exterior display, no exterior storage of materials and no exterior indication of the home occupation or variation from the residential character of the principle building and neighborhood;
- D. Produces no offensive noise, vibrations, smoke, dust, heat, odor, glare, traffic hazard or congestion and does not adversely affect the surrounding properties; and
- E. Requires no internal or external alterations or construction features or equipment or machinery not customary in residential areas.

HORIZONTAL SURFACE - A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

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**HOSPITAL** - An institution rendering medical, surgical or convalescent care, including nursing homes, homes for the aged and sanatoriums and treatment centers that serve patients at least partially on an inpatient basis.

**HUMANITARIAN AID ORGANIZATIONAL OFFICE** - A charitable organization established to provide relief assistance to an identified distressed, underprivileged group. Relief would be provided in such forms as clothing, medical supplies or educational contributions. The organization must provide a public beneficial interest to the community.

**IMMEDIATE FAMILY** - Any person who is a natural or legally defined offspring, spouse, sibling, grandchild, grandparent, or parent of the property owner.

**IMPACT ANALYSIS** - A written statement describing the potential impacts of an application or development plan or proposal, including maps, plans, diagrams and other materials, and meeting all requirements set forth by the Frederick County Department of Planning and Development.

**IMPERVIOUS AREA** - Any area, generally paved or graveled, with a surface that prevents, or significantly reduces, absorption of stormwater into the ground. When calculating impervious area for landscaping purposes, retention and detention basins, dry wells, sidewalks, display areas, dumpster pads, and structures shall be excluded.

**INACTIVE DISTANCE BUFFER** - A distance buffer which contains no structures, buildings, roads, driveways, accessory uses or activities.

**INDEPENDENT-LIVING FACILITY** - A building or series of buildings containing independent dwelling units or individual housing units to include: single-family detached, duplex or multiplex units. Independent-living facilities are intended to provide housing for older persons not requiring health or other services offered through a central management structure/source. The facility may include ownership or rental units and must be subject to appropriate covenants, conditions, management policies or other procedures to ensure that the facility provides only housing for older persons (as defined in § 36-96.7 of the Code of Virginia, 1950, as amended).

**INDUSTRIAL PARK** - A development within the B3 Industrial Transition, M1 Light Industrial or M2 Industrial General Zoning District, containing two or more uses within a single approved master development plan or site plan.

**INOPERABLE MOTOR VEHICLE** - Any motor vehicle which is not in operating condition, or any vehicle which has been partially or totally disassembled by the removal of tires and wheels, the engine or other essential parts required for operation of the vehicle or on which there are displayed neither valid license plates nor a valid inspection decal.

**INSTITUTIONAL USE** - A nonprofit or quasi-public use or institution, such as a church, library, public or private school, hospital or municipally owned or operated building, structure or land used for public purposes.

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**INSTITUTIONS OF HIGHER EDUCATION** - An educational institution whose primary purpose is to provide a collegiate or graduate education.

**INTER-PARCEL CONNECTOR** - An at-grade entrance between adjoining properties that is designed to facilitate vehicular access between land uses without use of the street system.

**JUNKYARD** - Any area, lot, land, parcel, building or structure or part thereof used for the storage, collection, processing, purchase, sale or abandonment of wastepaper, rags, scrap metal or other scrap or discarded goods, materials or machinery.

**KENNEL** - A place prepared to house, board, breed, handle or otherwise keep or care for dogs for sale or in return for compensation.

**LAKES AND PONDS** - Natural or artificial bodies of water which retain water year round. Such bodies shall be considered to extend from the maximum water level plus an additional 10 feet.

**LANDFILL** - A sanitary landfill site used for the disposal of solid wastes beneath layers of soil and other materials.

**LANDSCAPE SCREEN** - A landscaped easement containing plants or other features approved by this chapter which provide a complete visual screen.

**LDN** - A term referring to the average day-night sound level for areas adjacent to the Winchester Regional Airport.

**LDN MAP** - A map showing the average day-night sound levels of 65 LDN and above for areas adjacent to the Winchester Regional Airport.

**LEGALLY NONCONFORMING SIGN** - Any sign lawfully existing on the effective date of an ordinance, or amendment thereto, that renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance.

**LEGALLY NONCONFORMING STRUCTURE** - A structure, the size, dimensions, or location of which was lawful prior to the adoption, revision, or amendment to the Zoning Ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

**LEGALLY NONCONFORMING USE** - A use or activity that was lawful prior to the adoption, revision or amendment of the Zoning Ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

**LIGHTING FIXTURE** – A complete lighting unit consisting of the lamp, lens, optical reflector, housing and an electrical components necessary for ignition and control of the lamp, which may include a ballast, starter and/or photo control.

**LIGHTING FIXTURE, DIRECTIONALLY SHIELDED** – A lighting fixture which emits a light distribution where some light is emitted at or above a horizontal plan located at the bottom of a fixture. Such fixtures may

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contain visors, louvers, or other types of shields or lenses which are designed to direct light onto a target area and to minimize stray light.

LIGHTING FIXTURE, FULL CUT-OFF - A lighting fixture from which zero (0) percent of its light output is emitted at or above ninety (90) degrees from horizontal (a horizontal plane drawn through the bottom of the light fixture) and no more than ten (10) percent above eighty (80) degrees from the horizontal.

LIGHT FIXTURE, RECESSED CANOPY – An outdoor lighting fixture recessed into a canopy ceiling so that the light source is either completely flush or recessed within the underside of the canopy.

LIGHT TRESPASS – Unwanted light going beyond the property line and spilling over onto the adjacent or neighboring property. It can also represent the direct light (glare) that reduces a person's vision or ability to see.

LOADING AREA - An off-street area containing loading spaces and maneuvering areas, as well as their associated driveways.

LOADING SPACE - An off-street space used for loading or unloading by commercial, industrial, public, or semipublic vehicles.

LOT - A designated parcel, tract or area of land established or to be established by plat or subdivision or previously established as a recorded lot.

LOT AREA - The total area within the lot lines of a lot.

LOT, CORNER - A lot abutting two or more streets at their intersection.

LOT LENGTH - The distance between the front lot line and the rear lot line measured at the maximum distance.

LOT LINE, FRONT - The line separating a lot from a street right-of-way.

LOT LINE, REAR - The lot line opposite and parallel to the front lot line or within 45° of being parallel to the front lot line.

LOT LINE, SIDE - Any lot line other than front or rear lot lines.

LOT OF RECORD - A lot for which a plat or survey description has been legally recorded with the Frederick County Clerk of the Court.

LOT, PIPESTEM - A residential lot fronting on a public or a private street in which access is provided by a narrow strip of land, referred to as the "pipestem driveway yard," which is less than the minimum required front yard width, and located between adjoining residential lots fronting on the same street.

LOT WIDTH - The horizontal distance between side lot lines.

LOWEST FLOOR - The lowest floor of the lowest enclosed area (including basement). An unfinished or

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flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.

**MAINTAINED LIGHTING LEVEL** – A level of illumination which results when the initial output of the lamp is reduced by certain light loss factors. Such light loss factors typically include lamp depreciation and dirt accumulation on lenses and other light fixtures components. For the purpose of this Chapter, the maintained lighting level shall represent an average foot-candle level measured over a specified area.

**MANEUVERING AREA** - A traveled way by which commercial, industrial, public, or semipublic vehicles enter and depart loading spaces.

**MANEUVERING AREA, PARKING LOT** - A traveled way, including driveways and aisles, by which vehicles enter and depart parking spaces.

**MANUFACTURING** - The mechanical or chemical transformation of materials and substances into new products, including the assembly of component parts and the blending of materials.

**MASTER DEVELOPMENT PLAN** - A general plan of development approved by the Board of Supervisors for new developments in certain zoning districts before subdivision or site plan approval, according to the requirements of this chapter.

**MEDICAL AND ALLIED HEALTH** - Medical related facilities, activities, and personnel, including administrative, clinical support, and general support services and personnel.

**MINIMUM LANDSCAPED AREA** - The minimum area or portion of a lot or parcel that must be landscaped with grass, vegetation or other landscaping materials, not including pavement or structures.

**MINING** - The breaking or disturbing of the surface soil or rock in order to remove minerals to make them suitable for commercial, industrial or construction use, but not including excavation or grading when conducted in aid of on-site farming or construction.

**MOBILE HOME OR MANUFACTURED HOME** – A structure, transportable in one or more sections, which in travel mode is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet and which is built in a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities.

**MOBILE OR MANUFACTURED HOME PARK OR SUBDIVISION** - A parcel (or contiguous parcels) of land or a subdivision divided into two or more manufactured home lots for rent or sale.

**MOTOR VEHICLE SERVICE** - Businesses engaged in the maintenance, service or repair of motor vehicles.

**NATURAL STORMWATER RETENTION AREA** - Areas of poorly drained soils which are subject to periodic flooding and act as areas to temporarily store stormwater. In some cases, "natural stormwater retention areas" will contain floodplain and wetland areas.

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**NATURAL WATERWAY** - Creeks, streams, runs, or other annual or perennial waterways identified on United States Geological Survey, Commonwealth of Virginia or Frederick County maps.

**NEW CONSTRUCTION** - For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial Flood Insurance Rate Map on or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION** - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**NOISE EASEMENT** - A required easement within the Winchester Regional Airport's noise abatement area as specified in the Airport District.

**NONCONTRIBUTING STRUCTURE** - Any structure within an HA District not listed as a contributing structure.

**NUISANCE** - An activity which annoys, vexes or creates a health hazard or that which, by its existence, created annoyance, injury or damage to persons or property.

**NURSERY, RETAIL** - Uses which raise plant materials or sell plant materials and related products.

**OCCUPANCY PERMIT** - A required permit allowing occupancy of a building, structure or use after it has been determined that the building, structure or use meets all the requirements of the Frederick County Code.

**OFF-STREET PARKING SPACE** - A temporary storage space for a motor vehicle with access to an aisle and driveway which is not located within a street or road right-of-way.

**OFFICE** - A room or building used for conducting the affairs of a business, professional, service, industry, government or other enterprise.

**OFFICE PARK** - A development primarily devoted to office uses, containing two or more uses within a single master development or site plan.

**ON-SITE UTILITY SYSTEMS** - On-site heating and cooling plants, pump stations, electro-magnetic systems, distribution transformers, pipes and meters, water and sewer lines, booster or relay stations, transformer substations, and water supply stations either located within a structure or freestanding.

**OPAQUE** - Not transparent or translucent.

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**OPAQUE FENCE** - A fence that is constructed to visually obscure structures, outdoor storage areas, and other uses. A chain-link fence with slats shall not constitute an opaque fence.

**ORCHARD** - An area of land devoted to the cultivation of fruit trees.

**OUTDOOR SHOOTING RANGE** - An area devoted to organized shooting and target shooting.

**OUTDOOR STORAGE AND PROCESSING** - The keeping or processing of goods, junk, material, merchandise or vehicles outside of an enclosed building and in the same place.

**OWNER** - An individual, firm, association, syndication, partnership or corporation having sufficient proprietary interest to seek development of land.

**PARCEL** - A lot or tract of land.

**PARK** - A tract of land designated and used for active and passive recreation.

**PARKING AISLE** - A vehicle access aisle used to provide direct access to a parking space in a parking lot.

**PARKING LOT** - An off-street, paved parking area containing parking spaces, aisles and other improvements.

**PEDESTRIAN ACCESS** - Means by which individuals can travel on foot outside of private lots and street travelways.

**PERIMETER BOUNDARY** - The exterior boundary of a development contained within a single site plan or master development plan.

**PLANNED COMMUNITY** - A development contained in the R4 Residential Planned Community District.

**PLANNING COMMISSION** - The Frederick County Planning Commission.

**PRIMARY SURFACE** - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the "primary surface" extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface or planned hard surface, the "primary surface" ends at each end of that width prescribed in Part 77 of the Federal Aviation Administration regulations for the most precise approach existing or planned for either end of that runway. The elevation of any point on the "primary surface" is the same as the elevation of the nearest point on the runway center line.

**PROFFER** - The voluntary offering of conditions to be placed on the approval of a rezoning.

**PROPERTY OWNERS' ASSOCIATION** - A private, nonprofit organization or corporation of property owners, established to own, operate and maintain various common facilities or properties.

**PROTECTED POPULATION HOME** - A residential facility for persons protected pursuant to the provisions of the Federal Fair Housing Act.



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**PUBLIC BUILDING** - Any area, building or structure used or controlled for government purposes, that is owned, held, operated by any department, branch or unit of the Federal Government, the Commonwealth of Virginia or one or more of its local governments, political subdivisions or municipal corporations.

**PUBLIC WATER OR SEWER SYSTEM** - A water or sewer system owned and operated by a municipality or public authority.

**RAISED ISLAND** - A built-up structure containing curbing or curb and gutter, placed within or at the end of parking rows and within property entrances to guide traffic and/or provide space for landscaping, signage, or lighting.

**RECEIVING AREA** – One or more areas identified in this Chapter and designated by the comprehensive plan as an area authorized to receive development rights transferred from a sending area.

**RECEIVING PROPERTY** - A lot or parcel of land within a receiving area and within which development rights are increased pursuant to a transfer of development rights affixed to the property.

**RECREATIONAL FACILITIES** - A place or facility designed, equipped and used for the conduct of sports, leisure-time activities and other recreational activities.

**RECREATIONAL VEHICLE** - A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light-duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel or seasonal use.

**RECREATIONAL VEHICLE STORAGE** - An area provided within a residential recreational community for its residents to store recreational vehicles such as boats, campers, RV's and travel trailers.

**RELATED RESIDENTIAL LAND USE** - A dwelling, structure or facility that has a specific affiliation with or whose residents receive a direct benefit from hospitals, medical centers, medical offices, clinics, and schools of medicine.

**RESORT** - A facility for transient guests where the primary attraction is recreational features or activities.

**RESTAURANT** - A facility in which food and drinks are prepared, served and consumed.

**RETAIL PETROLEUM PUMP CANOPY** - A roof-like structure designed to cover a retail petroleum pump island.

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RETAIL USES - Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. "Retail uses" shall not include coal, wood and lumber yards.

REZONE - To change the zoning district classification of a particular lot, parcel or area.

RIGHT-OF-WAY - Land dedicated or reserved for or occupied by a road, railroad, utility or other similar use.

RIPARIAN BUFFER - An area of trees, shrubs, or other vegetation that permits inundation by water and is at least 35 feet in width, measured outward from both sides of a natural waterway beginning along the slope of the ground from the channel scar line. A riparian buffer is managed to maintain the integrity of stream channels and reduce the effect of upland sources of pollution by trapping, filtering, and converting sediments, nutrients, and other chemicals.

ROAD - A street dedicated to or owned by Frederick County or the Virginia Department of Transportation; also, privately owned rights-of-way which serve as the principal means of access to more than one property.

RUNWAY- A specified area on an airport prepared for landing and takeoff of aircraft along its length.

### SAWMILLS and PLANING MILLS

A. TYPE A — A mill located on a single parcel of land used for the sawing or processing of standing trees or their wood or timber, harvested only from that parcel or only from parcels immediately contiguous thereto.

B. TYPE B — A mill for sawing or processing of standing trees or their wood or timber.

SENDING AREA - One or more areas identified in this Chapter and designated by the comprehensive plan as an area from which development rights are authorized to be severed and transferred to a receiving area.

SENDING PROPERTY - A lot or parcel of land in a sending area that is the subject of a transfer of development rights, where the owner of the parcel is conveying development rights of the parcel, and on which those rights so conveyed are extinguished and may not be used, by reason of the transfer of development rights.

SCENIC AREA - An open area, the natural features of which are visually significant or geologically or botanically unique.

### SCHOOL

A. Without residential component: any building used for organized education or instruction in any branch of knowledge. This school does not contain rooms where overnight lodging and meals are provided to students.

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B. With residential component: any building used for organized education or instruction in any branch of knowledge. This school does contain rooms where overnight lodging and meals are provided to students.

SCREENING - A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

SEARCH AREA - A geographic area in which a commercial telecommunication facility site may be located that would satisfactorily cover a targeted area and/or hand-off with its neighboring sites.

SEASONAL USE - Any use which ceases operation for at least three months in a year.

SELF-SERVICE STORAGE FACILITY - A structure containing separate storage spaces of varying sizes leased or rented as individual leases for the purpose of storing personal property and household goods.

SEMITRAILER - Every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.

SERVICE STATION - Any premises primarily used for supplying gasoline, oil, tires, accessories and services for automobiles at retail directly to the motorist or consumer. Repair uses are accessory to the other retail services provided.

SETBACK - The required distance between a building or structure and a lot line.

SETBACK, FRONT YARD - The required distance between a street right-of-way line and the front line of a building or structure.

SETBACK, REAR YARD - The required distance between a building or structure and the rear lot line of the lot containing the building or structure.

SETBACK, SIDE YARD - The required distance between a building or structure and the side lot line of the lot containing the building or structure.

SEWAGE TREATMENT FACILITY - Any device or system used in the storage, treatment, disposal or reclamation of sewage and industrial wastes generated by more than two uses or dwellings.

SHOPPING CENTER - Any development in the B1 Neighborhood Business or B2 Business General Zoning District containing two or more uses within a single approved master development plan or site plan.

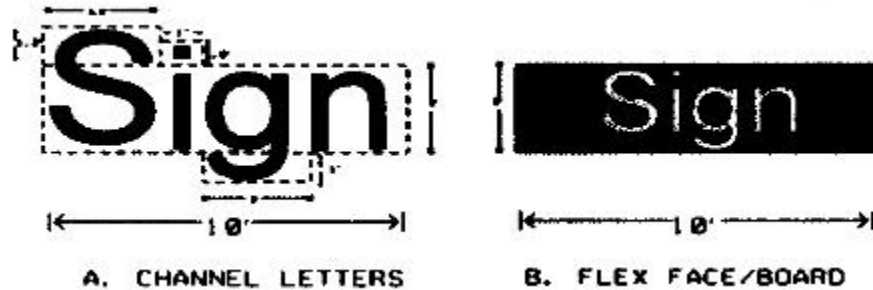
SIGN- Any object, device, display or structure or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

A. SIGN AREA— The sign area shall be measured as the area of a sign face with the smallest square, circle, rectangle, triangle or combination thereof that encompasses the extreme limits of the letters, figures, designs, devices, pictures, projected images, symbols, fixtures, logos, emblems or insignias, or

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any part or combination thereof together with any materials or colors forming an integral part of the background of the sign face or used to differentiate the sign from the backdrop or structure against which it is placed. In the case of a double-faced sign where the interior angle formed by the faces is 45° or less or where the sign face is parallel, only one display face shall be used in calculating the area.

### Measuring Sign Area



- B. SIGN, ANIMATED— Any sign or part of a sign that changes physical position or light intensity by any movement or rotation or that gives the visual impression of such movement or rotation.
- C. SIGN, BANNER— A sign having characters, letters or illustrations applied to cloth, paper, flexible plastic, or fabric of any other kind, with only such material for backing.
- D. SIGN, BUILDING ENTRANCE— A sign designating the location to the outside entrance to a particular use.
- E. SIGN, BUSINESS — A sign which directs attention to a business or profession conducted or to a commodity or service sold, offered or manufactured or to a service, activity or entertainment offered.
- F. SIGN, COTTAGE OCCUPATION — A sign advertising an approved cottage occupation.
- G. SIGN, DIRECTIONAL— A sign that is designed or erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic. Directional signs shall have lines and arrows indicating the direction to which attention is being called and shall only indicate the name of the use or business using the sign.
- H. SIGN, ELECTRONIC MESSAGE — A sign with a fixed or changing message and/or display composed of a series of lights that may be changed through electronic means. LED (light emitted diodes) is a type of electronic message sign. Such electronic sign messages shall be displayed for a minimum of two minutes, and shall not be animated by scrolling, flashing or other similar nonstatic displays. In no case shall an electronic message sign occupy more than 50% of the area of a permitted sign size.
- I. SIGN, FLAG — Flags of the United States, the Commonwealth of Virginia, Frederick County, other countries and states, the United Nations Organization or similar organizations of which this nation is a member, religious groups, civic organizations and service clubs are allowed, provided that there shall be no more than three flags on any one lot. In addition, any business zoned use, industrial zoned use, and

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business in the Rural Areas District with an approved condition use permit (CUP) may display its corporate or business emblem in the form of a flag, provided that there is no more than one such flag on any parcel.

J. SIGN, FLASHING — Any sign directly or indirectly illuminated that exhibits changing natural or artificial light or color effects by any means whatsoever.

K. SIGN, ILLUMINATED — A sign lighted by or exposed to artificial lighting either by lights on or in the sign or directed toward the sign.

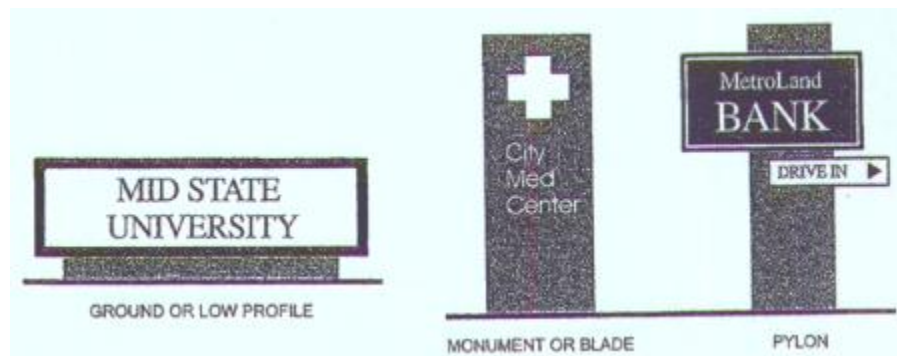
L. SIGN, INFLATABLE — Any display capable of being expanded or powered by air or other gas and used to advertise a business, service, product or event.

M. SIGN, INFORMATIONAL — A sign commonly associated with, and not limited to, information necessary for the convenience of visitors coming on the property, including signs marking entrances and exits, parking areas, circulation direction, rest rooms, and pick-up and delivery areas.

N. SIGN, INTERSTATE OVERLAY — An on-premise business sign located within the Interstate Area Overlay District meeting all requirements of Article VII, Part 704 of this chapter.

O. SIGN, MONUMENT — A freestanding sign placed directly on the ground by means other than a support pole or brace in which the message portion is either on top of, or affixed to, the support structure. The width of the support structure for the monument sign must be a minimum of 50% of the width of the sign face area.

### Examples of Monument Signs



P. SIGN, MULTI-TENANT COMPLEX — A sign that identifies the name of the development and the users in a business park.

Q. SIGN, OFF-PREMISES — A sign which directs attention to a business, commodity, service, activity or entertainment conducted, sold or offered on a parcel of land other than the one on which the sign is located.

R. SIGN, ON-PREMISES — A sign which directs attention to a business, commodity, service, activity or entertainment conducted, sold or offered on the parcel of land on which the sign is located.

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S. SIGN, PORTABLE — A sign designed or intended to be moved easily that is not permanently embedded in the ground or affixed to a building or other structure.

T. SIGN, RESIDENTIAL SUBDIVISION IDENTIFICATION — A sign which denotes the name of a residential subdivision, condominium or apartment complex.

U. SIGN, ROOF — A sign that is mounted on the roof of a building or a sign that projects above the top wall or edge of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.

V. SIGN, TEMPORARY — A sign intended to display either commercial or noncommercial messages of a transitory, nonpermanent, or temporary nature, and which may include, as a permitted sign pursuant to this chapter, a sign that is portable.

W. SIGN, WALL-MOUNTED — A sign fastened to the wall of a building or structure in such a manner that the wall becomes the supporting structure for the sign.

SIGNIFICANT EXTERIOR ALTERATION - Any change in the exterior appearance of a structure, excluding minor changes, such as painting, minor repairs and installation of easily removed equipment, such as air conditioning and/or storm doors or windows.

SINGLE-FAMILY - A single person, or two or more persons related by blood or marriage occupying a dwelling, living together and maintaining a household, which may include not more than one unrelated person; however, not more than four unrelated persons occupying a dwelling, living together and maintaining a household shall be deemed to constitute a "single family."

SINKHOLE - Any depression in the surface of the ground which provides a means through which surface water can enter directly into subsurface aquifers.

SITE PLAN - A specific and detailed plan of development meeting the requirements of this chapter.

SPECIAL FLOOD HAZARD AREA - The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in §165-702.07.

START OF CONSTRUCTION - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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STEEP SLOPES - Land areas where the slope exceeds 50%.

STORMWATER MANAGEMENT FACILITY - A facility designed to Virginia Erosion and Sedimentation Control Law standards that is intended for the control and management of stormwater to minimize the detrimental effects of surface water runoff.

STRUCTURE – For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance rating purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

STREET - A roadway dedicated to or owned by Frederick County or the Virginia Department of Transportation; also, privately owned rights-of-way which serve as the principal means of access to more than one property.

STREET, ARTERIAL - A street so classified by the Virginia Department of Transportation or by Frederick County which collects and distributes traffic to and from collector streets.

STREET, COLLECTOR - A street, so classified by the Virginia Department of Transportation or by the standards of Frederick County, designed to collect and distribute traffic to and from local streets.

STREET ENTRANCE - The location where at-grade access from a street to a parcel is provided.

STREET INTERSECTION - The location where two or more streets cross at grade without a bridge.

STREET, LOCAL - A street, so classified by the Virginia Department of Transportation or by the standards of Frederick County, designed to provide access to adjoining or abutting properties.

STREET, PRIVATE - A street that has not been accepted by the County of Frederick or the Virginia Department of Transportation for use by the public.

STREET, URBAN COLLECTOR - A public or private street that is constructed to the American Association of State Highway and Transportation Officials (AASHTO) geometric design standards for urban collector street systems.

STREET, URBAN LOCAL - A public or private street that is constructed to the American Association of State Highway and Transportation Officials (AASHTO) geometric design standards for urban local street systems.

STRUCTURE - Any man-made object having an ascertainable stationary location on or in land or water, whether or not it is affixed to the ground. All buildings are "structures."

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**STRUCTURE** – For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance rating purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

**SUBSTANTIAL DAMAGE** - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** - Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or any alteration of an historic structure, provided that the alteration will not preclude the structures continued designation as an historic structure.

**SUPPORT SERVICE** - A commercial, industrial, or institutional use providing a specific service for employees and patrons of hospitals, medical centers, medical offices, clinics, and schools of medicine.

**TELECOMMUNICATIONS TOWERS** - A structure, including the tower, antennas, panels, microwave dishes, receiving dishes, equipment building, other transmitting and receiving components and other accessory structures, used for the wireless electromagnetic transmission of information, excluding structures utilized as satellite earth stations and structures utilized for amateur or recreational purposes such as ham radio or citizen band radio.

**TEMPORARY TRAILER** - A mobile home or trailer to be removed after a designated time period.

**TEMPORARY USE** - A use established for a designated fixed period of time with the intent to discontinue such use upon the expiration of the time period.

**TOURIST HOME** - An establishment in a dwelling which supplies temporary accommodation to up to 14 overnight guests for a fee.

**TRACTOR-TRAILER TRUCK** - A motor vehicle with a short chassis and a swivel (fifth wheel), with a trailer pulled by the tractor designed to be used to haul freight.



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**TRACTOR TRUCK** - Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

**TRACTOR TRUCK TRAILER** - The portion of a tractor truck without motive power, designed for carrying property or passengers wholly on its own structure.

**TRANSFER OF DEVELOPMENT RIGHTS** - The procedure prescribed by this ordinance whereby the owner of a parcel in a sending area may convey development rights to the owner of a parcel in a receiving area or to another person or entity, whereby the development rights so conveyed are severed or extinguished on the sending property and may be exercised on the receiving parcel in addition to the development rights already existing regarding that parcel or may be held by the receiving person or entity.

**TRANSFERABLE DEVELOPMENT RIGHTS** - All or that portion of development rights that are transferred or are transferable.

**TRANSFeree** – A person or legal entity that owns property in a receiving area or who receives and holds development rights from a sending property.

**TRANSFEROR** – The person or legal entity, including a person or legal entity that owns property in a sending area, who conveys development rights.

**TRANSFER OF DEVELOPMENT RIGHTS LETTER OF INTENT** – A letter issued by the Director of Planning and Development or his designee determining the number of residential development rights a sending property has available for transfer to a receiving property or transferee.

**TRANSFER OF DEVELOPMENT RIGHTS (TDR) CERTIFICATE**- A letter issued by the Director of Planning and Development or his designee agreeing to sever a specified number of residential development rights from a sending property in exchange for a restrictive deed covenant to which Frederick County is a party to on the sending property that restricts further development.

**TRANSITIONAL SURFACE** - Surface which extends outward perpendicular to the runway center line extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

**TRASH HEAP** - An area where trash, garbage or other solid wastes are deposited without being covered by a sanitary fill.

**TREE, DECIDUOUS** - Trees which drop their foliage annually before becoming dormant.

**TREE, EVERGREEN** - Trees with foliage which remain green year-round.

**TRIP ENDS** - The total trips entering and leaving a specific land use or parcel over a designated period of time.

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**TRUCK** - Every motor vehicle designed to transport property on its own structure independent of any other vehicle and having a registered gross weight in excess of 7,500 pounds.

**USE** - Any purpose for which a lot or structure may be designed, arranged, intended, maintained or occupied or any activity, occupation, business or operation carried on a parcel of land.

**VARIANCE** - A reasonable deviation from those provisions regulating the size or area of a lot or parcel of land or the size, area, bulk or location of a building or structure when the strict application of this chapter would result in unnecessary or unreasonable hardship to the property owners and such need for a variance would not be shared generally by other properties, and provided that such variance is not contrary to the intended spirit and purpose of this chapter and would result in substantial justice being done.

**VIOLATION** - For floodplain management purposes, violation includes the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

**WAREHOUSING, MEDICAL AND ALLIED HEALTH** - A structure or facility designed for the storage of medical supplies, equipment, furniture and fixtures associated with medical and allied health services.

**WASTE RECOVERY AND RECYCLING FACILITY** - A residential recreational community facility for the collection and recycling of household materials that are generated by its residents.

**WATERCOURSE** - A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

**WAYSIDE STAND, ROADSIDE STAND OR WAYSIDE MARKET** - Any structure or land used for the sale of agricultural or horticultural produce, livestock or merchandise produced by the owner or his family on their farm.

**WELLNESS CENTER** - A structure or facility designed to provide recreational, educational, and medicinal benefits to the public.

**WETLANDS** - Areas that are inundated or saturated by surface or groundwater at a frequency or duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, and that is subject to a perpetual easement permitting inundation by water.

**ZONING ADMINISTRATOR** - The administrative officer designated by the Frederick County Board of Supervisors to administer this chapter.

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### § 165-101.03 Headlines of sections.

The headlines of the sections printed in boldface type are intended as mere catchwords to indicate the contents of the sections and do not constitute part of the ordinance.

### § 165-101.04 Scope; applicability.

This chapter shall establish regulations concerning the use of land, the dimensions of lots and uses and other supplementary development regulations to achieve the intentions of this chapter. This chapter establishes districts throughout the County and regulations applicable to each district.

- A. In all districts established by this chapter, any new lot, use or structure shall be constructed, developed and used only in accordance with the regulations specified in this chapter.
- B. In all districts, after the effective date of this chapter, any existing lot, use or structure which is not in conformity with the regulations for the district in which it is located shall be deemed as nonconforming and subject to the regulations of Article IX of this chapter.
- C. The provisions of this chapter are not intended to interfere with, abrogate or annul other rules, regulations or chapters, provided that where this chapter imposes greater restriction than imposed by such other restrictions, the provisions of this chapter control.
- D. The use of land and structures shall be limited to only uses that are specifically allowed by this chapter. All other uses not expressly permitted are prohibited.
- E. Only uses that meet all applicable federal, state and local regulation shall be allowed.

### § 165-101.05 Zoning districts and zoning map.

All portions of the land area of Frederick County are included in particular zoning districts as described by this chapter. The districts are delineated on an official set of maps maintained by the Frederick County Zoning Administrator and located in the office of the Zoning Administrator. The official zoning maps shall constitute a part of this chapter by reference.

- A. No changes shall be made to the Zoning Maps except in conformance with the requirements and procedures set forth in this chapter.
- B. The Frederick County Zoning Administrator shall be responsible for maintaining said maps and shall be authorized to interpret said maps to determine the zoning status of land areas in the County.
- C. District boundaries. Unless district boundary lines are clearly established on the Zoning Maps by lot lines, surveyed boundaries or other fixed boundaries, the following rules shall apply in determining the boundaries of zoning districts:
  - (1) Where district boundaries are indicated to follow or be at right angles to streets, alleys or railroad rights-of-way, such boundary shall be construed to follow the center line of such streets or rights-of-way.

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- (2) Boundaries indicated as approximately following platted lot lines shall be construed to follow said lot lines.
- (3) Boundaries indicated to approximately follow corporate limits or other boundaries of Frederick County shall be construed to follow said boundaries.
- (4) Boundaries indicated to approximately follow streams, creeks, runs, lakes or other bodies of water shall be construed to follow the center line of small streams or shall follow the actual shoreline of larger bodies, and if such shoreline changes, the boundary shall follow said shoreline.
- (5) Boundaries indicated as parallel to or extensions of zoning boundaries otherwise described shall be so construed. Distances not specifically indicated shall be determined by the scale of the map.
- (6) Interpretations concerning the location of boundary line shall be made by the Zoning Administrator. The interpretation of the Zoning Administrator may be appealed to the Board of Zoning Appeals following procedures set forth in this chapter.

### **§ 165-101.06 Administration and interpretation.**

- A. The Zoning Administrator shall be responsible for the interpretation and administration of this chapter. The Zoning Administrator shall be appointed by the Board of Supervisors and shall serve under the direction of the Director of Planning and Development, who shall also be appointed by the Board of Supervisors. The Director of Planning and Development shall also have the administrative authority as specified by this chapter. The Director of Planning and Development and the Zoning Administrator shall also have the authority to delegate various administrative responsibilities to other members of the County staff.
- B. The Zoning Administrator shall have the authority to order, in writing, the remedy of any noncompliance with this chapter. The Zoning Administrator shall also have the authority to bring legal action to ensure compliance, including injunction, abatement or other appropriate action or proceeding.
- C. The Zoning Administrator shall also have the authority to make interpretations concerning the application of the requirements in this chapter. Interpretations of the Zoning Administrator may be appealed to the Board of Zoning Appeals following procedures set forth in this chapter.

### **§ 165-101.07 Compliance required; required permits.**

- A. No building or structure shall be used, occupied, developed, located, relocated, constructed, reconstructed, enlarged or structurally altered except in compliance with the terms and provisions of this chapter and any other applicable ordinances and regulations. Compliance shall require the issuance of a permit by the Director of Code Administration.
- B. No land shall be used, occupied or developed or lots created or altered except in compliance with the terms and provisions of this chapter and any other applicable ordinances and regulations.

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- C. Any person who proposes to construct or alter any building or use or alter the use of any building, structure or land shall apply for a permit from the Director of Code Administration. Such application shall include all information necessary to determine if the requirements of this chapter have been met. The Director of Code Administration shall submit this application to the Zoning Administrator, who shall certify whether the proposed use is in compliance with this chapter. If such proposed use is not in compliance with this chapter, the Director of Code Administration shall refuse to issue a permit for the use.
- D. No use or structure shall be occupied until a certificate of occupancy has been issued by the Director of Code Administration. No certificate of occupancy shall be issued unless all requirements of this chapter have been met.

### **§ 165-101.08 Violations and penalties; enforcement.**

It shall be a violation of this chapter to make any use of land in a fashion not expressly permitted by this chapter.

- A. Misdemeanor. Any person(s), firm or corporation, whether owner, lessee, principal, agent, employee or otherwise, who violates any provision of this chapter or who uses land or constructs or alters structures in a fashion that is not in conformance with the requirements and procedures in this chapter shall be guilty of a misdemeanor. Upon conviction of such misdemeanor, such person(s), firm or corporation shall be subject to punishment by a fine of not less than \$10 nor more than \$1,000. If this violation is uncorrected at the time of conviction, the court shall order the violator to abate or remedy such violation in compliance with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within a specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10 nor more than \$1,000, and any such failure during any succeeding thirty-day period shall constitute a separate misdemeanor offense for each thirty-day period, punishable by a fine of not less than \$10 nor more than \$1,000.
- B. Complaints. Whenever a violation of this chapter occurs or is alleged to have occurred, any person may file a complaint to the Zoning Administrator, stating fully the case and basis of the complaint. The Zoning Administrator shall record such complaint immediately and investigate and take action as provided by this chapter.
- C. Notification. When the Zoning Administrator determines that a violation has occurred, a notice of the violation shall be served to the person committing or permitting the violation. The notice of the violation shall specify the nature of the violation and shall order that the violation cease within a reasonable time specified by the Zoning Administrator.
- D. Appeal. The interpretation of the Zoning Administrator that a violation has occurred may be appealed to the Board of Zoning Appeals following procedures set forth in this chapter. The order to cease the violation may be stayed until the appeal is heard, provided that the appeal is filed on a timely basis.
- E. Enforcement. If the violation continues after the time period specified in the notice of violation expires, the Zoning Administrator may initiate injunction, mandamus or any other appropriate action

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to ensure compliance with this chapter. In addition, the Frederick County Attorney or other prosecuting attorney appointed by the Board of Supervisors shall proceed to prosecute the violation.

- F. Civil penalties. The Board of Supervisors may adopt an ordinance which establishes a uniform schedule of civil penalties for violations of specific provisions of this chapter according to the provisions of the Code of Virginia, as amended. Such schedule of offenses shall not include any zoning violation resulting in injury to any person or persons. In such cases, the civil penalty shall be a fine established by the schedule. The fine shall be in lieu of criminal sanctions, and except for any violation resulting in injury to any person or persons, such designation shall preclude the prosecution of a violation as a criminal misdemeanor.
- G. Any person summoned for a scheduled violation may provide a waiver of trial and admission of liability and pay the civil penalty to the County Treasurer. Such persons shall be informed of their right to stand trial and that an admission of liability will have the same effect as a judgment of the court. If a person charged with a scheduled violation does not elect to enter a waiver of trial and admission of liability, the violation shall be tried in the General District Court as provided for by law. An admission of liability or finding of liability shall not be a criminal conviction.
- H. The remedies provided for in this section are cumulative, not exclusive, and shall be in addition to any other remedies provided by law.

### **§ 165-101.09 Disclosure of ownership.**

The Board of Supervisors, the Planning Commission and the Board of Zoning Appeals may require from an applicant for rezoning, a conditional use permit, master development plan approval or variance a complete disclosure of ownership or parties in interest of real estate for which the application has been made. This disclosure requirement shall not be construed to require the disclosure of the names of stockholders, officers and directors of a corporation whose stock is traded on a national or local stock exchange and having more than 500 shareholders.

## **Part 102 – Amendments**

### **§ 165-102.01 Initiation.**

The regulations, restrictions and boundaries established in this chapter may, from time to time, be amended, supplemented, changed, modified or repealed by the Board. Any such amendment may be initiated by one of the following methods:

- A. By resolution of the Board of Supervisors.
- B. By motion of the Planning Commission.
- C. By petition of the owner, contract purchasers with the owner's consent or by the owner's agent for the property which is the subject of a proposed rezoning.

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### **§ 165-102.02 Applications.**

- A. Petitions for changes in zoning district boundaries (rezonings) shall be filed with the Department of Planning and Development. Such requests shall be on a standard form provided for this purpose. Such petition shall include an adequate survey or other legal description of the land area to be rezoned. Every application or reapplication shall be signed by the landowner and applicant if the applicant is not the landowner. The Department of Planning and Development may require that the application for rezoning be reviewed by various agencies concerned with the use of the land.
- B. Every application for rezoning shall include proof that all property taxes due and payable to the County are paid and that no delinquent taxes are outstanding.
- C. Fees. Every petition of application or reapplication for rezoning shall be accompanied by a fee as established by a fee schedule separately adopted by the Board of Supervisors. This fee shall be intended to cover the costs and expenses associated with the processing and review of the petition or application or reapplication.
- D. Procedures. As soon as a completed application and fees have been received, the Department of Planning and Development shall advertise the application for a public hearing at the next available Planning Commission meeting according to the requirements of the Code of Virginia, as amended.
- E. Signs. At the time of application for rezonings, the applicant shall post, on the properties for which rezoning is sought, a sign with full information on the change sought. Such sign shall be placed at the front property line and be maintained so as to be legible from adjoining roads and properties until the date of the hearings.

### **§ 165-102.03 Planning Commission public hearing.**

The Planning Commission shall hold at least one public hearing on any proposed amendment after notice as required by § 15.2-2204 of the Code of Virginia and may make appropriate changes in the proposed amendment as a result of such hearing. Upon the completion of its work, the Commission shall present the proposed amendment to the Board, together with its recommendations and the appropriate explanatory materials to the Board of Supervisors. The Planning Commission shall present its recommendations to the Board within 90 days after the first Commission meeting following the referral of the amendment to the Commission.

### **§ 165-102.04 Board of Supervisors public hearing.**

Before approving and adopting any amendment, the Board shall hold at least one public hearing thereon, pursuant to public notice as required by § 15.2-2204 of the Code of Virginia, after which the Board may make appropriate changes or corrections in the proposed amendment; provided, however, that no additional land may be zoned to a different classification than was contained in the public notice without an additional public hearing after notice required by § 15.2-2204 of the Code of Virginia. An affirmative vote of a majority of the members of the Board shall be required to amend this chapter. The Board shall act on rezoning petitions within 12 months of the time when the petition was received by the Zoning Administrator. Should a request for a rezoning be disapproved by the Board of Supervisors, at least 12 months shall expire before another application for rezoning of substantially the same land to the same zoning district designation shall be considered.

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### § 165-102.05 Impact analysis.

A report analyzing the impacts of any rezoning shall be required to be submitted by the applicant with any application for rezoning. The Director of Planning and Development may exempt rezoning applications from this requirement if the application is for less than 20 acres and if no significant impacts are anticipated.

- A. The impact analysis shall be in the form of a report meeting standards set forth in the Comprehensive Plan and standards published by the Department of Planning and Development. The Director of Planning and Development shall determine which issues need to be addressed.
- B. The impact analysis shall include a Traffic Impact Analysis (TIA) which shall be prepared and submitted to the Department of Planning and Development in accordance with the adopted Traffic Impact Analysis Standards.
- C. In general, the impact analysis shall assume the maximum density or intensity of development allowed under the rezoning classification. Lesser densities or intensities can be assumed if such lesser densities or intensities are proffered as conditions on the rezoning. In general, the maximum possible impacts shall be assumed unless conditions are proffered to lessen those impacts. The impact analysis may be based on a particular master development plan or site plan only if that plan is proffered as a condition of the rezoning.
- D. The impact analysis shall include the following:
  - (1) The use of surrounding land and potential economic, physical, visual, nuisance and other impacts on surrounding properties.
  - (2) The anticipated increase in traffic to be generated as a result of the rezoning, anticipated entrance locations, anticipated changes in traffic patterns and turning movements on public streets and anticipated impacts on the capacity and efficiency of existing and planned public roads.
  - (3) The anticipated methods by which sewer and water facilities will be provided to the site.
  - (4) The anticipated increase in potential population resulting from the rezoning, including the potential increase in population in various age groups.
  - (5) The projected additional demand for school facilities, public parks and recreational facilities, solid waste facilities, emergency services facilities and other public facilities.
  - (6) Anticipated stormwater impacts.
  - (7) The location of important environmental features on the site and anticipated environmental impacts.
  - (8) The location of historic structures and sites in relation to the site and impacts on those historic structures and sites.

### § 165-102.06 Conditional rezoning.

The applicant for a rezoning may proffer in writing, before the public hearing by the Board of Supervisors, conditions to be placed on the approval of the rezoning.

- A. Procedures. Proffers shall be presented to and considered by the Planning Commission at the advertised public hearing for the rezoning. The Planning Commission shall make a recommendation



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on the acceptance of the proffers and the rezoning to the Board of Supervisors following the procedures described for amendments to this chapter. Proffers shall be received in writing, signed by the owner and applicant, at least five (5) days prior to the advertised hearing of the Board of Supervisors.

- 1) The Board of Supervisors may amend proffers once the public hearing has begun, or thereafter, if the amended proffers do not affect the conditions of use or density in such a way as to make the use or density of the property more intense than originally proposed. Once proffered and accepted as part of an amendment to the zoning ordinance, the conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by the conditions. However, the conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.
- 2) Proffer Amendments. In accordance with § 15.2-2302 of the Code of Virginia, when an amendment to a previously approved proffered condition is requested by the proffesor, and where such amendment does not affect conditions of use or density, and when the proposed amendment provides a benefit to the County, the Board of Supervisors may waive the requirement for a public hearing. Once so amended, the proffered conditions shall continue to be an amendment to the zoning ordinance and may be enforced by the zoning administrator pursuant to the applicable provisions of this Chapter.

B. Proffer Standards. The conditions proffered shall meet the following standards.

- (1) The rezoning itself must give rise to the need for the conditions.
- (2) Such conditions shall have a reasonable relation to the rezoning.
- (3) All conditions shall be in conformity with the Comprehensive Plan.

C. Types of proffers. The types of conditions proffered shall include but need not be limited to the following:

- (1) Limitations on the use of the land.
- (2) Limitations on the type of housing provided.
- (3) Limitations of the size or locations of buildings or structures.
- (4) Limitations on the density or intensity of the use.
- (5) Conditions on the appearance or maintenance of structures or uses.
- (6) Conditions preventing smoke, odors, fumes, dust, noise, traffic congestion or flooding.
- (7) Conditions or limitations on the location and nature of entrances and driveways.
- (8) Conditions concerning the number, location and design of parking and loading spaces.

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- (9) Landscaping provisions.
- (10) Provisions concerning outdoor storage and processing.
- (11) Building height limitations.
- (12) Provisions for stormwater management and environmental protection.
- (13) Preservation and protection provisions for trees, woodland, streams or other natural features.
- (14) On-site or off-site sewer or water improvements.
- (15) On-site or off-site drainage improvements.
- (16) On-site or off-site road, entrance or driveway improvements.
- (17) A particular master development plan or plan features or site layout features.
- (18) Preservation of historic structures and sites located on the land to be rezoned.
- (19) Buffer, screening and separation features.
- (20) Requirements concerning the phasing or timing of development.
- (21) The dedication of land for planned roads or for facilities identified in the Frederick County Capital Improvements Plan.
- (22) The construction of planned roads or necessary road improvements.
- (23) The construction of facilities identified in the Frederick County Capital Improvements Plan.
- (24) Cash contributions for road improvements or for planned facilities identified in the Frederick County Capital Improvements Plan.
- (25) Other conditions used to lessen or mitigate the impacts identified in the impact analysis.

### D. Legal form of proffer statement.

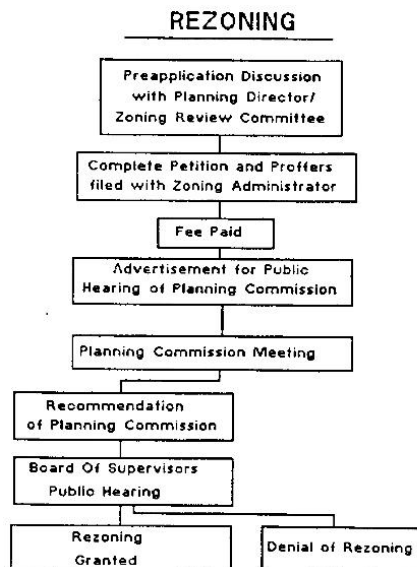
- (1) All proffers shall be in writing and shall be in a form suitable for recordation in the land records of Frederick County.
- (2) The proffer statement shall define the owners of the subject property and shall be signed by all parties involved.

### E. Recordation of Proffers. If the Frederick County Board of Supervisors approves proffered conditions as part of a rezoning, the Zoning Administrator or County Attorney shall, within ten (10) days of the

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Board's actions, present the written proffer to the Frederick County Clerk of the Circuit Court for recordation.

- F. Amendment of conditions. Once accepted and adopted by the Board of Supervisors, such conditions may only be changed through the procedures required for ordinance amendments as described by this section.
- G. Enforcement of conditions. The Zoning Administrator shall keep records of all conditions attached to rezonings, which shall be readily accessible to the public. The Zoning Map shall show by appropriate symbol the existence of conditions accepted for rezonings. In addition, the Zoning Administrator shall maintain a conditional zoning index which shall provide for ready access to the conditions created. The Zoning Administrator shall enforce the conditions attached to the rezoning using the following means:
- (1) The Zoning Administrator shall be vested with all necessary authority on behalf of the Board of Supervisors to enforce conditions that are attached to a rezoning which have been proffered by an applicant for rezoning and accepted by the Board of Supervisors.
  - (2) The Zoning Administrator may, in exercise of his discretion, issue a violation notice and correction order that orders the remedy of any noncompliance with any such conditions, or bring legal action to ensure compliance including injunction, abatement or other appropriate action or proceeding including the institution of criminal process, or any combination of the above deemed necessary to obtain compliance.
  - (3) The requiring of a guaranty, satisfactory to the Board of Supervisors, in an amount sufficient for the construction of any improvements required by the conditions or a contract for the construction of such improvements. The applicant's guaranty shall be reduced or released by the Zoning Administrator upon the completion, in whole or in part, of such improvements.
  - (4) Failure to meet or comply with any such conditions shall be sufficient cause to deny the approval of site plans, subdivision design plans, or the issuance of building permits, occupancy permits or other permits or licenses, as may be appropriate.



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### Part 103 – Conditional Use Permits

#### § 165-103.01 Consideration; approval or disapproval.

- A. Certain uses in each zoning district are listed as being allowed with a conditional use permit. Because of their particular nature, such uses must be separately considered to protect the health, safety and welfare of the residents of the County and to avoid adverse impacts on surrounding properties.
- B. The Board of Supervisors shall approve or disapprove, as a legislative function with recommendation from the Planning Commission, requests for conditional use permits.

#### § 165-103.02 Standards.

In considering whether to approve a conditional use permit, the Board shall consider the following standards:

- A. The conditional use shall not tend to change the character and established pattern of development of the area of the proposed use.
- B. The conditional use shall be in harmony with and shall not adversely affect the use and enjoyment of surrounding properties.
- C. The conditional use shall be in accord with the policies expressed in the Comprehensive Plan of the County and with the intent of this chapter.
- D. The conditional use shall not adversely affect the natural character and environment of the County.
- E. The conditional use permit shall be approved only if adequate facilities, roads, safe access and drainage are provided.
- F. The conditional use shall conform with all applicable regulations of the district in which it is located.

#### § 165-103.03 Conditions.

In granting a conditional use permit, the Board of Supervisors may place appropriate conditions on the permit. Such conditions shall be considered to be a part of the requirements of this chapter. Violations of the established conditions shall constitute violations of this chapter. The conditions established as a part of the approval of a conditional use permit may be modified only through the full application procedures described in this section. Conditions which may be placed on the conditional use permit may include but need not be limited to conditions which address the following issues:

- A. Length of time or duration of the permit.
- B. Periodic renewal.
- C. Guaranties or bonds to insure timely compliance with the imposed conditions.
- D. Size and location of the building or use or lot, including setback and yard requirements.

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- E. Appearance or maintenance of the building or use.
- F. Prevention of smoke, odors, fumes, dust, noise, traffic congestion or flooding.
- G. Lighting of the site.
- H. Access to the site, including the location and number of access points.
- I. Road improvements, including increasing road widths.
- J. Numbers of parking or loading spaces and design of parking or loading areas.
- K. Number, size, location, lighting and character of signs.
- L. Landscaping.
- M. Fencing, buffers and screening.
- N. Outdoor operations and storage.
- O. Limits on occupancy or numbers of employees.
- P. Density or intensity of the use.
- Q. Building height.
- R. Hours of operation.
- S. Stormwater management and other environmental protections.
- T. Methods of providing for sewage disposal and water supply.
- U. Preservation and protection of trees, woodlands, streams or other natural features.
- V. Site plan and other plan requirements.
- W. Limitations on the use of the land.
- X. Limitations on the type of housing provided.
- Y. Limitations on the density or intensity of the use.
- Z. On-site or off-site sewer or water improvements.
- AA. On-site or off-site drainage improvements.
- BB. On-site or off-site road, entrance or driveway improvements.

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CC. Requirements concerning the phasing or timing of development.

DD. The dedication of land for planned roads or for facilities identified in the Frederick County Capital Improvements Plan.

EE. The construction of planned roads or necessary road improvements.

FF. The construction of facilities identified in the Frederick County Capital Improvements Plan.

### **§ 165-103.04 Application and approval procedures.**

Procedures for applying for and approving a conditional use permit shall be the same as the procedures described for applying for and approving a rezoning as described in Article I of this chapter.

### **§ 165-103.05 Fees.**

Every application or reapplication for a conditional use permit shall be accompanied by a fee in the amount as set by resolution of the Board of Supervisors from time to time, to cover the costs of advertising and other expenses connected with the processing of a petition or application or reapplication. Every application or reapplication for a conditional use permit shall be signed by the landowner and the applicant if the applicant is not the landowner.

### **§ 165-103.06 Site plans.**

The Zoning Administrator may require that the application for a conditional use permits be accompanied by a site plan meeting some or all of the site plan requirements of this chapter. Plans may be required in order to provide sufficient information to allow full consideration by the Planning Commission and Board of Supervisors.

### **§ 165-103.07 Changes in use.**

After approval of a conditional use permit by the Board of Supervisors, any change in the use for which the conditional use permit was granted shall require a new conditional use permit following the procedures set forth in this article. Upon application, the Zoning Administrator may allow the minor expansion or intensification of the use in question without a new conditional use permit. Such minor expansion shall be allowed only so long as no conditions placed on the permit nor any other requirements of this chapter are violated.

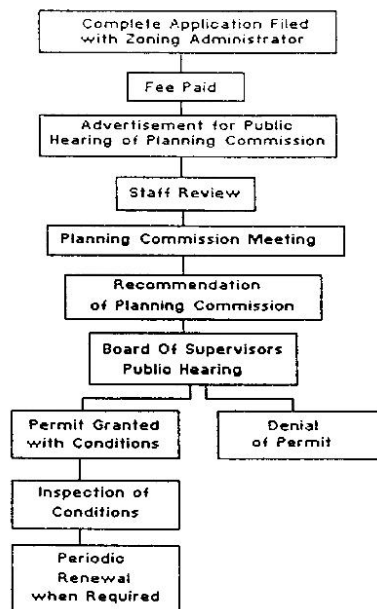
### **§ 165-103.08 Revocation.**

The Board of Supervisors may, by resolution, initiate the revocation of any active conditional use permit. The consideration of the revocation shall proceed following the procedure set forth for approving a new conditional use permit. Following recommendation by the Planning Commission, the Board may revoke an active conditional use permit for the following reasons:

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- A. Failure to establish or discontinuance of the approved conditional use. If the approved conditional use has not been established within two years of its approval or if it has been discontinued for two years, the conditional use permit may be revoked.
- B. Repeated or continuing violations of this chapter, including violations of the conditions placed on the permit.
- C. Fraudulent, false or misleading information supplied by the applicant in applying for the conditional use permit.

### CONDITIONAL USE PERMIT



# ZONING

## Article II

### SUPPLEMENTARY USE REGULATIONS, PARKING, BUFFERS, AND REGULATIONS FOR SPECIFIC USES

#### Part 201 – Supplementary Use Regulations

##### § 165-201.01 Scope.

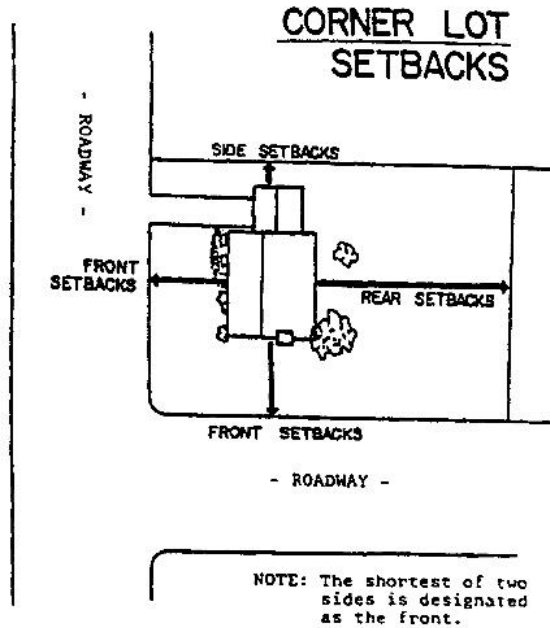
This Article establishes various regulations controlling the area, bulk, height, location, spacing, density and intensity of the various allowed uses, structures and lots.

##### § 165-201.02 Setback requirements.

- A. No structure shall be placed in the front, side or rear yard setback areas specified by this chapter.
- B. The setback for structures is measured from the lot lines of the lots containing the structure. When a lot is adjacent to a road or street right-of-way, the setback shall be measured from the boundary of the right-of-way. Front yard setbacks shall be required wherever a lot abuts a road or street right-of-way. Where a lot abuts a public street or road with a right-of-way width less than would normally be required to create such a road, additional front setback distances may be required to allow for expansion or improvement of that road. In addition, when improvement plans have been adopted for a road or street by the County, additional front setback distances shall be required to allow for the planned road improvement. The additional front setback distances provided on any lot shall be equal to 1/2 of the additional right-of-way width needed to meet the normally required right-of-way width or planned right-of-way width.
- C. Exceptions to front yard setbacks. Where the average front yard setback distance for adjacent lots is less than the minimum required front yard, the Zoning Administrator may allow a front yard setback distance less than normally required on the lot to be developed. In such cases, the front setback distance for the lot to be developed shall be the average of the minimum front setback distances on developed lots on the same street or road within 200 feet of the lot to be developed.
- D. Corner lots. On a lot with more than one side abutting a street or road, front setback yards shall be provided wherever the lot abuts a street. To determine the location of side and rear boundaries, the front shall be deemed to be the shortest side with frontage on the street or road. The rear boundary, with a required rear yard setback, shall be deemed to be opposite from the front side. All other sides not abutting a street shall be deemed to be side boundaries. The Zoning Administrator may determine that a side other than the shortest is the front in order to ensure that the placement of the setback yards conforms with the placement of structures on surrounding lots. In all cases, a front and rear yard shall be designated.



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- E. Accessory uses. Side and rear yard setback distances may be established separately by the district regulations for accessory uses. However, in no case shall the accessory use be placed within the front setback yard required for the primary use on the lot.
- F. Extensions into setback yards. The following features may extend into setback yards as described:
- (1) Air conditioners and similar equipment. Air conditioners, heat pumps and similar mechanical equipment that are attached to the primary structure may extend three feet into any side or rear yard area but shall not be closer than five feet to any lot line.
  - (2) Architectural and structural features. Cornices, canopies, awnings, eaves, gutters or other similar overhanging features which are least eight feet above the grade may extend three feet into any required yard setback area. Chimneys, sills, headers, belt courses and similar structural features may extend three feet into required yard setback areas.
  - (3) Porches and related features. In the RA, MH1, and R5 Zoning Districts, balconies, porches, stoops, decks, bay windows, steps and stairways which comprise less than  $\frac{1}{3}$  of the length of the wall of the primary structure may extend three feet into a required setback yard. In no case shall such features be closer than five feet to a lot line.
  - (4) Retail petroleum pumps. Retail petroleum pumps and canopy supports shall be located at least 20 feet from any road right-of-way boundary. The canopies covering the petroleum pumps shall be no closer than five feet to any road right-of-way.
  - (5) Storage sheds which are attached to townhouses that can only be accessed through an outer entrance and do not exceed  $\frac{1}{4}$  the width of the dwelling unit may extend 10 feet into a rear or perimeter setback area or the active portion of a required buffer area.

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- (6) Protective entrance canopies. Protective entrance canopies and support columns which are attached to the primary structure may extend into the front yard setback areas for the following uses: funeral homes, schools, churches, day-care facilities and libraries. The purpose of such canopies is to provide protection to patrons from the elements of weather as the patron enters or exits the structure. In no case shall the canopy or its structure be located closer than 20 feet from a road right-of-way boundary.
  - (7) Handicap-accessible ramps. An unroofed handicap-accessible ramp shall be permitted to encroach into a required yard when there are no other reasonable alternatives for the location of such ramp on the property or other means of ingress/egress into or from the residence as determined by the Frederick County Zoning Administrator.
- G. Fences, freestanding walls and berms shall be exempt from the setback requirements.
- H. Structural location survey requirements. The following survey requirements shall be complete for applicable primary and accessory structures within all zoning districts as described:
- (1) A surveyor licensed in the Commonwealth of Virginia shall establish the location of any primary structure that is located five feet or less from any minimum setback requirement.
  - (2) A surveyor licensed in the Commonwealth of Virginia shall establish the location of any accessory structure occupying an area of 500 square feet or greater that is located five feet or less from any minimum setback requirement.
  - (3) Information verifying the footing location stakeout shall be provided on the appropriate building permit setback report prior to the approval of the footing for the primary or accessory structure. The surveyor of record shall complete the required information on the building permit setback report and affix his or her professional seal containing the appropriate signature and date. The building permit setback report containing the required footing location stakeout surveyor information shall be posted on the construction site with the building permit hard card at the time of the footing inspection.
  - (4) A midconstruction survey shall be prepared by the surveyor of record once the rough framing of the primary or accessory structure is in place. Rough framing shall include the foundation, all exterior walls and the roof system. The surveyor of record shall complete the required information on the building permit setback report and affix his or her professional seal containing the appropriate signature and date. The building permit setback report containing the required midconstruction surveyor information shall be provided to the Department of Engineering and Inspections prior to the issuance of a certificate of occupancy permit by the Building Official.

### **§ 165-201.03 Height limitations; exceptions.**

- A. No structure shall exceed the height limitations described in this chapter.
- B. Exceptions to height requirements.
- (1) The maximum height requirements shall not apply to the following:

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- (a) Barns and silos.
  - (b) Belfries.
  - (c) Bulkheads.
  - (d) Chimneys.
  - (e) Church spires and towers.
  - (f) Flagpoles.
  - (g) (Reserved)
  - (h) Domes and skylights.
  - (i) Masts and aerials.
  - (j) Radio and television transmission towers and commercial telecommunication facilities.
  - (k) Smokestacks and cooling towers.
  - (l) Utility poles and towers.
  - (m) Water tanks.
  - (n) Windmills.
- (2) Parapet walls may be up to four feet above the height of the building on which the walls rest.
- (3) Solar collectors, air conditioners and other mechanical equipment may exceed the height limitations if they are screened from the public view of surrounding properties and rights-of-way.
- (4) Automated storage facilities in the OM, M1 and M2 Zoning Districts shall be exempt from the maximum height requirement. This exemption shall be granted only when the facility is provided with full sprinkling for fire protection according to the specifications of applicable codes. Such exemptions shall be approved by the Frederick County Fire Marshal. In no case shall the height of these facilities exceed 100 feet in height.
- (5) All of the above exceptions shall be allowed only if they accomplish the purpose for which they are intended, if they are not intended for human occupancy and if they do not infringe on the solar access of surrounding properties.
- (6) General office buildings in the B2 and B3 Zoning Districts and hotel and motel buildings in the B2 Zoning District shall be exempt from the maximum height requirement of those zoning districts. In no case shall the height of such buildings exceed 60 feet. When such exemptions are proposed

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adjacent to existing residential uses, the Board of Supervisors shall review the site development plan pursuant to the provisions of § 165-203.02A(3).

- (7) Buildings used for schools without residential components may exceed the maximum height of the underlying zoning district. The only portions of buildings used for schools without residential components that may exceed the height in the underlying zoning district are those which are accessory and inconsequential to the primary function of the building. In no case shall any portion of the building exceed 75 feet in height.
- (8) If any of the above exceptions exceed the height limitation of the proposed zoning district, the structure shall be required to be set back the normal setback or required buffer distance plus one foot for every foot over the maximum allowed height of that zoning district.
- (9) In the B3 (Industrial Transition) Zoning District, uses may exceed the height limitation so long as all front, side and rear setbacks conform to the setback requirements for the M1 (Light Industrial) Zoning District. In no case shall any structure in the B3 Zoning District exceed 45 feet in height.

### **§ 165-201.04 Lot requirements.**

- A. All lots created shall conform with the size and dimensional requirements established by this chapter.
- B. Number of dwellings on a lot. Except where specifically allowed by this chapter, no more than one dwelling shall be allowed on a lot. A separate entrance, together with separate equipment, including a sink, stove or other kitchen or sanitary facilities, shall be prima facie evidence that separate occupancy exists and that a separate dwelling exists.

### **§ 165-201.05 Secondary or accessory uses.**

When permitted secondary or accessory uses that are normally or typically found in association with the allowed primary use shall be allowed on the same parcel or lot as the primary use, secondary uses shall meet the requirements of this section as well as any particular standard imposed on such use.

- A. Agricultural accessory uses. The selling or processing of agricultural products produced on the premises shall be considered to be accessory to an agricultural use. On bona fide, operating farms, temporary or permanent housing for workers actively working on the farm shall be an allowed accessory use.
- B. Accessory dwellings. One accessory dwelling shall be allowed with any single-family dwelling as long as the following conditions are met:
  - (1) The floor area of the accessory dwelling shall be no more than 25% of the gross floor area of the primary residential structure on the lot.
  - (2) In the RP Residential Performance, MH1 Mobile Home Community and R4 Residential Planned Community Districts, accessory dwellings shall only be allowed if they are attached to the primary residential structure.

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- (3) In no case shall a mobile home be allowed as an accessory dwelling in the RP Residential Performance District, R4 Residential Planned Community District and R5 Residential Recreational Community District.
- C. Dwellings in a business. One accessory dwelling shall be allowed with any business or industrial use only so long as it is occupied by the owner of the business or industry, an employee or a watchman.
- D. Child day-care services. Child day-care services and facilities shall be allowed in the M1 Light Industrial District as an accessory or secondary use to any allowed use or group of allowed uses in an industrial park.
- E. In no case shall a mobile home or temporary trailer be allowed as an accessory use, unless it is used for temporary or permanent housing on a bona fide, operating farm.
- F. Secondary or accessory uses shall be permitted by right in the B1, B2, B3, OM, M1 and M2 District, but only in conjunction with and secondary to a permitted principle use. The square footage or area occupied by secondary uses cumulatively shall not exceed twenty-five (25) percent of the gross floor area of the related principal use. In the B3, OM, M1 and M2 Districts no more than fifteen (15) percent of the gross floor area of the principal use may be used for accessory retail sales and in no case shall the accessory retailing component exceed 2,000 square feet. The square footage devoted to accessory retail sales shall be included in calculating the 25 percent limit on secondary uses.

### **§ 165-201.06 Signs.**

This section is established to regulate the erection, number, area, height, location, type and maintenance of signs to promote the health, safety and general welfare of the public and the orderly development of the County by protecting property values, and providing adequate signage for businesses and motorists; protecting and enhancing the image, appearance and economic vitality of the County, and supporting the Frederick County Comprehensive Policy Plan. Any type of sign not currently listed in §§ 165-201.06 and 165-101.02 of the Frederick County Zoning Ordinance shall be prohibited.

- A. Signs prohibited in all districts. The following types of signs shall be prohibited in all zoning districts:
- (1) Animated or flashing signs.
  - (2) Signs painted directly onto the exterior of buildings.
  - (3) Inflatable signs.
  - (4) Roof sign.
  - (5) Portable signs.
- B. Signs allowed in all districts. The following types of signs shall be allowed in all zoning districts unless otherwise prohibited in this chapter:
- (1) Signs indicating the names or addresses of the occupants of residences.
  - (2) Signs or bulletin boards associated with public institutions.
  - (3) Commemorative plaques and historical markers.
  - (4) Signs identifying civic, social or other nonprofit organizations.
  - (5) Private road signs.

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- (6) Signs erected or required by a governmental agency.
  - (7) Temporary yard sale signs.
  - (8) Temporary real estate signs.
  - (9) Temporary window signs.
  - (10) Temporary construction signs.
  - (11) Temporary campaign signs.
  - (12) Flag signs.
  - (13) Informational signs.
  - (14) Directional signs.
  - (15) Temporary banner signs: not to be displayed for more than 30 days.
- C. Signs allowed in certain districts. The following types of signs are allowed only if they are specifically listed under the list of allowed uses for the zoning districts in which they are located:
- (1) Business signs.
  - (2) Cottage occupation signs.
  - (3) Freestanding building entrance signs.
  - (4) Residential subdivision identification signs.
  - (5) Multi-tenant complex signs.
  - (6) Interstate overlay district signs.
  - (7) Electronic message signs. Such electronic sign messages shall be displayed for a minimum of two minutes, and shall not be animated by scrolling, flashing or other similar nonstatic displays. In no case shall an electronic message sign occupy more than 50% of the area of a permitted sign size.
- D. Off-premises signs. In all zoning districts only multi-tenant complex signs, business signs, directional signs and residential subdivision signs shall be allowed off-premises. No other type of off-premises signs shall be allowed. Off-premises signs shall be freestanding monument signs. Such signs shall be allowed only if a conditional use permit for that sign has been granted. Conditions which may be placed on off-premises signs may include, but not be limited to, the following:
- (1) Appropriate separation shall be provided between the off-premises sign and surrounding residences and other uses. The Board of Supervisors may require that such signs not be visible from surrounding residences.
  - (2) Off-premises signs shall be limited to a size, scale and height that does not detract from surrounding properties and uses, and in no case shall exceed the size and height regulations set forth in § 165-201.06 for freestanding signs.
  - (3) Off-premises signs shall be properly separated from each other to avoid clutter along road corridors, and in no case shall be less than the regulations set forth in § 165-201.06F.
- E. Setbacks. All freestanding signs shall be set back at least 10 feet from lot lines or property boundary lines. Signs that are attached to buildings shall meet the required setbacks for that building. In general, freestanding building entrance signs shall not be located in front yard setback areas. However, freestanding building entrance signs may be located in front yard setback areas as long as they are no more than five feet from the entrance to the building or use designated.

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F. Minimum spacing between freestanding signs. The minimum distance separating freestanding signs shall be 100 feet. The Zoning Administrator may allow two signs to be separated by less than 100 feet in order to allow the signs to share an appropriate location. In such cases, the two signs shall be separated from other signs by a distance of 100 feet plus the distance by which the separation between the two signs was reduced from the required 100 feet.

G. Height. The following restrictions shall apply to the height of signs:

- (1) Wall-mounted signs shall not exceed the maximum height requirement for the zoning district in which they are located. General office buildings and hotel or motel buildings allowed to exceed the general height requirements for the underlying zoning district as per § 165-201.03B(6) (Height limitations, exceptions) shall be allowed wall-mounted signs with a maximum height not to exceed the maximum height requirement of § 165-201.03B(6).
- (2) Freestanding building entrance signs shall not exceed five feet in height.
- (3) Freestanding directional signs shall not exceed five feet in height.
- (4) Freestanding informational signs shall not exceed five feet in height.
- (5) Freestanding residential subdivision entrance signs shall not exceed eight feet in height.
- (6) All other freestanding signs located in the RA (Rural Areas) Zoning District shall not exceed 10 feet in height.
- (7) All other freestanding signs located in zoning districts other than the RA (Rural Areas) Zoning District shall be permitted to establish a maximum sign height reflective of the roadway which the site's entrance is located on, as such:
  - (a) Signs along arterial roads shall not exceed 25 feet in height.
  - (b) Signs along collector roads shall not exceed 15 feet in height.
  - (c) Signs along all other roads shall not exceed 12 feet in height.
- (8) Sign height shall be measured from the grade level of the adjacent street to which the land upon the sign is located.
- (9) In developments utilizing a multi-tenant complex sign, on-site freestanding business signs shall not exceed 12 feet in height.

H. Size. The following restrictions shall apply to the size of signs:

- (1) Wall-mounted business signs shall be permitted to encompass 20% of the area of the wall to which the sign is attached, provided that the total area of the wall-mounted business sign does not exceed 200 square feet. In situations where there are more than eight individual building users, each user shall not have a sign larger than 25 square feet.

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- (2) Cottage occupation signs shall not exceed four square feet in area.
- (3) Freestanding building entrance sign shall not exceed four square feet in area.
- (4) Subdivision entrance signs shall not exceed 32 square feet in area.
- (5) Directional signs shall not exceed five square feet in area.
- (6) Informational signs shall not exceed 10 square feet in area.
- (7) All freestanding business signs located in zoning districts other than the RA (Rural Areas) Zoning District shall be permitted to establish a maximum sign area reflective of the adjacent roadways' classification, as such:
  - (a) Signs along arterial roads shall not exceed 150 square feet.
  - (b) Signs along collector roads shall not exceed 100 square feet.
  - (c) Signs along other roads shall not exceed 50 square feet,
- (8) In developments utilizing a multi-tenant complex sign, on site freestanding business signs shall not exceed 50 square feet.

I. Type. All freestanding business signs shall be monument signs.

J. Number.

- (1) Freestanding business signs, excluding multi-tenant complex signs, in the M1 and M2 Districts shall be limited to one per property.
- (2) Freestanding multi-tenant complex signs in the M1 and M2 Districts shall be limited to one per business park.
- (3) Freestanding business signs, excluding multi-tenant complex signs, shall be limited to one per property in all other districts where allowed.
- (4) Freestanding multi-tenant complex signs shall be limited to one per 1,200 linear feet of road frontage per development in all other districts where allowed.
- (5) Cottage occupation signs shall be limited to one per business.

K. Maintenance. All signs shall be maintained in a state of good repair. Signs that are damaged, structurally unsound or poorly maintained shall be repaired or removed within 30 days.

- (1) If an off-premises sign advertises a business or activity that is no longer being operated or conducted or if a directional sign refers to a location where the advertised activities no longer exist, that sign shall be considered to be abandoned and shall be removed by the owner within 30 days.



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- (2) If the message portion of a sign is removed, the supporting structural components shall be removed or the message portion replaced within 30 days.

### L. Sign permits.

- (1) Before a sign may be constructed, reconstructed or altered, a sign permit shall be obtained from the Frederick County Building Official.
- (2) The following signs shall be exempt from obtaining sign permits, provided they comply with ordinance regulations:
  - (a) Signs indicating the names or addresses of the occupants of residences.
  - (b) Signs or bulletin boards associated with public institutions.
  - (c) Commemorative plaques and historical markers.
  - (d) Signs identifying civic, social, or other nonprofit organizations.
  - (e) Private road signs.
  - (f) Signs erected or required by a governmental agency.
  - (g) Temporary yard sale signs.
  - (h) Temporary real estate signs.
  - (i) Temporary window signs.
  - (j) Temporary construction signs.
  - (k) Temporary campaign signs.
  - (l) Directional signs.
  - (m) Informational signs.
  - (n) Flag signs

### § 165-201.07 Outdoor Lighting.

The purpose and intent of this section is to establish outdoor lighting standards that reduce the impacts of glare, light trespass and overlighting; promote safety and security; and encourage energy conservation.

#### A. Application and General Provisions.

1. Except as provided in F of this Section, these standards shall apply to the installation of new outdoor lighting fixtures or the replacement of existing fixtures. Replacement of a fixture shall mean a change of fixture type or change to the mounting height or location of the fixture. Routine lighting fixture maintenance, such as changing lamps or light bulbs, ballast, starter, photo control, housing, lenses and other similar components, shall not constitute replacement and shall be permitted provided such changes do not result in a higher foot-candle output.

#### B. General Outdoor Lighting Standards.

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1. All outdoor lighting fixtures shall be designed, shielded, aimed, located and maintained to shield adjacent properties and to not produce glare onto adjacent properties or road right-of-ways. Parking lot fixtures and light fixtures on buildings shall be full cut-off fixtures. Within residential developments the Zoning Administrator may approve alternate parking lot fixtures so long as the intent of this ordinance is met.
2. Flashing, revolving, or intermittent exterior lighting visible from any property line or street shall be prohibited. Directional fixtures for advertisement purposes, such as but not limited to high intensity beams, lasers or strobe lights shall be prohibited. When permitted, directional fixtures shall be installed or aimed so that they do not shine skyward and to ensure that the light source is not visible from adjacent properties or road right-of-ways.
3. Light fixtures, including mounting base, shall not be more than twenty-five (25) feet in height above finished grade. On land in the M1 (Light Industrial), M2 (Industrial General) and EM (Extractive Manufacturing) Zoning Districts that is contained within an approved master development plan, the Zoning Administrator may allow light fixtures to exceed 25 feet in height if additional security is required, provided that the site is not adjacent to property used for residential or agricultural uses. In no case shall light fixtures in the M1, M2 and EM Districts exceed 45 feet in height.
4. Light fixtures shall be placed outside of the paved areas of a site. Lighting fixtures shall be placed within landscaped islands or in the perimeter green space of the site. The Zoning Administrator may allow light fixtures to be placed in alternative locations for uses such as motor vehicle display areas or storage areas so long as the intent of this ordinance is met.
5. Building mounted or wall pack lighting fixtures shall not be mounted more than twenty-five (25) feet above the finished grade of the building. These fixtures shall be shielded (full-cutoff) so that the light source is not visible from adjacent properties or road right-of-ways. Non-cutoff wall pack lighting fixtures shall not be permitted.
6. All lighting shall be oriented not to direct glare or excessive illumination onto streets in a manner that may distract or interfere with the vision of drivers on such streets.
7. Lighting used to illuminate flags, statues, signs or any other objects mounted on a pole, pedestal or platform, spotlighting or floodlighting used for architectural or landscape purposes, shall consist of full cut-off or directionally shielded lighting fixtures that are aimed and controlled so that the directed light shall be substantially confined to the object intended to be illuminated. Directional control shields shall be used where necessary to limit stray light and to ensure that no light source is visible from or causes glare on adjacent properties or road right-of-ways.

### C. Photometric Plan Requirements

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1. A Photometric Lighting Plan shall be submitted and approved in conjunction with any site plan required by Article VIII or Subdivision Design Plan as required by Chapter 144 of the Frederick County Code. Photometric plan submitted with site plans shall be current (less than 60 days old) and must be certified by the National Council on Qualifications for the Lighting Professions (NCQLP), or a Virginia licensed professional engineer, architect, landscape architect or land surveyor.
  2. All such required plans shall include the following:
    - a) Plans indicating the location on the premises of all lighting fixtures, both proposed and already existing on the site, including a schematic layout of proposed outdoor lighting fixture locations that demonstrate adequate intensities and uniformity, and the light coverage resulting from the proposed lighting layout.
    - b) Description of all lighting fixtures, both proposed and existing, which shall include but are not limited to catalog cuts and illustrations by manufacturers that describe the equipment, including, lamp types, wattage and initial lumen outputs, glare control devices, lamps, proposed placement of all fixtures, including engineering detail of fixtures, manufacturer, model and installation of same.
    - c) Photometric data, such as that furnished by manufacturers, or similar showing the angle cut-off light emissions and glare-control devices.
    - d) Mounting height of all fixtures.
- D. Outdoor Lighting Standards for Nonresidential Uses.
1. The average maintained lighting levels for nonresidential uses shall not exceed the following standards, unless a lower limit is set forth in this subsection:
    - a) Five (5) foot-candles for parking lots and loading areas.
    - b) Ten (10) foot-candles along fronts of buildings and along main drive aisles.
    - c) Twenty (20) foot-candles for high security areas, such as, but not limited to teller machines (ATM's), motor vehicle display areas and vehicle fuel station canopies, but not including parking lots.
  2. Light fixtures under fuel station canopies or any other canopy shall consist of full cut-off lighting fixtures where the light source is either completely flush or recessed within the underside of the canopy. The portions of the canopy not included in the sign area shall not be illuminated. All canopy lighting shall be recessed sufficiently so as to ensure that no light source is visible from or causes glare on adjacent properties or road right-of-ways.

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3. Lighting levels shall not exceed 0.2 foot-candles at any common property line with property zoned, used as or planned for residential or agricultural uses. In addition all light poles shall be equipped with supplemental opaque shielding on the residential property side of the lighting fixture to reduce glare caused by direct light source exposure.
  4. Lighting levels shall not exceed 5.0 foot-candles at any common property line with property zoned or used for commercial or industrial uses, and at any edge of a property line adjacent to a road right-of-way.
- E. Outdoor Lighting Standards for Multifamily Uses and Residential Parking Lots.
1. The average maintained lighting levels for multifamily developments shall not exceed 0.5 foot-candles at property line boundaries, except as follows:
    - a) 0.2 foot-candles at any property line boundary with property zoned, used, or planned for residential or agricultural purposes; and
    - b) Five (5) foot-candles at any edge of a property line adjacent to a road right-of-way.
  2. The average maintained lighting levels at buildings, parking lots, and other areas besides at property line boundaries set forth in E(1) of this subsection shall not exceed ten (10) foot-candles.
- F. Lighting Standards for Recreational Facilities in all Zoning Districts.
1. Lighted recreational facilities shall conform to the requirements set forth in the most current editions of the Illuminating Engineering Society of North America (IESNA) RP-6 Recommended Practice for Sports and Recreational Area Lighting and the IESNA Lighting Handbook. Appropriate lighting criteria shall be selected based on the Class of Play of the facility and participants as defined by the IESNA.
  2. No outdoor recreational facility, public or private, shall be illuminated after 11:00 p.m. except to conclude a specific activity or tournament, which is in progress under such illumination prior to 11:00 p.m.
  3. Lighting fixtures shall be installed to meet the criteria of a cutoff fixture and shall include internal and/or external glare control louvers.
  4. Initial lighting levels shall not exceed the target levels specified by the IESNA by more than 30% to account for light loss factors such as lamp lumen depreciation and luminaire dirt depreciation.
  5. All light fixtures/light poles shall be set back a minimum of one foot for every foot in height from any residential or agricultural property line or road right-of-way.
- G. Exemptions from Lighting Ordinance.

The following lighting is exempt from the provisions of this section:

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1. Lighting fixtures and standards required by the Federal Communications Commission, Federal Aviation Administration, Federal and State Occupational Safety and Health Administrations, or other federal or state agencies, to include street lights within a public or private right-of-way.
2. Outdoor lighting fixtures required by law enforcement, fire and rescue, the Virginia Department of Transportation or other emergency response agencies to perform emergency or construction repair work, or to perform nighttime road construction on major thoroughfares.
3. Lighting located on properties developed with residential uses (unless regulated by Section E) or agricultural uses, including but not limited to residential security lighting controlled and activated by motion sensors or timing devices.
4. Lighting for holiday decorative purposes located on property used for residential purposes.
5. Lighting for civic activities, fairs or carnivals, provided that the lighting is temporary.

### § 165-201.08 Protection of environmental features.

In order to protect those areas of a parcel which have environmental characteristics that make them unsuitable for development, certain portions of a development shall remain undisturbed or be protected. It is the intention of this section that the disturbance of such areas by the development process be limited. It is also the intention of this section that the large portions of the areas with such environmental characteristics be placed in open space, environmental easements, the portion of the parcel left undivided or other areas where they will remain undisturbed. It is intended that the environmental conditions on a property be reviewed as the first step in the planning process before lots or dwellings are located.

A. The requirements of this section shall apply to land in the following zoning districts:

RP	Residential Performance District
R4	Residential Planned Community District
R5	Residential Recreational Community District
MH1	Mobile Home Community District
B1	Neighborhood Business District
B2	Business General District
B3	Industrial Transition District

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OM	Office-Manufacturing Park District
M1	Light Industrial District
M2	Industrial General District
HE	Higher Education District
RA	Rural Areas District
MS	Medical Support District

B. All developments which require a rezoning, master development plan, subdivision design plan, site plan, or preliminary sketch plan shall preserve the following environmental features as described:

- (1) Floodplains. Disturbance of floodplains is only permitted in accordance with the requirements of Article VII, Part 702, FP Floodplain Districts.
- (2) Lakes and ponds. Lakes, ponds and impoundments shall remain undisturbed. The Administrator may allow the removal of a lake, pond or impoundment if it serves no useful retention, environmental, or recreational purposes.
- (3) Wetlands, natural waterways, and riparian buffers. Disturbance of wetlands is only permitted in accordance with the requirements of the United States Army Corps of Engineers or other qualified state or federal agency. The disturbance of natural waterways and riparian buffers is prohibited, except when necessary for, and only in conformance with Part 702, the following:
  - i. Public or private utilities;
  - ii. Public facilities, access to a property or roads (only perpendicular riparian buffer crossings shall be permitted);
  - iii. Riparian buffer restoration or enhancement projects;
  - iv. Creation of wetlands;
  - v. Pedestrian, recreational and/or bicycle trails; and,
  - vi. The Zoning Administrator may allow for the disturbance of riparian buffers for the creation of park areas or for stormwater management purposes.
- (4) Sinkholes. No disturbance of sinkholes is allowed other than filling with nonpolluting natural materials that will not contribute to groundwater pollution.
- (5) Natural stormwater retention areas. No more than 10% of natural stormwater retention areas on a site shall be disturbed. Natural stormwater retention areas may be replaced with the approval of the Administrator by artificial stormwater facilities if the total storage capacity of the site, as well as within each drainageway, is maintained. Natural stormwater retention areas which are floodplains, wetlands, lakes or ponds shall not be disturbed or replaced.

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- (6) Steep slopes. No more than 25% of steep slopes, as defined, shall be disturbed or regraded. The Zoning Administrator may allow the disturbance of additional small areas where that disturbance will alleviate potential health or safety problems and will not significantly denigrate the overall environmental quality of the site.
- C. In residential developments, the areas of undisturbed environmental features described in § 165-201.08B shall be located in areas of open space. However, the Zoning Administrator may allow undisturbed areas to be included in the required setback and yard areas on residential lots when the extent, location, and disturbance of environmental areas make it impractical to place the undisturbed areas in common open space. In such circumstances, environmental easements, deeds of dedication, final subdivision plats, or other legal instruments approved by the Zoning Administrator shall be required to specify the restrictions to be placed on the environmental areas.
- D. In rural preservation subdivisions, the environmental features described in § 165-201.08B, along with agricultural or locally significant soils, shall be placed within the forty-percent parcel, without undue detriment to other principles of quality subdivision design or significant loss of density, as determined by the Zoning Administrator.
- E. In commercial and industrial developments, the areas of undisturbed environmental features described in § 165-201.08B, shall be located in areas of open space, environmental easements, deeds of dedication, final subdivision plats, or other legal instruments approved by the Zoning Administrator which specify the restrictions to be placed on the environmental areas.

### **§ 165-201.09 Stormwater management.**

- A. Basic requirements. All development in Frederick County shall meet the requirements of Chapter 79, Erosion and Sediment Control, of the Frederick County Code.
- B. Runoff rates. In addition, all developments requiring site plan approval shall limit the rate of stormwater runoff so that no greater rate of runoff from the site is permitted than that occurring prior to development for storms with a two-, ten- and twenty-five-year frequency.
- C. Stormwater conveyance. Storm drainage conveyance systems for developments requiring site plan approval shall be designed to convey a storm with a ten-year frequency without surcharging inlets. Conveyance systems for such developments shall be designed to convey a storm with a one-hundred-year frequency within a controlled spillway.
- D. Stormwater storage. Where necessary, a stormwater storage system shall be provided to accommodate a postdevelopment storm with a twenty-five-year, twenty-four-hour frequency, to be released at a rate not to exceed the predevelopment discharge for a storm with a ten-year, twenty-four-hour frequency.
- E. Natural drainageways. In developments requiring site plan approval, natural drainageways shall be used whenever possible to carry stormwater runoff.
- F. Drainage easements. Whenever a development requiring site plan approval is traversed by a watercourse, drainageway, channel or stream, a drainage easement shall be provided. Such easement shall substantially follow the line of such drainageway and shall be of sufficient width to

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preserve the natural drainage. A deed of dedication shall be submitted to the Zoning Administrator for such drainage easements describing the manner in which drainage is to be protected.

- G. Sinkhole protection. Stormwater from developments shall not be discharged into sinkholes. Sinkholes capable of absorbing substantial amounts of stormwater shall be protected by diverting runoff from the sinkhole.

### **§ 165-201.10 Outdoor storage and processing.**

The outdoor storage or processing of products, equipment or raw materials is allowed in the business and industrial districts or in association with business uses allowed in any other zoning district only if the outdoor storage is directly associated with the primary uses of the property.

- A. In such cases, the outdoor storage or processing shall be completely screened from the view of road and street rights-of-way and from surrounding properties by a fence, wall or by screening.
- B. Such outdoor storage and processing shall not be permitted in any required front setback yard.
- C. The Zoning Administrator may require that the storage of hazardous materials or any materials which may contribute to contaminated runoff be fully enclosed. Where such materials are stored outdoors, they shall be contained within an impervious structure designed to contain spillage or contaminated runoff.
- D. The display of vehicles for sale by a vehicle dealer or nursery stock by a commercial nursery, along with other products for sale that are normally displayed outdoors, shall be exempt from the above requirements.
- E. Agricultural and forestry operations shall be exempted from the above requirements.
- F. Such requirements shall not apply to motor vehicle parking and loading areas.

### **§ 165-201.11 Property owners' associations.**

- A. Intent.

- (1) The intent of this section is to provide for the joint ownership, maintenance and use of common elements not dedicated for public use, required under the provisions of this Chapter. Required open space, recreational facilities and other common elements shall be dedicated to a property owners' association or to Frederick County. Open space, recreational facilities and common elements shall only be dedicated to Frederick County with the approval of the Board of Supervisors. The property owners' association shall be solely financially responsible for its own operations, including maintenance of all required common elements noted on the final approved master development plan or final subdivision plat.
- (2) It is intended that all required common areas and facilities or improvements shall be a size and nature that constitute economically sound increments of development and that such areas and facilities be perpetuated and maintained by a property owners' organization or corporation. The



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intent is for the developer to provide for an organization or corporation consisting of all subdivision lot owners holding subdivision interests in the development.

### B. Establishing the property owners' organization.

(1) All private areas, easements, improvements or facilities shall be the sole responsibility of the developer or owner. If units are to be sold or are ever sold on an individual basis, all private areas, easements, improvements or facilities shall be conveyed for joint ownership and common use by subsequent property owners if not dedicated for public use approved by the Board of Supervisors.

(2) Where required.

(a) The developer shall provide for the establishment of an organization or corporation for the ownership, perpetuation and maintenance of all private elements in developments or subdivisions in the following zoning districts:

RP	Residential Performance District
R4	Residential Planned Community District
R5	Residential Recreational Community District
MH1	Mobile Home Community District.

(b) In addition, such an organization or corporation shall be required for all required common areas or facilities in any shopping center, industrial park or office park, according to the requirements of this section.

(3) All final contracts between the developer or owner or his agents and all lot purchasers and the final subdivision plat shall include a consumer disclosure statement listing the property owners' association's annual assessments and a copy of the final approved property owners' association bylaws. A deed of dedication shall be provided by the subdivider or developer, with an article of bylaws providing for equal voting rights by all property owners and for election of officers or directors of the required property owners' association.

(4) All lot owners, including the developer, shall be assessed on an equal basis for the perpetuation and maintenance of required common elements as long as such perpetuation and maintenance is necessary. Such assessments shall be sufficient for the perpetuation and maintenance of all common areas and facilities.

(5) Such organization or corporation shall be created by covenants and restrictions approved the Director of Planning and Development and County Attorney and shall be composed of all persons having ownership within the boundaries of the development.

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- (6) The developer or the required property owners' organization shall maintain all common elements in a manner so as to ensure the continued usefulness of those elements for their intended use and to ensure the full protection of the health and safety of the users of those elements.
- (7) The Subdivision Administrator shall review each final subdivision plat and deed of dedication to ensure that the requirements of this section are met.

### **§ 165-201.12 Nuisances.**

Any use of land or structures which creates the following nuisances shall be prohibited. In addition, the following standards shall be met:

- A. Glare. Outdoor lighting shall be arranged to deflect glare away from adjoining properties and public streets. Sources of light on a lot shall be hooded or controlled to prevent glare beyond the lot line. Sources which produce harmful glare or ultraviolet rays, including arc welding or acetylene torches, shall be completely screened from view sufficiently to be imperceptible beyond the lot lines.
- B. Radiation hazards. No use shall be allowed which creates radiation emissions which are hazardous to the health and safety of the general public. No uses shall be allowed which discharge radioactive materials into the atmosphere, soils or bodies of water. All uses handling radioactive materials shall conform with applicable local, state and federal regulations.
- C. Electromagnetic interference. No use shall be allowed which creates electric disturbances which would adversely affect the operation of equipment beyond the lot line of the use.
- D. Vibrations. No use shall be allowed which creates any vibration discernible for three minutes or more in any one hour. In no case shall vibrations exceed a maximum peak particle velocity of 0.05 inch per second.
- E. Fire hazards. No use shall be allowed which does not conform with all applicable fire codes and the Frederick County Code concerning fire hazards and the storage of explosives.
- F. Air pollution. No use shall be allowed which does not conform with the regulations of the Virginia State Air Pollution Control Board concerning the emissions of smoke, particulate matter, odors and other gaseous pollutants.
- G. Water pollution. No use shall be allowed which does not conform with the regulations of the Virginia State Water Control Board and the Virginia Department of Health concerning the discharge of liquid, toxic or other wastes into surface waters or the soil.
- H. Noise. In the M1 Light Industrial or M2 Industrial General Zoning District, sound levels at the perimeter boundary of a development shall not exceed 75 dba (A scale).

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### Part 202 – Off-Street Parking, Loading and Access

#### § 165-202.01 Off-street parking; parking lots.

Off-street parking shall be provided on every lot or parcel on which any use is established according to the requirements of this section. This section is intended to ensure that parking is provided on the lots to be developed and to ensure that excess parking in public street rights-of-way does not interfere with traffic.

A. Required parking spaces.

- 1) For certain residential uses, parking requirements are contained in the zoning district regulations. In all other cases, parking spaces shall be provided with each allowed use, on the lot containing the use, according to the following table:

<b>REQUIRED OFF-STREET PARKING SPACES</b>	
<b>USE</b>	<b>REQUIRED PARKING</b>
Single-family dwellings and mobile homes	2
Churches	1 for each 3 seats
Schools , Elementary or Middle/Intermediate	No fewer than one (1) space per faculty and staff member and other full-time employee, plus a minimum of four (4) spaces for visitors
Schools, High School	No fewer than one (1) space per faculty and staff member and other full-time employees; minimum of four (4) spaces for visitors; one (1) for each 10 students over driving age; one (1) for each 4 seats for stadiums and/or auditoriums
Colleges and Universities	No fewer than one (1) space per faculty and staff member and other full-time employee, plus one (1) for every 10 students for maximum capacity at any one time.
Day care	1 per 5 children plus 1 per employee
Nursing homes, personal care, adult care residences and assisted living care facilities	1 per 4 beds, plus 1 per employee on primary shift
Hospitals	1.8 per bed
Libraries, museums or galleries	1 per 400 square feet of floor area; 10 minimum
Fraternal lodges, civic clubs	1 per 250 square feet of floor area, assembly area or recreation area
Rooming houses, boardinghouses, tourist homes, and bed and breakfasts	2 per single family dwelling plus one per guest room
Motels, hotels and lodges	1 per room, plus appropriate spaces for restaurants and meeting rooms

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Assembly halls and meeting rooms	1 per 3 seats
Funeral homes	1 per 4 seats; 30 minimum
Commercial cemeteries	25 minimum
Movie theaters	1 per 4 seats
Indoor recreation	1 per 200 square feet of floor area
Golf courses and driving ranges	3 per hole
Miniature golf and driving ranges	2 per tee for the first 36 tees, then 1 per tee
Campgrounds	1 per campsite
Restaurants	1 per 100 square feet of seating floor area
Fast-food or drive-in restaurants	1.4 per 100 square feet of seating floor area
Retail and personal services	1 per 200 square feet of retail floor area
Medical, dental, veterinarian offices and clinics	1 per 250 square feet of office area
General offices	1 per 250 square feet of office floor area
Banks and banks with drive-in windows	1 per 400 square feet of floor area
Shopping Centers (small strip-style centers)	6 per 1,000 sq. ft. of retail floor areas for centers with up to 30,000 sq. ft. 5 per 1,000sq. ft. of retail floor area for centers between 30,000 and 60,000 sq. ft.
Shopping Centers (Non Enclosed) Large Integrated Shopping Centers	4 per 1,000 sq. ft. of retail floor area for centers over 60,000 sq. ft.
Shopping Centers (Mall-type centers)	3.5 per 1,000 sq. ft. of retail floor area for centers with up to 400,000 sq. ft. 3.8 per 1,000 sq. ft. of retail floor area for centers over 400,000 sq. ft.
Furniture and carpet stores; retail nurseries; farm equipment and feed sales; boat, mobile home and motor sales	1 per 400 square feet of enclosed floor area plus 1 per 3,000 square feet of outside display area, plus 2 spaces per service bay
Automobile service and service stations	2 per service bay plus required spaces for retail or office areas
Self service storage	3 spaces at the office plus 1 space per employee
Wholesaling, warehouses, truck terminals, construction storage, manufacturing and other industrial uses	1.5 spaces per employee plus any required spaces for office or similar use, plus one space for each company vehicle and equipment stored outdoors
Mining uses	3 per 4 employees

- (2) Interpretation. When a use is not specifically listed above, the Zoning Administrator shall determine which of the above categories to use to determine the spaces required, based on similarities between the characteristics of the uses. When a use is not specifically listed above, the Zoning Administrator may also use information provided by the applicant or other sources of information to determine the number of spaces required.

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- (3) Change in use or expansion. Parking requirements for changes in use and/or an expansion or enlargement of an existing structure and/or use shall be in accordance with the following:
- a) When there is a change in use (excluding shopping centers) to a use which has the same or lesser parking requirement than the previous use, no additional parking shall be required. When there is a change to a use which has a greater parking requirement than the previous use, the minimum off-street parking requirements in accordance with the provisions of this chapter shall be provided for the new use.
  - b) When an existing structure and/or use is expanded or enlarged, the additional minimum off-street parking requirements in accordance with the provisions of this chapter shall be provided for the area of such expansion or enlargement.
- (4) Procedure for Adjustments to Parking Requirements.
- a) Generally, the Zoning Administrator may approve a reduction in required parking spaces. Applications for such a reduction shall be submitted to the Zoning Administrator in conjunction with a site plan and include the following:
    - 1) A parking demand analysis which substantiates the basis for a reduced number of parking spaces.
    - 2) A plan showing how the parking spaces will be provided on the site.
    - 3) An executed covenant guaranteeing that the owner will provide the additional spaces otherwise required after thorough investigation by the Zoning Administrator of the actual utilization of parking spaces at the building or complex, decides that the approved reduction be modified or revoked. Said covenant shall:
      - i. Be executed by the owner of said lot or parcel of land and the parties having beneficial use thereof;
      - ii. Be enforceable by the owner, the parties having beneficial use, and their heirs, successors and assigns or both;
      - iii. Be enforceable against the owner, the parties having beneficial use, and their heirs, successors and assigns or both; and
      - iv. Be recorded in the Office of the Clerk of the Circuit Court.
  - b) Parking for Mixed Uses and Loading Facilities. In the case of mixed uses (not qualifying as accessory) or two or more buildings upon a single lot or unified parcel or upon contiguous parcels, the total requirements for parking and loading facilities shall be the sum of the requirements of the various uses computed separately. However, cumulative parking requirements for mixed-use occupancies may be reduced where the Zoning Administrator determines that the peak requirement of the several occupancies occurs at different times (either daily or seasonally), and the parking demand can be provided on the premises.
  - c) Captive Market. Parking requirements for retail and restaurant uses may be reduced where the Zoning Administrator determines that some portion of the patronage of these businesses comes from other uses (i.e., employees of area

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offices patronizing restaurants) located within the same building or a maximum walking distance of 400 feet.

- (5) When the calculation of parking spaces results in a fraction of five-tenths (0.5) or greater, the next greatest whole number shall be used.
  - (6) In circumstances when no customer or public entrance or access is located at the side or rear of a structure, no more than five percent (5%) of the required spaces shall be located in the rear of buildings for commercial uses such as, but not limited to, shopping centers, restaurants, office or other retail uses.
  - (7) When the required spaces are based on a number of employees, students, seats or other factor that can vary over time, the spaces required shall be based on the maximum number of employees, students, and attendees normally present at any one time.
  - (8) Parking spaces based on floor area shall be determined based on the gross total floor area devoted to each separate use on the site.
- B. Shared parking. Required parking spaces may be located on a lot other than the lot containing the use under the following circumstances:
- (1) Parking for a use on a lot may be located on an abutting lot if the zoning of the abutting lot is the same as the lot containing the use.
  - (2) When shared parking is provided on abutting lots, the total spaces provided shall equal the sum of the number required for each use sharing the parking.
  - (3) When shared parking is provided on abutting lots, means of pedestrian access shall be provided between each use sharing the parking and the parking area.
  - (4) When shared parking is provided on abutting lots, a lease, easement or other form of agreement shall be executed among the property owners sharing the parking assuring the use of the required parking spaces and assuring proper maintenance of the parking area. Said agreement shall be submitted to the Zoning Administrator for review and approval.
- C. Parking limit for certain commercial vehicles.
- 1) Within the RP Residential Performance District, the R5 Residential Recreational Community District, MH1 Mobile Home Community District, or any residential portion of the R4 (Residential Planned Community) District and the MS (Medical Support) District the parking of the following types of vehicles shall be prohibited:
    - a. tractor truck or tractor truck trailer
    - b. semitrailer
    - c. garbage, refuse or recycling trucks
    - d. towing and recovery vehicle
    - e. cement trucks
    - f. construction equipment (as defined)

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- g. buses
    - h. dump truck
    - i. trucks with a total length of 25 feet or greater
    - j. any vehicle with three or more axles
    - k. any commercial vehicle as defined in § 165-101.02 of this Code
  - 2) Construction equipment. Construction equipment and construction-related vehicles shall not be parked or stored in any residential community, or residential portion of a planned community except during the tenure of construction, and only when being used for construction purposes on or proximate to the lot where parked or stored. Valid building and/or site development permits and continuous pursuit of completion of the permitted construction or development shall be required to demonstrate the existence of bona fide construction activity.
  - 3) Exceptions. The provisions of this section shall not apply to
    - (a) Any commercial vehicle when taking on or discharging passengers or when temporarily parked pursuant to the performance of work or service at a particular location; or
    - (b) Any commercial vehicles (as defined) specifically permitted as part of a home or cottage occupation.
- D. Parking lots. Parking spaces shared by more than one dwelling or use, required for any use in the business or industrial zoning district or required for any institutional, commercial or industrial use in any zoning district shall meet the following requirements:
- (1) Surface materials. In the RP Residential Performance District, the R4 Residential Planned Community District, the R5 Residential Recreational Community District, the MH1 Mobile Home Community District, the B1 Neighborhood Business District, the B2 Business General District, the B3 Industrial Transition District, the OM Office-Manufacturing Park District, the M1 Light Industrial District, the M2 Industrial General District MS Medical Support District, RA (Rural Areas) District and the HE (Higher Education) District, parking lots shall be paved with concrete, bituminous concrete or similar materials. Such surface materials shall provide a durable, dust and gravel-free, hard surface.
    - a. The Zoning Administrator may allow for the use of other hard-surface materials for parcels located outside of the Sewer and Water Service Area if the site plan provides for effective stormwater management and efficient maintenance. In such cases, parking lots shall be paved with a minimum of double prime-and-seal treatment or an equivalent surface.
    - b. In the RA (Rural Areas) District parking lots with (10) or fewer spaces shall be permitted to utilize gravel surfaces.
    - c. Reinforced grass systems, permeable paving systems, or other suitable materials may be used for overflow parking areas, low volume access ways in all Zoning Districts and for agricultural uses in the RA (Rural Areas) District. Parking areas utilizing these materials shall have defined travel aisles and designated parking bays. These materials shall only be utilized with approval of the Frederick County Zoning Administrator and the Director of Public Works.
  - (2) Space demarcation. For single-family attached and multi-family developments, required off-street parking spaces shall be demarcated by four-inch durable white lines painted on

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the pavement or curb. Any other proposed color and size will require approval of the Zoning Administrator. Full delineation by four inch wide lines painted on the pavement the full width of or length of the parking stall or parking spaces shall be required in commercial, office and industrial developments. Where paved parking areas are not required, delineation of parking spaces shall be by the use of individual wheel stops or other acceptable means for each unpaved parking space. Signs and pavement markings shall be utilized, as necessary, to ensure safe traffic movement and pedestrian access and to designate handicapped parking spaces.

- (3) Curbs and gutters. Concrete curbing and gutters shall be installed around the perimeter of all parking lots. When stormwater drains away from the curb, gutter pans shall not be required for parking areas that abut buildings when sidewalks with turndown curbing are used. All curbing shall be a minimum of six inches in height. All parking lots shall be included within an approved stormwater management plan.
  - a. In the B3 Industrial Transition District, the OM Office-Manufacturing Park District, the M1 Light Industrial District and the M2 Industrial General District the use of header curb shall be permitted in areas where the use of gutters is not necessary for stormwater management purposes.
  - b. The Zoning Administrator may allow for the use of concrete bumpers instead of curbing for parcels located outside of the Sewer and Water Service Area if the site plan provides for effective stormwater management and efficient maintenance.
  - c. The Zoning Administrator may allow for the elimination of curb and gutter for parcels located inside of the Sewer and Service Area when necessary to implement low impact development design. This shall only be permitted where practices such as bio-retention, infiltration trenches, and rain gardens are used and only where it can be demonstrated that soil conditions are favorable, or if an adequate under-drain is included in the design and only when approved by the Director of Public Works.
  
- (4) Raised islands. Raised islands shall be installed at the ends of all parking bays abutting an aisle or driveway in the RP Residential Performance District, the R4 Residential Planned Community District, the R5 Residential Recreational Community District, the MH1 Mobile Home Community District, the B1 Neighborhood Business District, the B2 Business General District, the B3 Industrial Transition District, the OM Office-Manufacturing Park District, the M1 Light Industrial District, the M2 Industrial General District, the MS Medical Support District, and the HE (Higher Education) District. The raised islands shall be bordered by a six inch concrete or rolled asphalt curb. All islands shall be at least nine feet wide and shall extend the length of the parking space or bay. The islands shall be landscaped with grass, shrubs, or other vegetative materials.
  - a. The Zoning Administrator may waive the requirement for raised islands for parcels located outside of the Sewer and Water Service Area when curb and gutter is not proposed.
  - b. The Zoning Administrator may approve modifications to the landscaped islands for parcels located inside of the Sewer and Service Area when necessary to implement low impact development design and where approved by the Director of Public Works.



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- (5) Low Impact Development. Low impact development techniques are encouraged by the County and should be incorporated into the design of individual developments when deemed appropriate by the applicant after consultation with appropriate county officials. Low impact design options such as rain gardens may be used to satisfy the greenspace requirements for parking areas, such as landscaped islands and minimum landscaped area.
- (6) Setbacks. All parking lots, loading spaces, and travelways, except for single family detached and mobile home residential uses shall be set back as follows:
- a) At least 10 feet from any street or road right-of-way.
  - b) At least 5 feet from all other property lines, except in cases where more than one lot shares the parking lot.
  - c) In the M1 (Light Industrial) District and M2 (Industrial General) District, parking lots shall be located no closer than 10 feet to any minor or local street or road right-of-way and no closer than 25 feet to any collector or arterial street or road right-of-way.
- (7) Handicapped spaces. Handicapped parking and building or sidewalk accessibility shall be provided in any parking in accordance with the current edition of the of Virginia Uniform Statewide Building Code (VUSBC).
- (8) Entrance requirements. In no case shall a parking lot be approved which requires that vehicles back from parking spaces onto public roads. All parking lots shall be provided access to a public road using an entrance which meets all requirements of the Frederick County Code and the Virginia Department of Transportation. The width of driveways serving the parking lot shall not be less than 24 feet for two-way traffic and 12 feet for one-way traffic.
- (9) Parking space size and aisle requirements.
- a) All parking spaces and aisles shall be provided in accordance with tables 1.1 and 1.2.

<b>TABLE 1.1</b>			
<b>Minimum Off-Street Parking Area Dimensions</b>			
<b>Angle of Parking Degrees</b>	<b>Width of Stall (feet)</b>	<b>Depth of Stall (feet)</b>	<b>Width of Aisle (feet)</b>
30	9.0	20.0	*12.0/**20.0
	10.0	18.0	*12.0/**22.0
45	9.0	20.0	*15.0/**20.00
	10.0	18.0	*15.0/**22.00
60	9.0	20.0	*18.0/**20.0
	10.0	18.0	*18.0/**22.0

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90	9.0 10.0	20.0 18.0	*22.0/**22.0 *22.0/**24.0
*One-way **Two-way <b>All parking spaces shall be a minimum of 180 square feet in size</b>			

<b>TABLE 1.2</b>			
<b>Parallel Parking and Aisle Dimensions</b>			
<b>Direction of Traffic</b>	<b>Width of Stall (Feet)</b>	<b>Depth of Stall (Feet)</b>	<b>Width of Aisle (feet)</b>
One-way aisle (One-side parking)	9.0	22.0	12.0
One-way aisle (Two side parking)	9.0	22.0	15.0
Two-way aisle (Two-side parking)	9.0	22.0	22.0

- (b) For other angles, the aisle width shall be the same as for the nearest angle in the above table.
- (10) The Zoning Administrator may approve alternative parking space size, space demarcation, aisle dimensions and parking islands for areas used for the display or storage of vehicles for sale by a vehicle dealer. Upon a change of use for the property or site, the spaces, demarcation, aisles and islands must be revised to conform to this ordinance.
- (11) Obstructions and structures. Parking lots shall be designed to permit each vehicle to proceed to and from all unoccupied parking spaces without requiring the moving of any other parked motor vehicle. Utility poles, light standards, trash containers and similar structures shall not be permitted within any aisle or parking space. Any structure located in a parking lot shall be surrounded on all sides abutting spaces or aisles by a six-inch concrete curb. The structure shall be separated from the curb by a distance of three feet.
- (12) Drive-in lanes. Drive-in lanes shall be required for all drive-in or pickup facilities. Drive-in lanes shall be designed to provide for a minimum width of nine feet and a minimum stacking distance of 90 feet. Canopy supports and raised concrete pads designed to support pneumatic tubes, automatic teller machines and other structures shall not be located within the area required for minimum drive-in lane widths. All drive-in lanes shall be clearly separated from parking spaces, travel aisles, maneuvering areas and

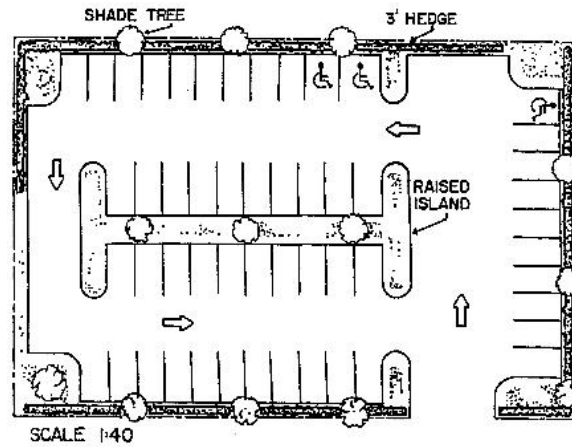
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driveways. The Zoning Administrator may reduce the minimum stacking distance of drive-in lanes for retail uses with less than 150 square feet of floor area if it can be demonstrated that the vehicular frequency for the use does not warrant multiple vehicle stacking.

- (13) Landscaping. Parking lots in the RP Residential Performance District, the R4 Residential Planned Community District, the R5 Residential Recreational Community District, the MH1 Mobile Home Community District, the B1 Neighborhood Business District, the B2 Business General District, the B3 Industrial Transition District, the OM Office-Manufacturing Park District, the M1 Light Industrial District, the M2 Industrial General District, the MS Medical Support District, and the HE (Higher Education) District shall be landscaped to reduce the visual impact of glare and headlights on adjoining properties and rights-of-way. Parking lots shall be adequately shaded to reduce reflected heat. In the RA (Rural Areas) District, parking lot landscaping shall not be required for parking lots with 10 or fewer spaces. Landscaping shall also be provided to reduce the visual expansiveness of parking lots. Landscaping shall be provided in such parking lots as follows:
- a) Perimeter landscaping. The perimeter of all impervious areas shall be landscaped with shade trees and other landscaping. One tree shall be provided for every 2,000 square feet of impervious area for the first 100,000 square feet of the entire site. One tree shall be provided for every 5,000 square feet in excess of the first 100,000 square feet of the entire site. Self-service storage facilities shall provide one tree per 10,000 square feet of impervious area of the entire site, in addition to the trees required in § 165-204.18, Storage facilities. The perimeter landscaping trees shall be reasonably dispersed throughout the parking lot. A three-foot-high evergreen hedge, fence, berm or wall shall be provided to prevent headlights from shining on public rights-of-ways and adjoining properties. All perimeter landscaping shall comply with the requirements of §165-203.01B, Plant selection, planting procedure and maintenance.
  - b) Interior landscaping. A minimum of 5% of the interior portions of parking lots shall be landscaped for the purpose of providing shade trees. Such interior landscaping shall be provided on raised islands and in continuous raised strips extending the length of a parking bay. Within the parking lot, raised islands and landscaped areas should be used to delineate traffic and pedestrian circulation patterns. No less than one shade tree shall be provided in the interior of the parking lot for each 10 parking spaces. The Zoning Administrator may waive the requirement for interior landscaping for parcels located outside of the Sewer and Water Service Area when curb and gutter is not proposed. The Zoning Administrator may approve alternative locations for interior landscaping for parking lots used for truck parking, as well as other parking lots, when it would improve the overall quality of the landscape plan. All interior landscaping shall comply with the requirements of § 165-203.01B, Plant selection, planting procedure and maintenance.
- (14) Pedestrian access. Sidewalks shall be provided as necessary within parking lots to protect pedestrians and promote the safe and efficient movement of pedestrians and

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vehicles. In large parking lots, pedestrian walkways and crosswalks shall be provided, marked by durable painted stripes and appropriate signs.



EXAMPLE PARKING LOT

### § 165-202.02 Loading areas.

Spaces for the loading and unloading of trucks and vans shall be provided in association with business and industrial uses as follows:

#### A. Loading spaces required.

(1) The number of loading spaces required shall be as follows:

(2)

Type of Use	Loading Spaces Required
Food stores, restaurants and taverns	1 for first 10,000 square feet of floor area plus 1 for each additional 30,000 square feet
Retail and personal services	1 for first 10,000 square of floor area plus 1 for each additional 30,000 square feet
Hotels and motels, lodges, clubs, fraternal organizations and indoor recreation	1 for each 20,000 square feet of floor area
Office buildings	1 for structures between 30,000 and 100,000 square feet; 1 for each additional 100,000 square feet
Manufacturing, wholesale, trucking, construction and industrial uses	1 for each 40,000 square feet of floor area
Schools, hospitals and nursing homes	1 for each structure with more than 100,000 square feet of floor area

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### Interpretation.

- (a) When a use is not specifically listed above, the Zoning Administrator shall determine which of the above categories to use to determine the spaces required, based on similarities between the characteristics of the uses. When a use is not specifically listed above, the Zoning Administrator may also use information provided by the applicant or other sources of information to determine the number of spaces required.
- (b) In cases where mixed uses share the same loading area, the loading spaces required shall equal the sum of the spaces required for the various uses. In some cases, different uses will be contained in a single structure or site plan, and in those cases, the spaces required shall equal the sum of the spaces for each use.

### B. Design standards.

- (1) Dimensions. Each required loading space shall be 12 feet wide and 45 feet long. Each loading space shall have a vertical clearance of 14 feet.
- (2) Obstructions and structures. Loading spaces shall be designed to permit loading and unloading without requiring the moving of any parked motor vehicle. Utility poles, light standards, trash containers and similar structures shall not be permitted within loading spaces.
- (3) Access. In no case shall a loading space be approved which requires that a vehicle enter or back directly from loading spaces onto public roads. All loading spaces shall be provided access to a public road using an entrance which meets all requirements of the Frederick County Code and the Virginia Department of Transportation.
- (4) Surface materials and curb and gutter. Loading areas shall meet the surface material and curb and gutter requirements for one of the following categories:
  - (a) Loading areas separated from parking lots. Loading areas that are separated from parking lots shall be paved with concrete, bituminous concrete, or similar materials. Curb and gutter shall not be required when loading areas are separated from parking lots.
  - (b) Loading areas that are part of parking lots. Loading areas that are part of parking lots shall be paved with concrete, bituminous concrete, or similar materials. Curb and gutter shall be required for all loading areas that are part of parking lots when curb and gutter is required for the parking lot.
  - (c) Loading areas with two or less loading spaces proposed. Loading areas serving uses identified in § 165-202.02A may have a gravel surface if two or less loading spaces are proposed, and if the loading area is separate from the parking lot. Curb and gutter shall be required for loading areas with two or less loading spaces when the loading area is part of the parking lot, and when curb and gutter is required for the parking lot.
  - (d) Stormwater management plan and erosion control plan requirements. The Zoning Administrator may require curb and gutter and different surface materials for loading areas when necessary to implement a stormwater management plan or an erosion control plan.

### § 165-202.03 Motor vehicle access.

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### A. New driveways.

- (1) Private driveways shall be allowed to provide access to individual residences or uses. Private driveways shall also be allowed to provide access to parking lots and loading areas shared by a number of residences or uses.
- (2) In order to provide safe and convenient access and to provide efficient travel on arterial highways, a minimum spacing shall be provided between new driveways and entrances onto collector roads and onto primary and arterial highways, in the following zoning districts:

B1	Neighborhood Business
B2	Business General
B3	Industrial Transition
OM	Office-Manufacturing Park
M1	Light Industrial
M2	Industrial General

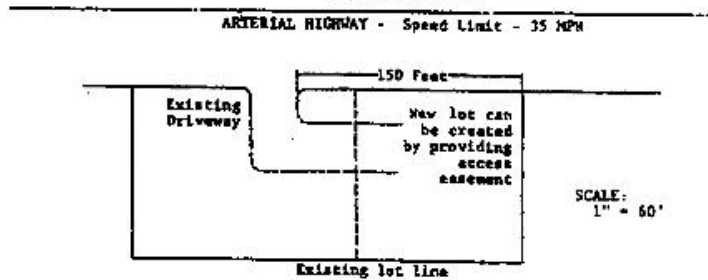
- (3) In addition, the minimum spacing requirements shall apply to any business, industrial or institutional use in any zoning district or to any residential development in which more than one dwelling shares a parking lot.
- (4) Minimum spacing shall also be provided between new driveways and the intersections of roads with the collector road or arterial highways. Minimum spacing between driveways and between driveways and intersections shall be as follows:

<b>Minimum Driveway Spacing on Primary and Arterial Highways</b>	
<b>Posted Speed Limit (mph)</b>	<b>Minimum Required Spacing (feet)</b>
35 or less	150
More than 35	200

- (5) In all cases, the spacing distances shall be measured from the tangents to the curb return of the driveways or intersecting streets.
- (6) The minimum spacing for access on minor collector roads shall be 70 feet between driveways and between driveways and intersections. The minimum spacing for business or industrial entrances and road intersections on major collector roads shall be 150 feet.

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### ILLUSTRATION OF: Entrance Spacing and Shared Access Provisions

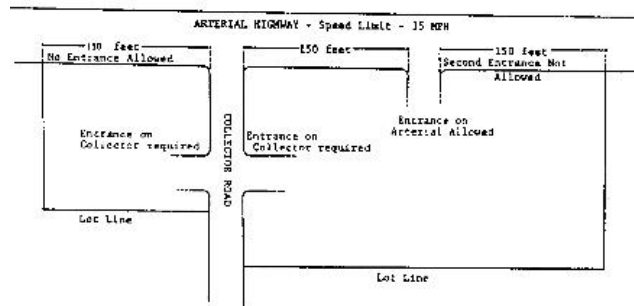


- (7) Spacing exceptions. New driveways with entrances on arterial or primary highways which do not meet the above spacing requirements shall be allowed only when access meeting the spacing requirements cannot be provided from the arterial highway to the individual property by using one of the following methods:
- (a) Existing access. When a parcel abuts a minor or collector street that intersects with the arterial or primary highway and when the parcel cannot be provided with an entrance onto the arterial or primary highway that meets the spacing requirement, access to the parcel shall be from the minor or collector street and new entrances shall not be allowed directly onto the arterial highway.
  - (b) Shared access. When a lot is created on a collector road or arterial highway, shared means of access to the road or highway shall be created by access easement, shared driveway or other means to ensure that the spacing requirements have been met.
    - [1] When a lot is divided or developed that can be provided with a driveway meeting the spacing requirements but that is adjacent to other parcels or lots that will not be able to have entrances meeting the spacing requirements, means of highway access to the adjoining property may be required by the Zoning Administrator on the lot to be divided or developed.
    - [2] When a lot is divided or developed that cannot be provided with access meeting the spacing requirements and when means of shared access that meets spacing requirements has been provided on adjoining lots that can be used to provide access to the lot in question, entrances shall not be allowed directly onto the arterial or primary highway from the lot to be divided or developed.
    - [3] When a number of lots are divided or developed that have been included together on an approved master development plan, site plan or subdivision plat, shared entrances shall be provided as required to meet the spacing requirements.
    - [4] When shared access is provided to meet the requirements of this section, the Zoning Administrator may require that it be provided in the form of an access easement. The Zoning Administrator may require a deed of dedication describing provisions for joint use and maintenance of that easement. Provisions for shared entrance signs may also be required.
    - [5] Shared access easements shall be provided in a manner so that shared driveways are clearly separated from parking areas, loading areas and pedestrian walkways.

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- [6] Shared access easements that follow lot lines are preferred.
- (8) New lots. No new lot shall be created on an arterial highway unless spacing requirements can be met for entrances on the lot or unless access is provided through shared or existing access.
- (9) Number of driveways. No more than one driveway shall be allowed per parcel if driveways are allowed which do not meet the spacing requirements.

ILLUSTRATION OF:  
**Entrance Spacing and Existing Access Provisions**



- (10) Entrances on collector and minor streets. Whenever a parcel abutting an arterial highway also abuts a collector or minor road, in order to obtain an entrance on the arterial road, an entrance must be provided on the collector or minor road. This shall only be required if a safe entrance can be provided on the collector or minor road, meeting all requirements of the Frederick County Code and the Virginia Department of Transportation.
- (11) All entrances onto state-maintained highways must meet all requirements of the Virginia Department of Transportation and the Frederick County Code.
- (12) New driveways shall align with existing or planned driveways, crossovers, turn lanes or other access features. This shall only be required if the resulting alignment provides safe access and if all requirements of the Frederick County Code and the Virginia Department of Transportation are met.
- (13) The location of new driveways shall conform with road improvement plans or corridor plans that have been adopted by Frederick County or the Virginia Department of Transportation.
- (14) Private roads providing lot access to multifamily and single-family small lot housing, as permitted in §144-24 of the Subdivision Ordinance, shall be a minimum of 20 feet in width. The pavement design for the private roads shall include eight inches of aggregate base material, Type I, Size No. 21-B, and shall be paved with a 165 No. psy asphalt concrete, Type SM-2A, surface treatment. In addition, curb and gutters, standard curb CG-6, CG-7 or roll-top curb and sidewalks shall be provided along private roads; however, the Zoning Administrator may approve a waiver of sidewalks on private streets, provided that another recreational amenity is substituted for the sidewalk. Additionally, the Zoning Administrator may waive the requirement for curb and gutters and allow alternate pavement design to accommodate low impact design provided that the private road design is determined to be acceptable by the Director of Public Works.



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### B. Alternative methods.

- (1) The Zoning Administrator may allow other means of motor vehicle access which do not meet the above requirements. Such means may involve the use of entrances which physically limit or restrict left turns, methods which ensure one-way travel or other methods.
- (2) In such cases, the Zoning Administrator may require a traffic access plan which describes existing traffic, conditions and design on the streets abutting the site and the methods proposed to ensure that the intent of this section has been met.

C. Internal circulation. A complete system of internal traffic circulation shall be provided to serve all uses in any shopping center, industrial park or any development included in a single master development plan, site plan or subdivision plat approved by Frederick County. In such developments, internal access shall be provided in a fashion so that all uses can be mutually accessed without entering onto arterial or primary highways. In such cases, a pattern of internal circulation shall be designed to ensure that conflicts are avoided between moving vehicles, parking areas, pedestrian areas, loading areas and the various uses provided.

D. Pedestrian access. Safe pedestrian walkways shall be provided to all uses on land included in a master plan or site plan approved by Frederick County. Sidewalks shall be provided in conformance with adopted corridor or walkway plans or approved master development plans. The Board of Supervisors may require additional sidewalks or walkways on master plans or the Zoning Administrator may require additional sidewalks or walkways on site plans to promote a general system of pedestrian access in residential neighborhoods or business corridors.

E. Fire lanes. Fire lanes shall be required as set forth in Chapter 90, Fire Prevention.

### **§ 165-202.04 Streets; Inter-parcel connectors.**

All residential subdivisions of more than 10 lots in the RP, R-4, R-5, and MS (with residential uses) Zoning Districts shall have streets connecting to adjoining parcels. If adjoining parcels are developed or have had a subdivision plat approved, the connecting street shall coordinate with the existing or platted streets in the adjoining parcel. If an adjoining parcel is undeveloped, the location of the connecting street shall be as shown on the Master Development Plan (MDP) approved by the Board of Supervisors. This requirement for inter-parcel connector streets may be waived by the Board of Supervisors upon approval of the Master Development Plan (MDP) if the Board finds: i) that a connector street to an adjoining parcel is not likely to be needed; ii) that the connector street would be required to be placed in a location which is impractical for location of a street; iii) that an adjoining undeveloped parcel is not likely to be developed in a manner to make a connector street necessary or appropriate; or iv) other good cause shown by the applicant not contrary to good planning policy. All inter-parcel connectors, public or private, shall be built to the Virginia Department of Transportation engineering standards.

### **Part 203 – Buffers and Landscaping**

#### **§ 165-203.01 Landscaping requirements.**

The requirements of this section are intended to enhance the appearance, environment, and general welfare of Frederick County by providing minimum landscaping standards and encouraging tree preservation for developments. The provisions of this section shall apply to all site plan and subdivision design plan applications, including the revision or expansion of any site or development.

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A. Residential developments. Residential developments which require a master development plan, subdivision design plan or site plan shall provide at least one of the three types of landscaping identified below.

(1) Street tree landscaping. Street tree landscaping shall require one street tree for every 40 feet of street frontage in a residential development, with the exception of frontage on roads which require a road efficiency buffer. Street trees shall be planted no more than 20 feet from rights-of-way. Planting street trees on the property lines of building lots should be avoided. Two or more street trees shall be planted on each building lot. The Zoning Administrator may allow fewer than two street trees for an individual building lot if topographical features, utilities, easements, or the width of the lot makes it impractical to do so. All street trees shall comply with the requirements of § 165-203.01B, with the exception that street trees must be at least two-and-one-half-inch caliper at the time of planting.

(2) Ornamental landscaping.

(a) Ornamental landscaping shall be provided for residential developments based on the following index and matrix:

<b>Index of Lot Types</b>	
<b>Lot Type</b>	<b>Description</b>
A	Single-Family Detached Rural Traditional
B	Single-Family Detached Traditional
C	Single-Family Detached Urban
D	Single-Family Detached Cluster
E	Single-Family Detached Zero Lot Line
F	Single-Family Small Lot
G	Duplex
H	Multiplex
I	Atrium House
J	Weak-Link Townhouse
K	Townhouse
L	Garden Apartment
<b>Required Landscaping Per Dwelling Unit</b>	

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Lot Type	Ornamental Shrubs	Ornamental Trees
A	None	10 per 1 unit
B	10 per 1 unit	5 per 1 unit
C	10 per 1 unit	5 per 1 unit
D	10 per 1 unit	5 per 1 unit
E	10 per 1 unit	5 per 1 unit
F	15 per 1 unit	5 per 1 unit
G	15 per 1 unit*	5 per 1 unit*
H	3 per 3 units*	1 per 3 units*
I	3 per 4 units*	1 per 4 units*
J	6 per 5 units*	2 per 5 units*
K	6 per 5 units*	2 per 5 units*
L	3 per 2 units*	1 per 2 units*

Note: \*Required ornamental trees and shrubs are in addition to all trees and shrubs elsewhere required in the Zoning Ordinance.

- (b) Ornamental trees and shrubs shall comply with the requirements of § 165-203.01B. The Zoning Administrator may allow some of the required ornamental trees and ornamental shrubs to be planted in areas of common open space so long as the intent of this section is met.
- (3) Tree preservation landscaping. An area with a tree canopy coverage, of at least 25% of the entire site area, shall be preserved within dedicated open space. In no case shall individual building lots be located within the open space. Canopy coverage shall be calculated from the cumulative total of existing tree canopies. Preserved trees shall be clustered together to maintain a contiguous canopy; and shall be protected from construction activity. These areas of open space may be counted towards the total required open space, as specified in § 165-402.07. Residential developments which are not required to have open space by § 165-402.07 are not exempt from

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creating open space for the required canopy coverage. The calculation of tree canopy shall be based on either the individual tree standards of the "Manual of Woody Landscape Plants," written by Michael A. Dirr, or through a comprehensive analysis of existing tree drip lines, conducted by a Virginia certified engineer, land surveyor, or landscape architect.

**B. Plant selection, planting procedure, and maintenance.**

- (1) Plant selection. Based on the type of landscaping, required trees and shrubs shall be selected from the table of acceptable trees and shrubs shown below.

<b>Types of Landscaping</b>		
Street tree landscaping (street) Ornamental landscaping (ornamental) Tree preservation landscaping (canopy) Interior and perimeter landscaping (shade), Buffer screening and parking lot screening (screen), Deciduous buffer element (street, canopy, shade), buffer shrub element (shrub or screen)		
<b>Acceptable Trees and Shrubs</b>		
<b>Common Name</b>	<b>Scientific Name</b>	<b>Types of Landscaping Permitted</b>
Amur Maple	<i>Acer ginnala</i>	Street, shade, canopy, ornamental
European Hornbeam	<i>Carpinus betulus</i>	Street, shade, canopy, ornamental
Hop Hornbeam	<i>Ostrya virginiana</i>	Street, shade, canopy, ornamental
Katsura Tree	<i>Cercidiphyllum japonicum</i>	Street, shade, canopy, ornamental
Ginkgo (male)	<i>Ginkgo biloba</i>	Street, shade, canopy, ornamental
Thornless Honey Locust	<i>Gleditsia triacanthos inermis</i>	Street, shade, canopy, ornamental
Golden-Rain Tree	<i>Koelreuteria paniculata</i>	Street, shade, canopy, ornamental
Flowering Crabapple	<i>Malus</i> (disease resistant varieties)	Street, shade, canopy, ornamental
Chinese Pistache	<i>Pistacia chinensis</i>	Street, shade, canopy, ornamental
Linden	<i>Tilia</i> (all varieties)	Street, shade, canopy, ornamental

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Lacebark Elm	<i>Ulmus parvifolia</i>	Street, shade, canopy, ornamental
Japanese Zelkova	<i>Zelkova serrata</i>	Street, shade, canopy, ornamental
Red Oak	<i>Quercus rubra</i>	Street, shade, canopy, ornamental
White Oak	<i>Quercus alba</i>	Street, shade, canopy, ornamental
Scarlet Oak	<i>Quercus coccinea</i>	Street, shade, canopy, ornamental
Sawtooth Oak	<i>Quercus acutissima</i>	Street, shade, canopy, ornamental
Kentucky Coffeetree	<i>Gymnocladus dioica</i>	Street, shade, canopy, ornamental
Dawn Redwood	<i>Metasequoia glyptostroboides</i>	Street, shade, canopy
Swamp Chestnut Oak	<i>Quercus michauxii</i>	Street, shade, canopy
Willow Oak	<i>Quercus phellos</i>	Shade, canopy, ornamental
Bald Cypress	<i>Taxodium distichum</i>	Street, shade, canopy
Red Maple	<i>Acer rubrum</i>	Shade, canopy, ornamental
Freeman Maple	<i>Acer freemanii</i>	Shade, canopy, ornamental
Sugar Maple	<i>Acer saccharum</i>	Shade, canopy, ornamental
Paperbark Maple	<i>Acer griseum</i>	Shade, canopy, ornamental
American Sycamore	<i>Platanus occidentalis</i>	Shade, canopy, ornamental
London Plane Tree	<i>Platanus acerifolia</i>	Shade, canopy, ornamental
Sweetgum	<i>Liquidambar styraciflua</i>	Shade, canopy, ornamental
Copper Beech	<i>Fagus sylvatica</i> 'Riversii'	Shade, canopy, ornamental
Weeping Beech	<i>Fagus pendula</i>	Shade, canopy, ornamental
European Beech	<i>Fagus sylvatica</i>	Shade, canopy, ornamental
River Birch	<i>Betula nigra</i>	Shade, canopy, ornamental
Star Magnolia	<i>Magnolia stellata</i>	Shade, canopy, ornamental

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Saucer Magnolia	Magnolia x soulangiana	Shade, canopy, ornamental
Black Gum	Nyssa sylvatica	Shade, canopy, ornamental
Yellowwood	Cladrastis kentukea	Shade, canopy, ornamental
Downy Serviceberry	Amelanchier arborea	Shade, canopy, ornamental
Hawthorn	Crataegus plaenopyrum, Crataegus viridis	Shade, canopy, ornamental
Sourwood	Oxydendrum arboreum	Shade, canopy, ornamental
Tuliptree	Liriodendron tulipifera	Shade, canopy, ornamental
Paw Paw	Asimina triloba	Shade, canopy, ornamental
Dogwood	Cornus florida, Cornus kousa, Cornus hybrid	Shade, ornamental
Flowering Cherry	Prunus (all varieties of Flowering Cherry)	Shade, ornamental
Cornelian Cherry	Cornus mas	Shade, ornamental
Eastern Redbud	Cercis canadensis	Shade, ornamental
American Plum	Prunus americana	Shade, ornamental
Japanese Maple	Acer palmatum	Shade, ornamental
Douglas Fir	Pseudotsuga menziesii	Screen, ornamental
White Fir	Abies concolor	Screen, ornamental
Spruce	Picea (all varieties)	Screen, ornamental
Japanese Umbrella Pine	Sciadopitys verticillata	Screen, ornamental
Hinoki False Cypress	Chamaecyparis obtusa	Screen, ornamental
White Pine	Pinus strobus	Screen, canopy
Western Arborvitae	Thuja plicata	Screen, ornamental
Eastern Arborvitae	Thuja occidentalis (all varieties)	Screen, ornamental
Leyland Cypress	Cupressocyparis x leylandi	Screen, ornamental
Japanese Cedar	Cryptomeria japonica	Screen, ornamental
Viburnum (Evergreen)	(all evergreen/semi-evergreen)	Screen, ornamental, shrub

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	varieties)	
Yew	Taxus (all varieties)	Screen, ornamental, shrub
Holly	Ilex (all varieties)	Screen, ornamental, shrub
Common Boxwood	Buxus sempervirens	Screen, ornamental, shrub
Juniper	Juniperus (all varieties)	Screen, ornamental, shrub
Abelia	(All varieties)	Screen, ornamental, shrub
Witchhazel	Hamamelis vernalis	Ornamental, shrub
White Fringetree	Chionanthus virginicus	Ornamental, shrub
Slender Deutzia	Deutzia gracilis	Ornamental, shrub
Althea	Hibiscus syriacus	Ornamental, shrub
Vicary privet	Ligustrum x vicaryi	Ornamental, shrub
Sweet Mockorange	Philadelphus coronarius	Ornamental, shrub
Japanese pieris	Pieris japonica	Ornamental, shrub
Cotoneaster	(All varieties)	Ornamental, shrub
Spirea	(All varieties)	Ornamental, shrub
Weigela	(All varieties)	Ornamental, shrub
Forsythia	(All varieties)	Ornamental, shrub
Dwarf Fothergilla	Fothergilla gardenii	Ornamental, shrub
Buttonbush	Cephalanthus occidentalis	Ornamental, shrub
Japanese pagodatree	Sophora japonica	Ornamental, shrub
Chastetree	Vitex agnus-castus	Ornamental, shrub
Standard Nandina	Nandina domestica	Ornamental, shrub
Purple Plum	Prunus cerasifera	Ornamental
Crape Myrtle	Lagerstroemia indica	Ornamental
Persian parrotia	Parrotia persica	ornamental
Hydrangea	(all varieties)	Ornamental

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Mugo pine	Pinus mugo	Ornamental
Itea	(All varieties)	Ornamental
Aronia	(All varieties)	Ornamental
Clethra	(All varieties)	Ornamental
Azalea	Rhododendron (All varieties)	Ornamental
Rhododendron	(All varieties)	Ornamental
Northern Bayberry	Myrica pensylvanica	Ornamental
Meyer Lilac	Syringa meyeri 'Palibin'	Ornamental

(2) Planting procedure. All required trees and shrubs shall meet the specifications and procedures established by the American Nursery and Landscape Association.

- a) All trees shall be planted no closer than three feet to the edge of sidewalks, curb or other pavement.
- b) Deciduous trees shall be a minimum of two-inch caliper at the time of planting.
- c) Only single stem trees shall be planted as street trees.
- d) Evergreen trees shall be a minimum of four feet in height at the time of planting. Shrubs shall be a minimum three-gallon container at the time of planting. In addition to the three-gallon container requirement, parking lot screening shrubs shall be a minimum of 36" in height at time of planting and buffer shrubs shall be a minimum of 18" in height at time of planting. Spacing of parking lot screening shrubs shall be no greater than four (4) feet on center.
- e) Only trees having a mature height of less than 20 feet shall be located under overhead utility lines.
- f) Measurement of Size. Caliper is measured six (6) inches above the ground up to and including four (4) inch caliper size, and twelve (12) inches above the ground for larger sizes. Diameter at breast height (dbh) will be measured at the height of 54 inches from the base of the trunk or as otherwise allowed in the Guide for Plant Appraisal.

(3) Maintenance. The owner, developer, and/or builder who is responsible for planting required landscaping shall be responsible for maintaining it in a state of good health for one year after planting. After one year, from the date occupancy is approved, the individual property owner and/or homeowner's association shall become responsible for maintenance. As long as the intent of this section is met, the Zoning Administrator may waive the requirement for landscaping on individual building lots when a hazard or nuisance exists.

C. Existing tree credits. If the intent of § 165-203.01 is satisfied, including species type and location, existing trees that are preserved may be counted towards the total number of required trees for residential developments. Commercial and industrial developments may utilize existing tree credits when calculating the required number of parking lot trees, as required in § 165-202.01D(13), if the preserved trees are shown on an approved site plan and serve the intent of interior and perimeter landscaping. The following table shows the credit given for each preserved tree, based on the tree's caliper:



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Caliper (inches)	Tree Credit
4 to 6	1
7 to 12	2
13 to 18	3
19 to 29	4
Greater than 30	5

- D. Enforcement procedures. The Zoning Administrator may require a bond with surety or other acceptable guaranties to insure the completion of required improvements. Such guaranties shall be in the estimated amount of the required improvements. Such guaranties shall be for a period of completion set by the Zoning Administrator with consultation with the applicant. Such guaranties shall be released when the required improvements have been completed.

### § 165-203.02 Buffer and screening requirements.

It is the intent of the regulations of this section to encourage proper design of a site in order to protect adjacent existing uses and to protect proposed uses within the site. Certain types of uses must be buffered from other types in order to ensure a desirable living environment. Additionally, appropriate distances must be maintained between commercial, industrial and residential uses and roads.

- A. Distance buffers. Distance buffers are based on the nature of an activity and its proximity to an activity of a different nature. They are linear distances measured from property lines inward. Part of the buffer must be inactive and part may be active. The inactive portion begins at the adjoining property line, as shown in the example diagrams.
- (1) Inactive distance buffer. This portion of a buffer area permits no activity except the necessary utility functions provided by transmission lines, underground conduits, etc.
  - (2) Active distance buffer. This portion of a buffer area may not be encroached by a building or other principal structure or activity. However, accessory activities, such as parking, are permitted in this area. Active buffers shall not contain road rights-of-way.
  - (3) Wherever proposed developments are adjacent to or within 1,000 feet of the boundaries of existing uses, the Board of Supervisors may require increased or additional distance buffers to separate different uses to achieve the intentions of this section.
- B. Screening. Screening is designed to work with distance buffers to lessen the impact of noise or visual interaction between adjacent activities. There are two levels of screening: landscape screening and full screening. The higher the level of screening provided, the lower the level of distance buffer required. The example diagrams show how this works.
- (1) Landscape screening. A landscape screen consists of a totally landscaped easement at least 10 feet in depth; it is encouraged that the plantings to be spaced appropriately within the inactive buffer. Within the easement, there shall be a minimum landscaping density of three plants per

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10 linear feet. The buffer shall consist of a combination of 1/3 deciduous trees, 1/3 evergreen trees and 1/3 shrubs. Deciduous trees shall be planted at a minimum of 2" caliper, evergreen trees shall be a minimum of 4' in height and shrubs shall be 18" in height at time of planting.

- (2) Full screen. A full screen provides all the elements of a landscape screen and also includes a six-foot-high, opaque hedge, fence, wall, mound or berm. A 50 foot strip of mature woodlands may be allowed as a full screen.
- (3) Wherever proposed developments are adjacent to existing uses, the Board of Supervisors may require additional landscaping or landscaped easements to separate different uses and to achieve the intentions of this section.

C. Residential separation buffers. Residential separation buffers shall be established to adequately buffer different housing types from dissimilar housing types within adjacent separate developments. The requirements for residential separation buffers are as follows:

- (1) When placed adjacent to one another, developments with different housing types shall provide the following residential separation buffers:

<b>MINIMUM RESIDENTIAL SEPARATION BUFFER AREA REQUIRED</b>					
<b>Proposed Use/Development</b>	<b>Adjoining Existing Use/Development</b>				
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
1. Single-family detached	-	-	A	B	B
2. Single-family zero lot line or small lot	-	-	A	B	B
3. Multiplex or townhouse	B	B	-	B	B
4. Garden Apartment or Multifamily buildings	C	C	B	-	A
5. Age-restricted multifamily	C	C	C	-	-

<b>BUFFER AREA WIDTH AND PLANT REQUIREMENTS</b>				
<b>Type</b>	<b>Inactive (Minimum) (feet)</b>	<b>Active (Maximum) (feet)</b>	<b>Total (feet)</b>	<b>Screen Type</b>
A	15	10	25	Full Screen
A	30	20	50	Landscape Screen
A	75	25	100	No Screen
B	30	20	50	Full Screen
B	45	30	75	Landscape Screen
B	75	25	100	No Screen
C	75	25	100	Full Screen
C	100	50	150	Landscape Screen
C	150	50	200	No Screen

- (2) Buffers shall be placed between the lot line of the proposed housing type and the lot line of the existing adjoining use or development. When placed on individual lots, the buffer shall be located within a permanent landscape easement and shall be maintained by the homeowners association.
- (3) When age-restricted multifamily housing adjoins other housing types, the evergreen element of the residential separation buffer shall be planted at a height of six feet.

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- (4) When existing mature woodlands are located within the entire buffer area (total distance if active and inactive buffer), preservation of that woodland will be allowed to substitute for the required plant material.
- (5) Housing types contained within a mixed use development as outlined in the Comprehensive Plan or developments that contain a mixture of housing types but approved with the same Master Development Plan shall not require residential separation buffers between housing types contained within the same development. The Zoning Administrator may require residential separation buffers when a Master Development Plan is revised and the housing types are modified after construction has already commenced within the development. Residential separation buffers shall be required when different housing types are placed adjacent to a mixed use or Master Planned development or if the development abuts different housing types within a separate development.
- (6) The Board of Supervisors may waive, reduce and/or modify the residential separation buffer requirements (distance or landscaping) if the topography of the lot providing the buffer yard and the lot being protected is such that the required buffer yard would not be effective.
- (7) The Board of Supervisors may waive, reduce and/or modify the residential separation buffer requirements (distance or landscaping) when utility conflicts preclude the installation of the buffer and would result in unnecessary or otherwise unreasonable hardship to the developer.

D. Zoning district buffers. Buffers shall be placed on land to be developed when it adjoins land in certain different zoning districts.

- (1) Buffers shall be provided on the land to be developed according to the categories in the following tables:

(a) Buffer categories:

<b>Distance Buffer Required</b>				
<b>Category</b>	<b>Screening Provided</b>	<b>Inactive (Minimum) (feet)</b>	<b>Active (Maximum) (feet)</b>	<b>Total (feet)</b>
A	No screen	25	25	50
B	Full screen	25	25	50
B	Landscape screen	75	25	100
B	No screen	150	50	200
C	Full screen	75	25	100
C	Landscape screen	150	50	200
C	No screen	350	50	400

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- (b) Buffer categories to be provided on land to be developed according to the zoning of the adjoining land:

Zoning of Adjoining Land												
Zoning of Land to be Developed	RP	R4	R5	MH1	B1	B2	B3	OM	M1	M2	EM	MS
RP	-	-	-	-	A	A	A	A	A	A	A	A
R4	-	-	-	-	A	A	A	A	A	A	A	A
R5	-	-	-	-	A	A	A	A	A	A	A	A
MH1	C	C	C	-	B	B	B	B	B	A	A	C
B1	B	B	B	B	-	-	A	A	A	A	A	B
B2	B	B	B	B	-	-	-	A	A	A	A	B
B3	C	C	C	C	B	-	-	-	-	-	-	C
OM	C	C	C	C	B	B	-	-	-	-	-	C
M1	C	C	C	C	B	B	-	-	-	-	-	C
M2	C	C	C	C	B	B	B	B	B	-	-	C
EM	C	C	C	C	B	B	B	B	B	-	-	C
MS	C	C	C	C	B	B	B	B	B	B	C	-

- (2) If a lot being developed is adjacent to developed land which would normally be required to be provided with a buffer but which does not contain the buffer, the required buffer shall be provided on the lot being developed. The buffer to be provided shall be of the larger category required on either the lot being developed or the adjacent land. Such buffer shall be in place of the buffer normally required on the lot being developed. The buffer may include required setbacks or buffers provided on the adjacent land.
- (3) Whenever land is to be developed in the B-1 (Neighborhood, Business) or B-2 (Business, General) Zoning District that is adjacent to land primarily used for residential use in the RA (Rural Areas) Zoning District, a B Category buffer shall be provided on the land to be developed. The Board of Supervisors may grant a waiver to reduce the required buffer distance requirements with the consent of the adjacent (affected) property owners. Should a waiver be granted by the Board of Supervisors, the distance requirements of § 165-203.02D(1)(a) may be reduced, provided the full screening requirements of this section are met.

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- (4) Whenever land is to be developed in the B3, OM, M1 or M2 Zoning District that is adjacent to land primarily used for residential purposes in the RA Rural Areas Zoning District, a C Category buffer shall be provided on the land to be developed.
- (5) Whenever land is to be developed in the MS Zoning District that is adjacent to land primarily used for residential purposes in the RA (Rural Areas) Zoning District, a C Category buffer shall be provided on the land to be developed. Whenever land is to be developed in the MS Zoning District that is adjacent to all other land zoned RA (Rural Areas) Zoning District, the requirements for buffer and screening shall be provided in accordance with §165-402.07 of this chapter.
- (6) The Zoning Administrator may waive any or all of the requirements for the zoning district buffers on a particular site plan when all uses shown on the site plan are allowed in the zoning district in which the development is occurring and in the adjoining zoning districts.
- (7) The Zoning Administrator may waive, reduce and/or modify buffer yard requirements (distance and landscaping) if in his opinion the topography of the lot providing the buffer yard and the lot being protected is such that the required yard would not be effective. The buffer may also be modified to maintain highway sight distances.
- (8) Land proposed to be developed in the OM (Office-Manufacturing Park), the M1 Light Industrial District and the M2 Industrial General District may be permitted to have a reduced buffer distance that is consistent with the required side or rear building setback line, provided that the following requirements are met:
  - (a) The property to be developed with a reduced buffer distance is part of an approved master planned industrial park.
  - (b) There are no primary or accessory uses within the reduced buffer distance area, including driveways, access drives, outdoor storage areas, parking areas, staging areas, loading areas and outdoor dumpster areas. All-weather surface fire lanes necessary to meet the requirements of Chapter 90, Fire Prevention, of the Code of Frederick County, Virginia, shall be exempt from this performance standard.
  - (c) A full screen is required to be created within the reduced buffer distance area which shall be comprised of a continuous earth berm that is six feet higher in elevation than the highest elevation within the reduced buffer distance area and a double row of evergreen trees that are a minimum of six feet in height and planted a maximum of eight feet from center to center.
- (9) Proposed developments required to provide buffers and screening as determined by § 165-203.02D(1)(b) of this chapter may be permitted to establish a common shared buffer and screening easement with the adjoining property. The common shared buffer and screening easement shall include all components of a full screen which shall be clearly indicated on a site design plan. A legal agreement signed by all appropriate property owners shall be provided to the Department of Planning and Development and shall be maintained with the approved site design plan. This agreement shall describe the location of the required buffer within each property, the number and type of the plantings to be provided and a statement regarding the maintenance responsibility for this easement. The required buffer distance may be reduced by 50% for a common shared buffer easement if existing vegetation achieves the functions of a full screen.

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(10) When a flex-tech development is split by a zoning district line, the Zoning Administrator may allow for a reduction of the distance buffer and the relocation of the screening requirements. Such modifications shall be allowed at the Zoning Administrators discretion, provided that all of the following conditions are met:

- (a) The zoning district boundary line for which the modification is requested is internal to the land contained within the master development plan.
- (b) The required landscape screen is relocated to the perimeter of the flex-tech development. This relocated landscape screen shall contain the same plantings that would have been required had the screen been placed along the zoning district boundary line.

(11) Whenever land is to be developed in the B1, B2, B3, OM, M1 or M2 Zoning District that is adjacent to a railroad right-of-way that has property zoned B1, B2, B3, OM, M1 or M2 on the opposite side, zoning district buffers shall not be required. In the event that residential uses are located on the opposite side of the railroad right-of-way, a zoning district buffer as required by § 165-203.02D shall be provided. In the event that a zoning district buffer is required, the width of the railroad right-of-way may be counted towards the required zoning district buffer distance.

### E. Road efficiency buffers.

(1) Road efficiency buffers. The purpose of these requirements are to provide protection for residential structures from any street classified as a collector road or higher while still providing an attractive view of the residential neighborhoods from major roadways. It is not the intent of these regulations to provide uniform linear strips of completely opaque screening but to provide an attractive view of residential neighborhoods from major streets and ensure adequate buffering for the residential neighborhood from the street.

<b>Distance Buffer Required</b>					
<b>Road Classification</b>		<b>Inactive (minimum) (feet)</b>	<b>Active (maximum) (feet)</b>	<b>Total (feet)</b>	<b>Screen Type</b>
Interstate/ arterial/ limited access					
	Full-distance buffer	50	50	100	Landscape Screen
	Reduced-distance buffer	40	40	80	Full Screen
Major collector					
	Full-distance buffer	40	40	80	Landscape Screen
	Reduced-distance buffer	40	10	50	Full Screen

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- (2) All road efficiency buffers shall begin at the edge of the road right-of-way, with the inactive portion abutting the road right-of-way. All required elements of the full-distance buffer or the reduced-distance buffer shall be located within the inactive portion of the road efficiency buffer. Maintenance of the road efficiency buffer shall be in accordance with § 165-203.01B(3). The inactive portion of the road efficiency buffer is permitted to count towards the required percentage of common open space; however, no portion of a residential lot shall be located within the inactive portion of the road efficiency buffer. The active portion of the road efficiency buffer may be permitted to be located within a residential lot, provided that the primary structure is not located within the buffer area. Accessory structures may be located within the active portion of the road efficiency buffer, provided that the structures meet all applicable setback requirements. Access roads serving as the primary means of vehicular travel to residential subdivisions are permitted to traverse road efficiency buffers.
- (3) All road efficiency buffers shall contain landscaping evergreen trees intended to reach a minimum height of 20 feet at maturity.
- (4) The Zoning Administrator may allow alternative landscaping near entrance drives to ensure safe sight distances.
- (5) The Zoning Administrator may waive, reduce and/or modify the road efficiency buffer yard requirements if in his opinion the topography of the lot providing the buffer yard and the lot being protected is such that the required buffer yard would not be effective.
- (6) When existing mature woodland, when supplemented by new vegetation if needed, is located within the entire buffer area and meets the intent of this section, preservation of that woodland will be allowed to substitute for the required plant material and the opaque screening.

### **Part 204 – Additional Regulations for Specific Uses**

#### **§ 165-204.01 Adult care residences, assisted living care facilities, and convalescent or nursing homes.**

Adult care residences, assisted living care facilities and convalescent or nursing homes located in the B2 Business General District shall meet the following requirements:

- A. Thirty percent of the total acreage of the site utilized for adult care residences and assisted living care facilities shall remain in green space. Areas designated for buffers and screening and stormwater management facilities that are required to serve this use may be included in this percentage.
- B. Road efficiency buffers as specified in § 165-203.02E of this chapter shall be met.

#### **§ 165-204.02 Batting cages, commercial, operated outdoors.**

Commercial batting cages located in the B2 Business General District shall meet the following requirements:

- A. Outdoor batting cage operations may be developed as stand-alone facilities or may be located in conjunction with other permitted uses in the B2 Business General District.

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- B. Outdoor batting cage operations shall be constructed to meet the standards for rectangular cage systems and radial cage systems. Monopole cage systems shall not be permitted.
- C. Outdoor batting cage systems shall be developed within an area not to exceed 15,000 square feet. The perimeter of the outdoor batting cage facility shall be enclosed with an eight-foot-high chain link fence.
- D. Stock pipe utilized to support the outdoor batting cage net system shall not exceed 25 feet in height.
- E. Lighting fixtures for outdoor batting cage operations shall be engineered to reflect downward and shall not reflect light onto adjoining uses, properties and road rights-of-way.

### § 165-204.03 Campgrounds and tourist camps.

Where allowed, all campgrounds shall meet the following requirements:

- A. Minimum size. The minimum lot size for a campground shall be five acres.
- B. Density. The maximum allowed density for a campground shall be 10 campsites or cabins per acre.
- C. Perimeter setbacks. The perimeter setback from the boundary of the campground for all structures and campsites shall be 100 feet.
- D. Residences. No more than one permanent residence shall be allowed in a campground, which shall only be occupied by the owner, manager or an employee.
- E. Buffers and screens. Where campgrounds are allowed, zoning district separation buffers and screens, Category C as described by this chapter, shall be provided in relation to surrounding properties containing residential uses.
- F. Campgrounds shall meet all requirements of the Virginia Department of Health.

### § 165-204.04 Car washes.

- A. Car washes located in the B-1 (Business Neighborhood District) and B-2 (Business General District) Zoning District, adjacent to RA with residential dwellings, RP, R-4, R-5, MS (Medical Support with Residential Component), and MH-1 zoned properties shall have an operator on-site during all hours of operation.
- B. Car washes located in the B-1 (Business Neighborhood District) and B-2 (Business General District) Zoning District, adjacent to RA with residential dwellings, RP, R-4 R-5, MS (Medical Support with Residential Component) and MH-1 zoned properties shall be operated only during the following hours:

Days	Hours
Monday through Friday	7:00 a.m. to 9:00 p.m.



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Saturday	8:00 a.m. to 9:00 p.m.
Sunday	12:00 noon to 6:00 p.m.

### § 165-204.05 Electrical, hardware, plumbing and heating equipment businesses (SIC 506 and 507).

Electrical, hardware, plumbing and heating equipment businesses located in the B2 Business General District shall be subject to the following requirements:

- A. Establishments primarily engaged in these businesses shall not exceed 8,000 square feet of total floor area.
- B. Only 25% of the total floor area within a shopping center shall contain such businesses.
- C. Such businesses shall not have outdoor storage.
- D. Such businesses shall not contain fabrication and/or manufacturing facilities.

### § 165-204.06 Flex-tech uses.

The intent of this section is to ensure that flex-tech development shall be designed for safe, efficient traffic flow and to complement its surroundings. The following minimum standards shall apply to any property in which flex-tech developments are located, in order to promote economic development and mitigate any negative impacts to adjoining properties:

- A. Permitted uses. All uses allowed in the B2, B3 and M1 Districts will be permitted in a flex-tech development.
  - (1) Primary use. The primary use shall be a use permitted by the zoning district in which the development is located. The primary use shall occupy a minimum of 75% of an establishment, measured in gross floor area of the unit.
  - (2) Accessory use. The accessory use shall be a use permitted in flex-tech but not necessarily in the district in which the development is located.
- B. The flex-tech development shall only be permitted within approved master planned developments, the approved master plan shall indicate location of the flex-tech development.
- C. All flex-tech developments shall adhere to a site plan that has been approved by the Frederick County Zoning Administrator and complies with the requirements set forth in this chapter and to the following flex-tech design standards:
  - (1) Individual unit size dimensional requirements. Maximum unit sizes shall be 20,000 square feet.
  - (2) Site layout requirements.

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(a) Loading bays.

- [1] All loading bays shall be located so that they are not visible from road rights-of-way. All loading bays shall be screened from view by the building, landscaping, walls or decorative fencing.
- [2] Except during the process of loading or unloading, trucks and trailers shall not be parked outside the building, unless parked in screened areas not visible from adjacent road rights-of-way or properties.
- [3] The Zoning Administrator may waive any and all of the loading bay location and screening requirements when a site is bordered by two or more road rights-of-way. In no case shall a loading bay be visible from an arterial or collector road, as identified by the Frederick County Comprehensive Policy Plan.

(b) Minimum on-site building separation shall be as follows:

- [1] Front yard: 30 feet.
- [2] Side yard: 30 feet.
- [3] Rear yard: 120 feet.

(c) Entrances onto the site shall clearly separate automobile traffic from truck traffic. Automobile parking and truck loading areas shall be clearly separated.

(d) Parking areas shall be designed to accommodate the most intensive use of the structures. Parking may be constructed in phases to reflect required parking for the actual occupying uses, as determined by the application for a certificate of occupancy and/or change of use permit.

(e) All uses shall be conducted entirely within enclosed structures.

**§ 165-204.07 Government services office.**

Government services office located in the Rural Areas (RA) Zoning District shall be subject to the following requirements:

- A. Government services office uses shall be located within the Sewer and Water Service Area (SWSA), as identified by the County's Comprehensive Policy Plan.
- B. A transportation impact analysis (TIA) shall be conducted and the improvements identified as necessary to achieve, or maintain, a minimum Level of Service (LOS) C shall be constructed in conjunction with the facilities.
- C. The facility shall be served by public water and sewer.
- D. The use and site shall adhere to, and implement, Business General (B2) Zoning District design standards.

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### **§ 165-204.08 Grocery and food stores.**

Grocery or food stores located in the B3 (Industrial Transition) Zoning District shall meet the following requirements:

- A. Maximum building square footage used for retail sales of grocery or food products shall not exceed 10,000 square feet. The 10,000 square feet shall not include area used for storage warehousing of products.

### **§ 165-204.09 Humanitarian aid organizational office.**

Nonprofit aid organizational offices located in the RA (Rural Areas) Zoning District shall be subject to the following requirements:

- A. A Category "B" zoning district separation buffer and screen, as described by this chapter, shall be provided in relation to surrounding properties containing residential uses.
- B. Maximum building square footage shall not exceed 15,000 square feet, or a floor area-to-lot area ratio (FAR) of 0.3, whichever is less.
- C. All signs shall conform with the cottage occupation sign requirements.
- D. No marketing of merchandise shall occur from this property.

### **§ 165-204.10 Kennels.**

Where allowed separately or as a part of a veterinary clinic or hospital, kennels shall meet the following requirements:

- A. All dogs shall be confined to secure pens or structures.
- B. Where kennels are allowed, zoning district separation buffers and screens, Category C as described by this chapter, shall be provided in relation to surrounding properties containing residential uses.

### **§ 165-204.11 Landfills, junkyards, trash disposal, and inoperable vehicles.**

Landfills, junkyards, automobile graveyards, dumping and trash heaps shall be permitted only where specifically allowed by the zoning district regulations of this chapter. Where allowed, such uses shall meet all requirements of the Frederick County Code and applicable state and federal regulations.

- A. Where allowed, landfills, junkyards, automobile graveyards, dumping and trash heaps shall be completely screened from the view of surrounding roads and properties by fences, walls, screens or other methods.
- B. A minimum buffer of 600 feet shall be maintained on parcels containing a landfill adjacent to properties containing residences or properties zoned RP Residential Performance, MH1 Mobile Home Community, R4 Residential Planned Community or R5 Residential Recreational Community. Such buffers shall be along the boundary of the property adjacent to the properties so zoned or containing the residences. In addition, the Board of Supervisors may require landscape screening or

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full screening in the buffer as described by this chapter. If a residential development is established adjacent to an existing landfill, a Category C buffer shall be placed on the land containing the residential development. In no case shall residences be placed within 600 feet of a landfill.

### C. Inoperable motor vehicles.

- (1) Inoperable motor vehicles shall not be stored outside of a completely enclosed building in the following zoning districts:

RP	Residential Performance
R4	Residential Planned Community
R5	Residential Recreational Community
MH1	Mobile Home Community
HE	High Education
MS	Medical Support
B1	Business Neighborhood
B2	Business General
B3	Industrial Transition
OM	Office-Manufacturing Park
M1	Industrial Light
M2	Industrial General
EM	Extractive Manufacturing

- (2) Inoperable motor vehicles permitted to be stored outside of a totally enclosed building shall be completely screened from public roads or surrounding properties. Permitted screening shall include opaque fences, opaque landscaping or opaque natural vegetation.

### D. Trash storage. When stored outdoors, outside of a legal landfill or trash heap, all trash, rubbish or garbage shall be stored in watertight, verminproof containers.

- (1) All multifamily residential developments where more than one residence or use shares a parking lot shall be provided with outdoor trash containers or other means of trash disposal. Means shall be provided to ensure that all trash generated by the development is properly disposed of to avoid litter, odor or other nuisances.
- (2) All commercial and industrial developments shall be provided with outdoor trash containers or other means of trash disposal. Means shall be provided to ensure that all trash generated by the development is properly disposed of to avoid litter, odor or other nuisances.

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- (3) Such trash containers shall not be located in the front yard areas of such uses. Such containers shall be located to avoid traffic conflicts with parked vehicles and general traffic. Such containers shall be properly screened or separated from dwellings to avoid odors and other impacts.
  - (4) Such trash containers shall be contained within a completely enclosed facility. The enclosure shall consist of a six-foot opaque fence or wall and an opaque gate.
- E. No junkyards shall be hereafter established any portion of which is within 1,000 feet of the nearest edge of the right-of-way of any interstate or United States highway or within 500 feet of the nearest edge of the right-of-way of any Commonwealth of Virginia highway, except as follows:
- (1) Junkyards which are screened by natural objects, plantings, fences or other appropriate means so as not to be visible from the main traveled way of the highway or street or otherwise removed from sight.
  - (2) Junkyards which are not visible from the main traveled way of the highway.

### **§ 165-204.12 Motor vehicle service uses, automotive repair shops and public garages.**

All motor vehicle service uses, automotive repair shops and public garages shall meet the following requirements:

- A. All repair shall take place entirely within an enclosed structure.
- B. All exterior storage of parts and equipment shall be screened from view of surrounding properties by an opaque fence or screen at least six feet in height. This fence or screen shall be adequately maintained.
- C. Inoperable motor vehicles must be stored within a totally enclosed building or screened on all sides by a six foot opaque element such a fence, wall or berm.
- D. In the RA, M1 and M2 Zoning Districts, the sale of automobiles shall not be permitted as an accessory or secondary use to any automotive repair shop.

### **§ 165-204.13 Restaurants.**

Restaurants located in the B1 Neighborhood Business Zoning District shall meet the following requirements:

- A. Restaurants are not permitted to have drive-through window service.
- B. Restaurants are only permitted to be located within a shopping center containing at least three other business units.
- C. Restaurants are not permitted to exceed 35% of the total floor area within a shopping center.

### **§ 165-204.14 Sewage treatment facilities.**

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- A. Sewage treatment facilities in Frederick County serving three or more dwellings, lots or uses are only allowed if they are dedicated to a public authority or agency. Sewage treatment facilities serving primary or accessory agricultural uses shall be exempt from this requirement.
- B. A minimum buffer of 600 feet shall be maintained on parcels containing sewage treatment facilities adjacent to properties containing residences or properties zoned RP Residential Performance, MH1 Mobile Home Community, R4 Residential Planned Community or R5 Residential Recreational Community. Such buffers shall be along the boundary of the property adjacent to the properties so zoned or containing the residences. In addition, the Board of Supervisors may require landscape screening or full screening in the buffer as described by this chapter. If a residential development is established adjacent to an existing sewage treatment facility, a Category C buffer shall be placed on the land containing the residential development. In no case shall residences be placed within 600 feet of a sewage treatment facility.

### **§ 165-204.15 Shooting ranges, outdoor.**

Outdoor shooting ranges shall be allowed only with a conditional use permit. Where outdoor shooting ranges are allowed, zoning district separation buffers and screens, Category C as described by this chapter, shall be provided in relation to surrounding properties containing residential uses. In no case shall a shooting range be located within 1,000 feet of any residence located on surrounding parcels of land. Application for a conditional use permit shall include plans for appropriate site layout and design to protect the safety of the public. Such plans shall include berms and other protective features. All outdoor shooting ranges shall be supervised at all times by qualified personnel.

### **§ 165-204.16 Shopping centers, office parks and industrial parks.**

The intent of this section is to ensure that private restrictions are established in certain types of development. In order to promote orderly economic development and to protect property values in commercial and industrial areas, the following requirements shall apply to all shopping centers, office parks and industrial parks:

- A. A harmonious coordination of uses, architectural styles, signs and landscaping shall be provided to ensure the aesthetic quality and value of the development. Deed restrictions, dedications, agreements, contracts, guaranties or other means shall be instituted to ensure that such coordination occurs.
- B. Architectural styles should avoid massive, monolithic or repetitive building types and facades. No portion of an unpainted concrete block or unpainted sheet metal building shall be visible from roads or surrounding properties.
- C. Appropriate landscaping shall be provided or required through deed restrictions, dedications, agreements, contracts, guaranties or other means throughout the development.
- D. Deed restrictions, dedications, agreements, contracts, guaranties or other means used to ensure the above shall provide specific standards and means for enforcement. The Zoning Administrator shall review such methods before any site plan is approved to ensure that they accomplish the intentions of this section. The Zoning Administrator shall review such methods to ensure that private controls are established to address the requirements of this section. The Zoning Administrator shall not control the particular designs, styles or methods used as long as the requirements of this chapter have been met.

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### § 165-204.17 Slaughterhouses and rendering plants.

- A. It shall be unlawful to operate any slaughterhouse, abattoir, rendering plant or establishment where animals or fowl, dead or alive, are processed or where food or feed is manufactured or processed, unless such place or establishment is maintained and operated in a clean and sanitary manner at all times.
- B. Such establishments shall be so constructed and maintained as to effectively control the entrance of insects and rodents. The doors, windows and other openings thereof shall be fitted with screen doors and wire window screens of not coarser than 14-gauge mesh.
- C. The word "slaughterhouse," as used in this section, shall not be construed to prohibit persons who are actually farmers from killing their own cattle, sheep, swine, goats and fowl for their own family use.

### § 165-204.18 Storage facilities, self-service.

Where allowed, self-service storage facilities shall meet the following requirements:

- A. Self-service storage facility operations shall be permitted as a primary or accessory use in all zoning districts in which they are permitted.
- B. All parking areas, travel aisles and maneuvering areas associated with the self-service storage facility operations shall be paved with asphalt, concrete or similar material to provide a durable hard surface.
- C. Buildings are permitted that provide interior and exterior accessible units. Individual units within the self-service storage building shall not exceed 1,000 square feet in area.
- D. Minimum building spacing shall be 30 feet apart. Loading areas shall be delineated to ensure that adequate travel aisles are maintained between buildings.
- E. Recreational vehicles and boats shall be permitted to be stored within completely enclosed areas of the self-service storage facility, provided that the storage area is separate from the parking areas and travel aisles and is depicted on the approved site development plan. Areas utilized for this purpose shall be exempt from the surface requirements specified under § 165-204.18B.
- F. Self-service storage facilities shall meet the following landscaping or screening requirements:
  - (1) Facilities located in the B-2 Business General District shall be completely screened around the perimeter of the property by a double row of evergreen trees that are staggered and planted a maximum of eight feet off center and are a minimum of six feet in height when planted.
  - (2) Facilities located in the B-3 Industrial Transition District or the M-1 Light Industrial District shall be required to landscape the yard area within the front yard setback to provide for a double row of evergreen trees that are staggered and planted a maximum of eight feet off center. The side and rear yards shall be planted with a single row of evergreen or deciduous trees that are planted a maximum of 40 feet off center. All trees shall be a minimum of six feet in height at the time of planting.

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(3) Facilities located on parcels that are within a master planned industrial park or office park shall be required to landscape the perimeter of the facility with a single row of evergreen or deciduous trees that are planted a maximum of 40 feet off center. All trees shall be a minimum of six feet in height at the time of planting.

(4) The required planting of all trees described under this Subsection **F** shall occur in an area that is between the adjoining property boundary line and the placement of security fencing. The installation of an opaque wall or fence that is a minimum of six feet in height may substitute for required landscaped areas in all zoning districts.

G. Self-service storage facility operations shall be designed to accommodate the storage of residential, commercial and industrial items, excluding hazardous, toxic and explosive materials. No use, sale, repair or activity other than storage shall be permitted to occur in self-service storage facility operations. A copy of the lease agreement which describes the requirements of this subsection shall be approved in conjunction with the site development plan for the self-service storage facility operation.

### **§ 165-204.19 Telecommunication facilities, commercial.**

The intent of this section is to ensure that the siting of commercial telecommunication facilities occurs through the conditional use permit public hearing process defined in Article I, Part 103 of this chapter. Commercial telecommunication facilities that locate on existing structures and towers shall be exempt from the conditional use permit requirement. The siting of commercial telecommunication facilities is permitted within the zoning districts specified in this chapter, provided that residential properties, land use patterns, scenic areas and properties of significant historic value are not negatively impacted.

A. Information required as part of the conditional use permit application shall include, but not be limited to, the following:

(1) A map depicting the search area used in siting each proposed commercial communications facility.

(2) Identification of all service providers and commercial telecommunication facility infrastructure within a proposed search area. The applicant shall provide confirmation that an attempt to collocate on an existing telecommunication facility has been made.

(3) Information demonstrating that the commercial telecommunication facility is in compliance with the Federal Communication Commissions established ANSI/IEEE standards for electromagnetic field levels and radio frequency radiation.

(4) An affidavit signed by the landowner stating that he/she is aware that he/she may be held responsible for the removal of the commercial telecommunications facility as stated in § 165-204.19B(7).

B. The following standards shall apply to any property in which a commercial telecommunication facility is sited, in order to promote orderly development and mitigate the negative impacts to adjoining properties:



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- (1) The Board of Supervisors may reduce the required setback distance for commercial telecommunication facilities as required by § 165-201.03B(8) of this chapter if it can be demonstrated that the location is of equal or lesser impact. When a reduced setback is requested for a distance less than the height of the tower, a certified Virginia engineer shall provide verification to the Board of Supervisors that the tower is designed, and will be constructed, in a manner that if the tower collapses for any reason the collapsed tower will be contained in an area around the tower with a radius equal to or lesser than the setback, measured from the center line of the base of the tower. In no case shall the setback distance be reduced to less than 1/2 the distance of the tower height. Commercial telecommunication facilities affixed to existing structures shall be exempt from setback requirements, provided that they are located no closer to the adjoining property line than the existing structure.
- (2) Monopole-type construction shall be required for new commercial telecommunication towers. The Board of Supervisors may allow lattice-type construction for new telecommunication towers when existing or planned residential areas will not be impacted and when the site is not adjacent to identified historical resources.
- (3) Advertising shall be prohibited on commercial telecommunication facilities except for signage providing ownership identification and emergency information. No more than two signs shall be permitted. Such signs shall be limited to 1.5 square feet in area and shall be posted no higher than 10 feet above grade.
- (4) When lighting is required on commercial telecommunication facility towers, dual lighting shall be utilized which provides daytime white strobe lighting and nighttime red pulsating lighting unless otherwise mandated by the Federal Aviation Administration or the Federal Communications Commission. Strobe lighting, shall be shielded from ground view to mitigate illumination to neighboring properties. Equipment buildings and other accessory structures operated in conjunction with commercial telecommunication facility towers shall utilize infrared lighting and motion-detector lighting to prevent continuous illumination.
- (5) Commercial telecommunication facilities shall be constructed with materials of a galvanized finish or painted a noncontrasting blue or gray unless otherwise mandated by the Federal Aviation Administration or the Federal Communication Commission.
- (6) Commercial telecommunication facilities shall be adequately enclosed to prevent access by persons other than employees of the service provider. Appropriate landscaping and opaque screening shall be provided to ensure that equipment buildings and other accessory structures are not visible from adjoining properties, roads or other rights-of-way.
- (7) Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such tower shall remove same within 90 days of receipt of notice from the Frederick County Department of Planning and Development. Removal includes the removal of the tower, all tower and fence footers, underground cables and support buildings. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. If the tower is not removed within the ninety-day period, the County will remove the facility and a lien may be placed to recover expenses.

### § 165-204.20 Trailers, temporary.

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- A. Temporary trailers shall be allowed as a part of construction projects. However, they shall not be used for residential purposes. In addition, temporary trailers shall be removed before a final certificate of occupancy is issued for the use under construction. All such trailers shall meet applicable requirements of the Frederick County Code. In general, the trailers shall remain only where specifically allowed by this chapter and only if all applicable requirements are met. Permits for such trailers will be for a maximum of one year. Applicants for such permits shall furnish an affidavit to the Zoning Administrator, stating that the use shall be limited as required.
- B. Temporary mobile homes used for residential purposes shall only be allowed in the RA Rural Areas Zoning District. Such temporary mobile homes may be used on a lot where a single-family home is being constructed only if an affidavit is provided to the Zoning Administrator stating that the mobile home will be removed before a final certificate of occupancy is issued for the single-family home. In such cases, a permit shall be obtained for the mobile home and the mobile home shall meet all requirements of the Frederick County Code. Permits for such mobile homes shall be for a maximum of one year.

### **§ 165-204.21 Truck or fleet maintenance facilities and truck rental and leasing facilities, without drivers.**

Where allowed, truck or fleet maintenance facilities and truck rental and leasing facilities without drivers, shall meet the following requirements:

- A. In the M-1 Light Industrial District, truck or fleet maintenance facilities shall only be permitted in industrial parks.
- B. Truck or fleet maintenance facilities may have fuel service, provided that it is limited to one gasoline storage tank of 10,000 gallons or less and one diesel storage tank of 10,000 gallons or less.
- C. All repair and maintenance operations shall occur within a completely enclosed structure.
- D. Outdoor storage of parts associated with repair and maintenance shall not be permitted.
- E. Retail sale of fuel shall not be permitted.
- F. The Zoning Administrator may require additional buffers and screening other than those defined in § 165-203.02 of this chapter.

### **§ 165-204.22. Farm Wineries.**

Farm Wineries in the RA (Rural Areas) District, shall meet the following requirements:

- A. The following shall be considered by-right accessory uses at farm wineries:
  - (1) The production and harvesting of fruit and other agricultural products;
  - (2) The manufacturing of wine;
  - (3) The storage and sale of wine produced by the winery, including retail sales, direct sales and shipment, as well as wholesaling;
  - (4) The provision for on-site winery tours;
  - (5) The incidental retail of wine-related items; and
  - (6) Wine tasting.

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- B. Special events shall be permitted only on farm wineries of ten acres or larger. Special events for the purposes of this section shall include but are not limited to meetings, conferences, dinners, and wedding receptions. Any event at which more than 150 people are anticipated will require a festival permit.
- C. A site plan in accordance with the requirements of Article VIII shall be submitted to and approved by Frederick County.

### **§ 165-204.23. Welding Repair (SIC 7692).**

- A. Welding repair operations in the RA (Rural Areas) District, shall meet the following requirements:
  - (1) Hours of operation shall not exceed 7:00am-7:00pm, Monday-Saturday.
  - (2) Total building area shall not exceed 7,500 square feet.
  - (3) All outdoor storage or repair areas shall be screened by a six foot board-on-board fence, evergreen screen or berm.
  - (4) The Board of Supervisors may require buffer and screening elements and/or distance when deemed necessary to protect existing adjacent uses.
- B. A site plan in accordance with the requirements of Article VIII shall be submitted to and approved by Frederick County.

### **§ 165-204.24. Tractor Truck and Tractor Truck Trailer Parking.**

Tractor truck and/or tractor truck trailer parking facilities in the B3 (Industrial Transition), M1 (Light Industrial) and M2 (Industrial General) Zoning Districts permitted as a primary use with a conditional use permit shall meet the following conditions:

1. All areas utilized for the parking of tractor trucks shall meet the requirements of § 165-202.01D. Areas utilized for the storage of trailers may utilize a gravel surface.
2. All paved and gravel surfaces shall be properly maintained to ensure that dirt, mud, gravel or the like is not distributed onto roadways.
3. No inoperable tractor trucks or damaged/salvage trailers, unlicensed trailers or cargo/storage containers shall be parked or stored on the site.
4. Fuel sales shall not be permitted.
5. Maintenance of trucks and trailers shall not be permitted.
6. Facilities shall be required to landscape the yard area within the front setback to provide for a double row of evergreen trees (minimum of two different species). The on-center distance between each tree in the staggered double row shall not exceed the widest width of the selected evergreen trees. At no point shall the offset between each evergreen tree planted in the staggered double row be less than 90 degrees. The side and rear yards shall be planted with a single row of evergreen trees that are planted a maximum of 40 feet on center. All trees shall be a minimum of six feet in height at the time of planting. The Board of Supervisors may allow for alternative landscaping based on topography and/or adjacent land uses.
7. A site plan in accordance with the requirements of Article VIII shall be submitted to and approved by Frederick County.

### **§ 165-204.25. Flea Markets.**

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Flea Markets where allowed in the RA (Rural Areas) Zoning District shall meet the following requirements.

1. Property size shall be a minimum of six (6) acres not to exceed fifteen (15) acres.
2. The site must have direct frontage and access to a collector or arterial roadway. All entrances shall conform to VDOT standards.
3. Flea markets may be located indoor or outdoor.
4. Flea markets shall only be permitted to operate Friday-Sunday and on holidays.
5. Required onsite parking shall be one (1) space per 400 square feet of enclosed floor area and one (1) space per 3,000 square feet of outdoor display area.
6. All parking spaces and travel aisles shall be graveled. The Board of Supervisors may require through the Conditional Use Permit process that all travel aisles and/or parking spaces be paved with a minimum double prime and seal or alternative dust free surface.
7. All items displayed for sale shall be located within designated vendor spaces.
8. A Category B Zoning District Buffer shall be required along any adjacent parcel six acres in size or less that is used for residential purposes. A Category B Zoning District Buffer shall also be required along any adjacent property where a dwelling is located 50 feet or less from the proposed flea market property.
9. When adjacent to property primarily used for purposes other than residential, fencing (wire type – non opaque) shall be provided along the property line.
10. A site plan in accordance with the requirements of Article VIII shall be submitted to and approved by Frederick County. The site plan shall delineate all vendor spaces and parking spaces.

### **§ 165-204.26. Public Utilities.**

- A. Public Utilities. Lot requirements for lots used by political subdivisions, municipal corporations, the Virginia Department of Transportation, the Frederick-Winchester Service Authority, or the Frederick County Sanitation Authority for public utility purposes shall be as follows:
- (1) In all zoning districts, the Zoning Administrator shall have the authority to determine the minimum lot size necessary for such public utilities and the appropriate setbacks for such lots used for public utility purposes.
  - (2) Such lots shall be exempt from the individual on-site sewage disposal system requirements.
  - (3) Such lots may be accessed by private access easements; any such easement shall be a minimum of 15 feet in width.

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### ARTICLE III

#### Transfer of Development Rights (TDR) Program

##### Part 301 – Establishment and Purpose.

##### §165-301.01. Purpose.

Pursuant to the authority granted by §§ 15.2-2316.1 and 2316.2 of the Code of Virginia, there is established a transfer of development rights (TDR) program, the purpose of which is to transfer residential density from eligible sending areas to eligible receiving areas and/or transferee through a voluntary process for permanently conserving agricultural and forestry uses of lands and preserving rural open spaces, and natural and scenic resources. The TDR program is intended to supplement land use regulations, resource protection efforts and open space acquisition programs and encourage increased residential density where it can best be accommodated with the least impacts on the natural environment and public services by:

- A. Providing an effective and predictable incentive process for property owners of rural and agricultural land to preserve lands with a public benefit; and
- B. Implementing the Comprehensive Policy Plan by directing residential land uses to the Urban Development Area (UDA); and
- C. Providing an efficient and streamlined administrative review system to ensure that transfers of development rights to receiving areas are processed in a timely way and balanced with other county goals and policies, and are adjusted to the specific conditions of each receiving area.

##### §165-301.02. Applicability.

The procedures and regulations in Article III of Chapter 165 shall apply to the transfer of development rights from land qualifying as sending properties to land qualifying as receiving properties and/or to a transferee. Land utilizing transferred development rights may be subdivided at an increased density above the base density specified by Table 1 and Table 2 in §165-302.03 in applicable receiving areas. All development utilizing transferred development rights shall conform to the guidelines contained in the Comprehensive Policy Plan.

##### §165-301.03. Right to Transfer Development Rights; General Provisions.

- A. A development right shall be transferred only by means of documents, including a covenant to which Frederick County is party and any appropriate releases, in a recordable form approved by the Director of Planning and Development or his designee. The covenant shall limit the future construction of dwellings on a sending property to the total number of development rights established by the zoning of the property minus all development rights previously transferred in accordance with this chapter, any development rights previously extinguished or limited as a result of a recorded covenant against the property, the number of development rights to be transferred

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by the proposed transaction, and the number of existing single-family detached dwellings on the sending property. If a sending property contains no dwelling units, a development right equal to that for one single-family dwelling must be maintained for the property, except that, for properties larger than one hundred (100) acres, one development right equal to that for one single-family dwelling must be maintained for each multiple of one hundred (100) acres, or fraction thereof, contained within the sending property.

- B. Each transferor shall have the right to sever all or a portion of the rights to develop from the parcel in a sending district and to sell, trade, or barter all or a portion of those rights to a transferee consistent with the purposes of §165-301.01 so long as the conditions of §165-301.03A are met.
- C. Any transfer of development rights pursuant to this Chapter authorizes only an increase in maximum density and shall not alter or waive the development standards of the receiving district, nor shall it allow a use otherwise prohibited in a receiving district.
- D. Transfer of development rights shall not be available for the following:
  - 1) Portions of lots owned by or subject to easements (including, but not limited to, easements of roads, railroads, electrical transmission lines, gas or petroleum pipelines) in favor of governmental agencies, utilities and nonprofit corporations.
  - 2) Land restricted from development by covenant, easement or deed restriction.
- E. Any transfer of development rights shall be recorded among the land records of Frederick County, Virginia.
- F. Value of transferable development rights. The monetary value of transferred development rights is completely determined between the seller and buyer.

### **Part 302 – Sending and Receiving Properties**

#### **§165-302.01. Sending Properties.**

- A. For the purposes of this chapter, a sending property must be an entire tax parcel or lot qualified under §165-302.01B of this section. Sending areas may only be located within the rural areas outside of the Urban Development Area (UDA) and the Sewer and Water Service Area (SWSA), and zoned RA (Rural Areas), as described in the Comprehensive Policy Plan and the RA Zoning District of this Chapter. A sending property shall be maintained in a condition that is consistent with the criteria in this section under which the sending was qualified.

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- B. Qualification of a sending property shall demonstrate that the site contains a public benefit such that the preservation of that benefit by transferring residential development rights to another site is in the public interest, according to all of the following criteria:
- 1) Designated in the Comprehensive Policy Plan as Rural Area;
  - 2) Designated on the Zoning Maps of Frederick County as being zoned RA (Rural Areas) and be located outside of the Urban Development Area (UDA) and the Sewer and Water Service Area (SWSA);
  - 3) Designated on the Sending Areas Map;
  - 4) Comprised of at least twenty (20) acres in size; and
  - 5) Qualified for subdivision in accordance with Chapter 144 of the Frederick County Code including, but not limited to, meeting all state road and access requirements.
- C. If a sending property has any outstanding code violations and/or unpaid taxes, the owner shall resolve these violations, including any required abatement, restoration, or payment of penalties or taxes, before the property may be qualified as a sending property in the transfer of development rights program.

### **§165-302.02. Receiving Properties.**

- A. Except as provided in subsections B and C of this section, in order to be eligible as a receiving property, a property must be:
- 1) Located in one of the following zoning districts:
    - a. RP (Residential Performance) District;
    - b. R4 (Residential Planned Community) District; or
    - c. RA (Rural Areas) District; and
  - 2) Designated on the Receiving Areas Map;
  - 3) Served by public water and public sewer;
  - 4) Served by state maintained roads or have the ability to utilize private roads in the RP District as permitted by Chapter 165 or Chapter 144.
  - 5) Located within the Urban Development Area (UDA) or a designated and defined Rural Community Center as identified in the Comprehensive Policy Plan; and

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- 6) Identified in the Frederick County Comprehensive Policy Plan for residential land uses.
- B. A property is not eligible as a receiving property if the transfer of development rights to the property would adversely impact regionally or locally significant historical resources or naturally sensitive areas as specified in the Comprehensive Policy Plan.
  - C. A property is not eligible as a receiving property if the property is located within the airport support area as identified by the Comprehensive Policy Plan.
  - D. If a receiving property has any outstanding code violations and/or unpaid taxes, the owner shall resolve these violations, including any required abatement, restoration, or payment of penalties or taxes, before the property may be qualified as a receiving property in the transfer of development rights program.
  - E. A receiving property may accept development rights from one or more sending properties, up to a maximum density specified in Table 1 and Table 2 in §165-302.03.

### **§165-302.03. Calculation of development rights.**

- A. The number of residential development rights that a sending property is eligible to send to a receiving property and/or transferee shall be determined by applying the sending property base density established in subsection C of this section to the area of the sending property after deducting all the following:
  - 1. Development rights previously transferred in accordance with this chapter;
  - 2. Development rights previously extinguished or limited as a result of a recorded conservation easement or similar covenant against the property;
  - 3. The number of existing single-family dwellings on the sending property;
  - 4. The amount of any submerged land (i.e., lakes, ponds, streams), floodplains, and steep slopes as determined by Frederick County GIS Data.
  - 5. The amount of any land contained within easements (including, but not limited to, easements of roads, railroads, electrical transmission lines, gas or petroleum pipelines) in favor of governmental agencies, utilities and nonprofit corporations.
- B. If a sending property contains no dwelling units, a development right equal to that for one single-family dwelling must be maintained for the property. Properties with over 100 acres shall be required to retain the number of development rights required in accordance with Section 165-301.03A.
- C. For the purposes of calculating the amount of development rights a sending property can transfer, the square footage or acreage of land contained within a sending property shall be determined by a valid recorded plat or survey, submitted by the applicant property owner and that has been prepared and stamped by a land surveyor licensed in the Commonwealth of Virginia.



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- D. For the purposes of the transfer of development rights program only, sending sites zoned RA (Rural Areas) shall have a base density of one dwelling unit per five acres for transfer purposes.
- E. Any fractions of development rights that results from the calculations in subsection A of this section shall not be included in the final determination of total development rights available for transfer.
- F. Development rights from one sending property may be allocated to more than one receiving property and/or transferee and one receiving property and/or transferee may accept development rights from more than one sending property.
- G. The determination of the number of residential development rights a sending property has available for transfer to a receiving property and/or transferee shall be documented in a TDR LETTER OF INTENT to issue a TRANSFER OF DEVELOPMENT RIGHTS CERTIFICATE issued by the Director of Planning and Development or his designee, pursuant to the provisions of this Part 302.05 of Chapter 165, and shall be considered a final determination, not subject to revision. Such a determination shall be valid only for purposes of the transfer of development rights program and for no other purpose. Any changes to the proposed sending property shall void any issued letters of intent.
- H. A sending property transferee may extinguish TDR density rights, sever and hold TDR density rights, sever and sell TDR density rights, or apply TDR rights to a receiving property in a receiving district in order to obtain approval for development at a density greater than would otherwise be allowed on the land in the receiving district, up to the maximum density or intensity outlined in the table below:

**Table 1**  
**Maximum Density Allowed in Zoning Districts through Transfer of**  
**Development Rights (TDR) Program**

Zoning District	Property Size In Acres	Maximum Density in Dwelling Units per Acre	Maximum Density in Dwelling Units per Acre with TDR Transfers
RA (Rural Areas)	RA Receiving Property	1 Unit Per 5 Acres	Maximum Density allowed in the RP District within the UDA per § 165-402.05
			1 Unit Per Acre in Designated Rural Community Centers served by Community Septic Systems
RP (Residential Performance)	<10	10	15
	10-100	5.5	8
	>100	4	6
R4 (Residential Planned Community)	>100	4	6

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- I. TDR density rights may be converted to bonus density rights by an increase in the residential density on the receiving property, based on the conversion factors in the table below:

**Table 2**  
**Maximum Density Allowed in Zoning Districts through Transfer of  
Development Rights (TDR) Program**

Designated Sending Area	Each Transferred Density Right May Be Converted to This Bonus Density in the Receiving Area
Sending Area #1	1 Density Right =2 Dwelling Units
Sending Area #2	1 Density Right =1.5 Dwelling Units
Sending Area #3	1 Density Right =1 Dwelling Unit

1. Allowable bonus density remains subject to the maximum density provisions outlined in Table 1 of §165-302.03H.
2. If properties located in Sending Area #1 (designated Agricultural and Forestal District) that have transferred bonus density rights are subsequently withdrawn from the designated sending area (the designated Agricultural and Forestal District), the total number of density rights transferred, including bonus density rights, shall be counted against any future subdivision ability of the property.

### **§165-302.04. TDR Sending Property Development Limitations.**

- A. Following the transfer of residential development rights, a sending property that has retained part of their development rights may subsequently accommodate remaining residential dwelling units on the sending property consistent with the requirements of the RA (Rural Areas) District and all requirements of the Frederick County Code. A sending property that has retained part of its development rights may also transfer the remainder of the eligible rights through the transfer of development rights program.
- B. On sending properties with environmental features as outlined in § 165-302.03A, the development rights shall be severed from the areas outside of the specified environmental features. If development rights are retained on the sending property, future subdivision of the parcel cannot occur on the areas where development rights have already been severed.
- C. The limitations in this section shall be included in a deed covenant applicable to the sending property.

### **§165-302.05. Sending Property Certification.**

- A. The Director of Planning and Development or his designee shall be responsible for determining that a proposed sending property meets the qualifications of §165-302.01. The Director of Planning and Development or his designee shall render a determination or denial under this subsection within

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sixty (60) days of the date of submittal of a completed sending property determination application. If the determination is that a property meets the qualifications of §165-302.01, the Director of Planning and Development or his designee shall issue the determination in the form of a LETTER OF INTENT to issue a TRANSFER OF DEVELOPMENT RIGHTS CERTIFICATE. A LETTER OF INTENT issued under this subsection shall be valid until the development rights are severed and extinguished through the transfer process, or unless applicable zoning changes are approved that would affect the sending property, or unless the property is developed.

- B. Determinations of sending property qualifications under subsection A of this section are appealable to the Board of Supervisors by filing a notice of appeal with the Director of Planning and Development or his designee within thirty (30) days of the date of the determination.
- C. The Director of Planning and Development shall be responsible for maintaining permanent records of action taken pursuant to the transfer of development rights program under this Article III of Chapter 165, including records of letters of intent issued, certificates issued, deed restrictions and covenants known to be recorded, and development rights retired, otherwise extinguished, or transferred to specific properties and/or transferees.
- D. Responsibility for preparing a completed application for a determination that a proposed sending property meets the qualifications of §165-302.01 rests exclusively with the applicant/property owner. An application for a transfer of development rights to issue a transfer of development rights LETTER OF INTENT shall contain:
  - 1) A certificate of title for the sending property prepared by an attorney admitted to practice law in the Commonwealth of Virginia;
  - 2) Five copies of a valid recorded plat or survey, of the proposed sending parcel and a legal description of the sending property prepared by a land surveyor licensed in the Commonwealth of Virginia;
  - 3) A plan showing the existing and proposed dwelling units and any areas already subject to a conservation easement or other similar encumbrance;
  - 4) A completed density calculation worksheet for estimating the number of available development rights;
  - 5) The application fee as set forth in the Development Review Fees adopted by the Board of Supervisors; and
  - 6) Such additional information required by the Director of Planning and Development or his designee as necessary to determine the number of development rights that qualify for transfer.
- E. A transfer of development rights LETTER OF INTENT issued by the Director of Planning and Development or his designee shall state the following information:

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- 1) The name of the transferor;
  - 2) The name of the transferee , if then known;
  - 3) A legal description of the sending property on which the calculation of development rights is based;
  - 4) A statement of the size, in acres, of the sending property on which the calculation of development rights is based;
  - 5) A statement of the number of development rights, stated in terms of number of dwelling units, eligible for transfer;
  - 6) If only a portion of the total development rights are being transferred from the sending property, a statement of the number of remaining development rights, stated in terms of number of dwelling units, remaining on the sending property;
  - 7) The date of issuance;
  - 8) The signature of the Director of Planning and Development or his designee; and
  - 9) A serial number assigned by the Director of Planning and Development or his designee.
- F. No transfer of development rights under this ordinance shall be recognized by Frederick County as valid unless the instrument of transfer contains the transfer of development rights certificate issued under this section.

### **§165-302.06. Instruments of Transfer.**

- A. An instrument of transfer of development rights shall be reviewed and approved as to the form and legal sufficiency by the County Attorney and, upon such approval, the County Attorney shall notify the transferor or his or her agent, who shall record the instrument with the Clerk of the Circuit Court and shall provide a copy to the Commissioner of the Revenue. An instrument of transfer of development rights shall conform to the requirements of this section and shall contain the following:
- 1) The names of the transferor and the transferee;
  - 2) A legal description and plat of the sending property prepared by a land surveyor licensed in the Commonwealth of Virginia;
  - 3) The transfer of development rights certificate described in §165-302.03F;
  - 4) A covenant indicating the number of development rights remaining on the sending property and stating that the sending property may not be subdivided to or developed to a greater density than permitted by the remaining development rights;
  - 5) A covenant that the transferor grants and assigns to the transferee and the transferee's heirs, assigns, and successors a specific number of development rights from the sending property to a receiving property and/or a transferee;
  - 6) A covenant by which the transferor acknowledges that he has no further use or right of use with respect to the development rights being transferred; and

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- 7) A covenant that all provisions of the instrument of transfer of development rights shall run with and bind the sending property and may be enforced by Frederick County.
- B. An instrument of transfer of development rights shall be recorded prior to release of development permits, including building permits, for the receiving property.

### **Part 303 – Transfer Process and Development Procedures.**

#### **§165-303.01. Transfer Process.**

Development rights shall be transferred using the following process:

- A. Following approval of the sending property determination application and issuance of the LETTER OF INTENT as described in §165-302.05, the Director of Planning and Development or his designee shall issue the TRANSFER OF DEVELOPMENT RIGHTS CERTIFICATE, agreeing to a transfer of development rights in exchange for the proposed sending property deed covenant to which Frederick County is a party. If a sending property with a TRANSFER OF DEVELOPMENT RIGHTS CERTIFICATE changes ownership, the certificate may be transferred to the new owner if requested in writing to the Department of Planning and Development by the person(s) that owned the property when the certificate was issued, provided that the documents evidencing the transfer of ownership are also provided to the Department of Planning and Development.
- B. In applying for receiving property or receiving person approval, the applicant shall provide the Department of Planning and Development with one of the following:
  - 1) A TRANSFER OF DEVELOPMENT RIGHTS CERTIFICATE issued in the name of the applicant;
  - 2) A TRANSFER OF DEVELOPMENT RIGHTS CERTIFICATE issued in the name of another person or persons and a signed option to purchase those TDR sending property development rights; or
  - 3) A TRANSFER OF DEVELOPMENT RIGHTS CERTIFICATE issued in the name of the applicant or another person(s) and a copy of a signed option to purchase those TDR sending property development rights.
- C. The receiving property applicant and/or transferee shall deliver the documentation outlined in § 165-303.01B for the number of TDR development rights being severed or transferred and the TDR extinguishment document to the County.
- D. Development rights from a sending property shall be considered transferred to a receiving property and/or a transferee and extinguished when the extinguishment document for the sending property has been recorded.

#### **§165-303.02. Development Approval Procedures.**

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- A. A request to utilize transferred development rights on an eligible receiving property must be in the form of a Master Development Plan and a Subdivision Design Plan submitted to the Department of Planning and Development in accordance with the Zoning and Subdivision regulations contained in Chapters 165 and 144 of the County Code.
- B. All subdivisions for receiving properties zoned RA (Rural Areas) utilizing development rights shall be subject to the same requirements as property zoned RP (Residential Performance) and shall not qualify for the standards specified in §144-31 of the Frederick County Code.
- C. A final recorded plat for a subdivision using transferred development rights shall contain a statement setting forth the development proposed, the zoning classification of the property, the number of development rights used, and a notation of the recordation of the conveyance required by §165-302.06.

## ZONING

### ARTICLE IV

#### AGRICULTURAL AND RESIDENTIAL DISTRICTS

##### Part 401 – RA Rural Areas District

###### § 165-401.01 Purpose and intent.

- A. The purpose of the rural area regulations is to preserve large, open parcels of land, tree cover, scenic views, sensitive environmental areas and prime agricultural and locally significant soils. The regulations provide for a variation in lot size, at a density not to exceed one unit per five acres. The varying lot size is permitted in order to facilitate designs that blend in with the existing landscape and preserve some larger tracts of undeveloped land in order to maintain the rural character of the County, as well as provide a choice to home buyers.
- B. The regulations are intended to reduce environmental impacts, such as soil erosion, by requiring development which is sensitive to the existing features of the natural terrain and by reducing the amount of clearing needed for roads. Diversity and originality in lot layout are encouraged in order to achieve the best possible relationship between the development and the land. Individual lots and streets should be designed to minimize alteration of the natural site features, relate positively to surrounding properties and protect the views from surrounding areas. It is intended that by allowing flexibility in the subdivision design, while at the same time requiring that environmental concerns be addressed, a more attractive, environmentally sound and economically viable development will result.

###### § 165-401.02 Permitted uses.

Structures and land shall be used for one of the following uses:

- A. Agriculture, farming, dairies, animal husbandry, and forestry.
- B. Orchards, horticulture and the production of nursery stock and products.
- C. Single-family dwellings.
- D. Mobile homes.
- E. Schools (without residential component).
- F. Public parks and playgrounds.
- G. Churches.
- H. Home occupations (as defined).
- I. Natural conservation areas.
- J. Winchester Airport.
- K. Group homes.
- L. Fire stations, companies and rescue squads.
- M. Frederick County sanitary landfill.
- N. Commercial and institutional cemeteries with or without funeral homes or cemetery office complexes.
- O. Post offices.
- P. Radio and television towers and their accessory buildings.
- Q. Public utility generating, booster or relay stations, transformer substations, transmission lines and towers, pipes, meters and other facilities, railroad facilities and sewer and water facilities and lines owned by public utilities, railroad companies or public agencies.
- R. Required off-street parking.
- S. Oil and natural gas exploration, provided that the following requirements are met:
  - (1) All requirements of the Code of Virginia, as amended, and all applicable federal, state and local regulations shall be met.
  - (2) A site plan shall be reviewed and approved meeting all requirements of the Frederick County Code.
  - (3) Approval of the site plan and use shall be for 90 days, with subsequent renewals being approved by the Board of Supervisors.

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(4) In order to begin extraction of the resource, a rezoning to the EM Extractive Manufacturing Zoning District will be required.

- T. Museums, parks or historic sites used for educational or historic preservation purposes.
- U. Business signs.
- V. Signs allowed in § 165-201.06B.
- W. Accessory uses.
- X. Poultry farms and hatcheries and egg production.
- Y. Fish hatcheries and fish production.
- Z. Hog farming. It shall be unlawful for any person to have or maintain or to permit to be erected, in the County, any hog pen that is located closer than 200 feet to a residence or an adjoining property that is used for human habitation.
- AA. Government services office.
- BB. Residential subdivision identification signs.
- CC. Farm Wineries.

### § 165-401.03 Conditional uses.

The following uses of structures and land shall be allowed only if a conditional use permit has been granted for the use:

- A. Bed and Breakfasts.
- B. Country clubs, with or without banquet facilities.
- C. Manufacture or sale of feed and other farm supplies and equipment.
- D. Fruit packing plants.
- E. Off-premise farm markets.
- F. Off-premises wayside stands.
- G. Country general stores.
- H. Service stations.
- I. Antique shops.
- J. Restaurants.
- K. Kennels.
- L. Petting farms.
- M. Television or radio stations.
- N. Motels.
- O. Auction houses.
- P. Campgrounds, tourist camps, recreation areas and resorts.
- Q. Commercial outdoor recreation, athletic or park facilities.
- R. Nationally chartered fraternal lodges or civic clubs, social centers and their related facilities.
- S. Sawmills and planing mills, Type B.
- T. Ambulance services.
- U. Retailing or wholesaling of nursery stock and related products.
- V. Landscape contracting businesses.
- W. Public garages without body repair, provided that the following conditions are met:
  - (1) All repair work shall take place entirely within an enclosed structure.
  - (2) All exterior storage of parts and equipment shall be screened from the view of surrounding properties by an opaque fence or screen at least six feet in height. This fence or screen shall be adequately maintained.
- X. Public garages with body repair, provided that the following conditions are met:
  - (1) All repair work shall take place entirely within an enclosed structure.
  - (2) All exterior storage of parts and equipment shall be screened from the view of surrounding properties by an opaque fence or screen at least six feet in height. This fence or screen shall be adequately maintained.
- Y. Sand, shale and clay mining, provided that the following conditions are met:
  - (1) All mining shall be above the mean, existing grade level of a parcel of land.
  - (2) All mining operations shall meet all applicable requirements of state and federal agencies.



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(3) Such mining operations shall meet the landscaping and screening requirements, supplementary regulations, height, area and bulk regulations and site plan requirements contained in the EM Extractive Manufacturing District regulations.

Z. Cottage occupations (as defined).

AA. Cottage occupation signs.

BB. Veterinary office, clinic or hospital, including livestock services.

CC. Day-care facilities.

DD. Humanitarian aid organizational office.

EE. Schools (with residential component).

FF. Fruit and vegetable stands (SIC 5431).

GG. Blacksmith shops (SIC 7699).

HH. Farriers (SIC 7699).

II. Horseshoeing (SIC 7699).

JJ. Taxidermists (SIC 7699).

KK. Welding Repair (SIC 7692).

LL. Flea Markets, Operated Indoors or Outdoors.

### **§ 165-401.04 Permitted residential density; exception.**

A. The maximum density permitted on any parcel or group of parcels shall not exceed the equivalent of one unit per five acres as determined by the size of the parent tract as it existed on December 11, 1991.

B. Exception to permitted density. On lots containing between seven and 10 acres which were lots of record prior to December 11, 1991, lots of two or more acres may be created despite the density limit of one unit per five acres, provided that they meet the requirements of §165-401.06B of this chapter.

### **§ 165-401.05 Minimum lot size.**

The minimum lot size for permitted uses shall be two acres, unless otherwise specified by §165-204.26.

### **§ 165-401.06 Permitted lot sizes.**

The following types of lots shall be permitted:

A. Traditional five-acre lots. On any parcel, lots of five acres in size or greater shall be permitted.

B. Family division lots. On any parcel which contained seven acres or more prior to December 11, 1991, lots as small as two acres may be created, provided that the following conditions are met:

(1) Lots are conveyed to members of the immediate family of the owner of record of the parent tract. The conveyed lot(s) shall remain with the family member for a period of five years from the date of the creation of the family lot.

(2) Only one such lot shall be permitted per immediate family member.

(3) One parcel of at least five acres in size shall remain intact following the division.

(4) The creation of all such lots shall be in accordance with the provisions of the Frederick County Subdivision Chapter and § 15.2-2244 of the Code of Virginia.

C. Rural preservation lots.

## ZONING

- (1) Within the RA Rural Areas District, lots as small as two acres shall be permitted on tracts over 20 acres in size, subject to the following:
  - (a) Sixty percent or more of the parent tract shall remain intact as a contiguous parcel (Rural Preservation Tract).
  - (b) This acreage must be designated prior to the division of the fourth lot.
  - (c) No future division of this designated Rural Preservation Tract shall be permitted.
- (2) Exception to the Rural Preservation Tract. In cases where excessive topography or other natural features of a site create a situation where a higher quality subdivision design, resulting in less physical and/or visual disruption could be achieved by allowing two residual parcels to be created, the Zoning Administrator may permit the 60% to be made up of two parcels.
- (3) Board of Supervisors waiver of division restriction.
  - (a) The designated Rural Preservation Tract may be released from the restrictions of Subsection D(1) after a period of 10 years from its creation through the rezoning process.
  - (b) The rezoning shall be consistent with the goals of the Frederick County Comprehensive Policy Plan in effect at the time of the rezoning application.
  - (c) The designated Rural Preservation Tract which is within the Urban Development Area (UDA) at the time of its creation, or is included within the UDA as a result of a future expansion of the UDA, shall be eligible for rezoning at that point and shall not be subject to the ten-year restriction on rezoning.

### § 165-401.07 Setback requirements.

The following setback requirements shall apply to all parcels within the RA Rural Areas Zoning District.

A. Setbacks for all lots other than rural preservation lots shall be as set out below.

- (1) Front setbacks. The front setback for any principal or accessory use or structure located on a traditional five-acre lot shall be 60 feet from the property line or right-of-way of the street, road or ingress/egress easement.
- (2) Side or rear setbacks. The minimum side or rear setback for any principal use or structure shall be determined by the primary use of the adjoining parcel as follows:

Adjoining Parcel Size	Setback (Side and Rear) (feet)
6 acres or less	50
More than 6 acres	100
Orchard	200
Agricultural and Forestral District	200

## ZONING

- B. Rural preservation lots. The minimum setbacks from rural preservation lot lines which adjoin other rural preservation lots shall be as set out below. Side and rear setbacks from rural preservation lot lines which adjoin any parcel other than another rural preservation lot shall be determined by § 165-401.07A(2) of this chapter.
- (1) Front setback. The front setback for any principal or accessory use or structure shall be 60 feet from the right-of-way of any existing state-maintained road and 45 feet from the right-of-way of any existing private ingress/egress easement or state-maintained road constructed to serve the subdivision.
  - (2) Side setback. No principal use or structure shall be located closer than 15 feet from any side lot line.
  - (3) Rear setback. No principal use or structure shall be located closer than 40 feet from any rear lot line.
- C. Board waiver. The Board may allow the above-referenced setbacks to be reduced if the constraints of the setbacks create an undue hardship on existing parcels of record. Such requests and justification to reduce the setbacks shall be presented to the Planning Commission for a recommendation that is forwarded to the Board of Supervisors.
- D. Accessory uses. The minimum setback for any accessory use or structure shall be 15 feet from any side or rear property line of a traditional five-acre lot or any side or rear property line of a rural preservation lot.

### **§ 165-401.08 Minimum width; maximum depth.**

#### A. Minimum width.

- (1) Minimum width for rural preservation lots:
  - a) Lots fronting on roads proposed for dedication: 50 feet at the front setback line.
  - b) Lots fronting on the turnaround of a cul-de-sac for roads proposed for dedication: 50 feet at the front setback line.
  - c) Lots fronting on existing state roads: 250 feet at the front setback line.
- (2) Minimum width for all other lots: 250 feet at the front setback line.

#### B. Maximum depth.

- (3) Within subdivisions utilizing rural preservation lots, the sixty-percent parcel (Rural Preservation Tract) shall be exempt from the maximum depth requirement.
- (4) Depth/Width Ratio at the front setback line: 5:1 maximum.

### **§ 165-401.09 Height restrictions.**

No structure shall exceed 35 feet in height.

## ZONING

### Part 402 – RP Residential Performance District

#### § 165-402.01 Intent.

- A. Part 402 is intended to provide for a compatible mixture of quality residential housing types within the Urban Development Area, consistent with the residential land use policies of the Comprehensive Plan. The plan identifies basic land use characteristics which are to be encouraged:
- (1) Efficient land use patterns that create high quality neighborhoods that are attractive and pedestrian oriented.
  - (2) Densities that promote a compact and efficient use of land.
  - (3) Reduced housing and public facility costs.
  - (4) Energy efficient housing and housing patterns.
  - (5) Sustainable and environmentally sensitive land use.
- B. Within this Part 402, a number of general performance requirements are identified. When a housing development has satisfied these requirements, this Part 402 is intended to provide a large degree of flexibility in development and housing design. This design process is accomplished through a master development plan which is designed in cooperation with the County staff and Planning Commission and adopted by the Board of Supervisors. The layout, phasing, density and intensity of a development is determined through the adoption of the master plan by the Planning Commission and the Board of Supervisors.
- C. It is the intent of this Part 402 to allow a mixture of housing types on the land within an approved master development plan. Within this Part 402, the permitted development percentages and densities for all housing types are identified. The preliminary master development plan shall specify the amount and percentages of all proposed housing types. The preliminary master development plan requires specific approval of the Planning Commission and the Board of Supervisors.
- D. While a mixture of housing types is allowed on a site, the intent is to use the master development plan and the other Article regulations to place the different housing types on the site in a way that will protect the living environment of the new residents and existing residential land uses. It is the intention of this Part 402 to integrate new residential developments with existing residential developments and to ensure that different residential developments are properly screened from one another while still creating a sense of community and while providing for a variety of housing options. This Part 402 attempts to encourage the provision of some amenities through density bonuses which are intended to enhance the development without increasing housing costs.
- E. Streets shall be provided in new developments to continue existing and planned street patterns and in conformance with the Comprehensive Plan as well as any road improvement plans where appropriate and where necessary to achieve an interconnected street system. Streets and rights-of-way in proposed developments, intended to be developed in the future, shall be clearly designated to take into account future development as indicated in the Comprehensive Plan.
- F. In those sections of this Part 402 where discretion is given to the Zoning Administrator, that discretion shall be exercised with this statement of intent as the primary guide for action.

#### § 165-402.02 Permitted uses.

## ZONING

- A. All uses shall be developed in accordance with an approved master development plan unless otherwise waived under Article VIII of this chapter.
- B. Structures and land shall be used for one of the following uses:
- (1) All residential housing types specified in Part 402.09.
  - (2) Schools and churches.
  - (3) Fire stations and companies and rescue squads.
  - (4) Group homes.
  - (5) Home occupations.
  - (6) Utility distribution facilities necessary to serve residential uses, including, but not limited to, poles, lines, distribution transformers, pipes and meters.
  - (7) Accessory uses and structures. Accessory structures attached to the main structure shall be considered part of the main structure. Mobile homes and trailers, as defined, shall not be permitted as accessory structures or buildings.
  - (8) Required or bonus recreational facilities, public or private parks, neighborhood parks, playgrounds, or other non-commercial recreational facilities.
  - (9) Business signs associated with schools, churches, fire stations and companies and rescue squads, recreational facilities, public parks, playgrounds, and libraries.
  - (10) Temporary model homes used for sale of properties in a residential development.
  - (11) Libraries.
  - (12) Public Buildings
  - (13) Residential subdivision identification signs.
  - (14) Signs allowed in § 165-201.06B.

### **§ 165-402.03 Conditional uses.**

Uses and associated signs permitted with a conditional use permit shall be as follows:

- A. Convalescent and nursing homes and adult care residences and assisted living care facilities.
- B. Cottage occupations, as defined.
- C. Nationally chartered fraternal lodges or civic clubs, social centers and their related club facilities, with an approved site plan, meeting the requirements of this chapter and with the following conditions:
- (1) All principal activities shall take place entirely within an enclosed structure.
  - (2) All outdoor facilities shall be incidental to the principal facility or activity.

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(3) No facility or activity shall be erected or conducted less than 30 feet from any residential district or area within other districts which are predominantly residential in nature.

D. Day-care facilities.

E. Rooming houses, boardinghouses and tourist homes.

F. Veterinary offices, veterinary clinics or veterinary hospitals, excluding boarding of animals for nonmedical purposes.

G. Museums

**§ 165-402.04 Number of uses restricted.**

More than one principal structure or use and its customary accessory structures or uses are permitted in the RP Residential Performance District for; multiplexes, garden apartments, multifamily residential buildings and age-restricted multifamily housing.

**§ 165-402.05 Gross density.**

A gross density shall be established for each proposed development, including all land contained within a single master development plan, according to the characteristics of the land, the capacity of public facilities and roads and the nature of surrounding uses. Because of these characteristics, some developments may not be allowed to employ the maximum density allowed by these regulations. The following density requirements shall apply to all parcels as they exist at the time of the adoption of this section:

A. Subsequent divisions of land shall not increase the allowed density on parcels of land.

B. In no case shall the gross density and maximum percentage of multifamily housing of any development within an approved master development plan exceed the densities and percentages set forth in the following table:

<b><u>Density by Land Use</u></b>	<b><u>Density (Units/Acre)</u></b>	<b><u>Maximum Percentage of Multifamily Housing</u></b>
Multifamily Residential Buildings and Age Restricted Multifamily (excluding garden apartments)	20 Units/Acre	100%
Garden Apartments	10 Units/Acre	100%
Townhouse (single family attached)	10 Units/Acre	N/A
<b><u>Density by Parcel Size</u></b> <b>(for all other housing types and development with mixed housing types)</b>	<b><u>Density (Units/Acre)</u></b>	<b><u>Maximum Percentage of Multifamily Housing</u></b>
0-10 acres	10 Units/Acre	100%
10.1-25 acres	6 Units/Acre	100%
25.1 -50 acres	6 Units/Acre	60% 75%
50.1 + acres	6 Units/Acre	50%

C. Within developments utilizing Transferable Development Rights, the maximum gross residential density for the development shall be determined in §165-302.03H.

**§ 165-402.06 Phased development.**

A. The developer/subdivider is permitted to construct the subdivision in phases or sections as long as:

## ZONING

- (1) All sections are indicated on the master development plan and are of a size and at such a location that they constitute economically sound increments of development.
- (2) Common recreational facilities and improvements and other improvements indicated for any phase section are required to be started not later than when that section reaches fifty-percent occupancy and are required to be complete by the time that section reaches sixty-percent occupancy.
- (3) Provisions shall be made to incorporate all phases or sections of the planned development under one homeowners' association/corporation.

**§ 165-402.07 Open space requirements.**

A. A minimum percentage of the gross area of any proposed development shall be designated as common open space. This open space shall be for purposes of environmental protection and for the common use of residents of the development. Such open space shall be dedicated to a property owners association or to Frederick County. Open space shall be dedicated to Frederick County only with the approval of the Board of Supervisors. The Board of Supervisors may allow public libraries and public schools to be located within areas designated as common open space, provided that the proposed facilities are indicated on the original master development plan for the residential development. During the review of the master development plan, the Board of Supervisors shall ensure that the location of a proposed public library or public school is appropriate and that adequate buffers, screening and access are provided to prevent negative impacts to adjoining residential uses. Public libraries and public schools shall be dedicated to Frederick County. Developments which contain any of the following housing types shall provide open space as specified below:

Type of Development	Minimum Required Open Space (percent)
Developments containing only single-family detached rural traditional housing	0
Developments containing only single-family traditional or detached urban housing	15%
Developments in which no less than 60% of the dwellings are single-family detached traditional housing mixed with any other housing types	20%
Developments containing only single-family detached cluster or a mixture of single-family detached cluster and urban housing	25%
Single-family small lot housing	30%

## ZONING

All other residential developments	30%
Non Residential Uses (minimum landscaped area)	15%

- B. No more than 50% of the required open space shall be within the following environmental areas: lakes and ponds, floodplain, wetlands or steep slopes. The Administrator, upon recommendation by the Planning Commission, may allow a larger amount of steep slopes to be utilized where the developer can demonstrate a viable plan to make these areas useful.
- C. In developments containing only single-family detached urban housing or single-family detached urban housing mixed with single-family detached traditional housing, the required open space may be waived by the Board of Supervisors. The open space requirement shall only be waived when the required open space is less than one acre. Such waiver shall not include open space provided to meet environmental requirements.
- D. The minimum required open space percentages provided in § 165-402.07A of this chapter may be reduced for residential developments which provide for active recreational areas and amenities, upon the granting of an open space waiver issued by the Board of Supervisors. In no case shall the required open space (per § 165-402.07A) be reduced more than 75% for single-family detached housing types (excluding single family small lot), and no more than 50% for all other residential housing types and mixtures. Active recreational areas and amenities shall be incorporated within the development's common open space and be for the use of and maintained by the subject development's property owner's association. The active recreational area and amenity value shall be equivalent to the value of one recreational unit for each 30 dwelling units. The active recreational area and amenity value and design shall be approved by the Zoning Administrator in conjunction with the Director of Parks and Recreation. These open space active recreational areas and amenities shall be in addition to the minimum recreational facilities identified in § 165-402.08. The gross density requirements as required in §§ 165-402.05 and 165-402.06 shall not be exceeded through the reduction of common open space. Requests for an open space reduction waiver would be considered by the Board of Supervisors during the master development plan process. Acceptance of the reduced open space request will be based on the quality of the open space and the recreational amenities provided.

### **§ 165-402.08 Recreation facilities.**

- A. Single-family small lot, Multiplex, Townhouse, Back-to-back Townhouse, Garden Apartment and Multifamily Building housing types shall provide the following recreational units or equivalent recreational facilities, for each 30 dwelling units. All such developments shall contain at least one such recreational unit. In addition, developments containing single-family small lot housing shall provide a community center that provides for the equivalent of three age-appropriate recreational units for each 30 dwelling units. The facilities shall be in a configuration and location that is easily accessible and centrally located to the dwelling units that they are designed to serve. The design and amount of facilities shall be approved by the Zoning Administrator in conjunction with the Department of Parks and Recreation, using the following recreational unit as a (1) The Board of Supervisors may provide a waiver for the community center requirement specified in § 165-402.08A in single-family small lot subdivisions that contain less than 25 lots. This waiver may be requested by the applicant during the consideration of the subdivision design plan if no master development plan is required. The applicant is required to demonstrate how an equivalent recreational value of three recreational units for each 30 dwelling units, prorated, is being provided within the project, to the County, or a combination of both as a condition of requesting approval of a waiver by the Board of Supervisors.



## ZONING

B. A recreational unit is designed to meet the recreational needs of 30 dwelling units. The units may be broken into smaller units or added together to meet the needs of the total development. An example recreational unit shall be as follows:

(1) Playground:

Composite play system for school age children with a minimum of 8 play features and one swing set.

Quantity	Equipment
	Deck heights reaching at least 5'
Minimum 2	2-5 year old play features
Minimum 1	Slides
Minimum 1	Climbing features
Minimum 1	Overhead features
Minimum 1	Tunnels
Minimum 1	Play panels
Minimum 1	Swings (8 feet high, 2 seats)

(2) Or any recreational facilities of equivalent monetary value which may include:

- (a) Swimming pools.
- (b) Tennis, basketball or multi-purpose courts.
- (c) Multi-use trails.
- (d) Athletic fields.
- (e) Picnic shelters which shall include picnic tables, trash receptacles, and areas for outdoor cooking.
- (f) Community center.
- (g) Other recreational facilities.

## ZONING

The following dimensional requirements shall be met by uses in the RP Residential Performance District. The Zoning Administrator shall make the final determination as to the classification of housing types. Unless otherwise specified, all housing types shall be served by public sewer and water.

The following dimensional requirements shall be met by uses in the RP Residential Performance District. The Zoning Administrator shall make the final determination as to the classification of housing types. Unless otherwise specified, all housing types shall be served by public sewer and water.

- A. Single-family detached rural traditional. This dwelling type consists of a fully detached, large-lot single-family residence on an individual lot with private yards on all four sides, without public sewer and water. Dimensional requirements shall be as follows:

<b>A. Lot Dimensions</b>	
A1 Minimum lot area	100,000 square feet
A2 Minimum lot depth to width ratio	1:3
<b>B. Building Setbacks</b>	
B1 From road right-of-way	60 feet
B2 Side	15 feet
B3 Rear	50 feet
<b>C. Setbacks for unroofed decks, stoops, landings and similar features</b>	
C1 Front from road right-of-way	50 feet
C2 Side	10 feet
C3 Rear	35 feet
<b>D. Minimum Parking</b>	
D1 Required off street parking	2 per unit
<b>E. Height</b>	
E1 Principal Building (max)	35 feet
E2 Accessory Building (max)	20 feet

- B. Single-family detached traditional. This dwelling type consists of a fully detached, large-lot single-family residence with private yards on all four sides without required common open space. Dimensional requirements shall be as follows:

<b>A. Lot Dimensions</b>	
A1 Minimum lot area	15,000 square feet
A2 Minimum lot width at setback	80 feet
<b>B. Building Setbacks</b>	
B1 From road right-of-way	35 feet
B2 Side	10 feet
B3 Rear	25 feet
<b>C. Setbacks for unroofed decks, stoops, landings and similar features</b>	
C1 Front from road right-of-way	25 feet
C2 Side	5 feet
C3 Rear	15 feet
<b>D. Minimum Parking</b>	
D1 Required off street parking	2 per unit
<b>E. Height</b>	
E1 Principal Building (max)	35 feet
E2 Accessory Building (max)	20 feet

## ZONING

C. Single-family detached urban. This dwelling type consists of a fully detached, single-family residence on an individual lot with private yards on all four sides. Dimensional requirements shall be as follows:

<b>A. Lot Dimensions</b>	
A1 Minimum lot area	12,000 square feet
A2 Minimum lot width at setback	70 feet
A3 Minimum lot width at road right-of-way	40 feet
<b>B. Building Setbacks</b>	
B1 From road right-of-way	35 feet
B2 Side	10 feet
B3 Rear	25 feet
<b>C. Setbacks for unroofed decks, stoops, landings and similar features</b>	
C1 Front from road right-of-way	25 feet
C2 Side	5 feet
C3 Rear	15 feet
<b>D. Minimum Parking</b>	
D1 Required off street parking	2 per unit
<b>E. Height</b>	
E1 Principal Building (max)	35 feet
E2 Accessory Building (max)	20 feet

D. Single-family detached cluster. This dwelling type consists of a fully detached, single-family residence on an individual lot, with private yards on all four sides. Dimensional requirements shall be as follows:

<b>A. Lot Dimensions</b>	
A1 Minimum lot area	8,000 square feet
A2 Minimum lot width at setback	60 feet
A3 Minimum lot width at road right-of-way	30 feet
<b>B. Building Setbacks</b>	
B1 From road right-of-way	25 feet
B2 Side	8 feet
B3 Rear	20 feet
<b>C. Setbacks for unroofed decks, stoops, landings and similar features</b>	
C1 Front from road right-of-way	15 feet
C2 Side	5 feet
C3 Rear	10 feet
<b>D. Minimum Parking</b>	
D1 Required off street parking	2 per unit
<b>E. Height</b>	
E1 Principal Building (max)	35 feet
E2 Accessory Building (max)	20 feet

## ZONING

- E. Single-family detached zero lot line. This dwelling type consists of a fully detached, single-family residence on an individual lot. The building is set on one of the side property lines, with a maintenance easement on the adjoining lot. Dimensional requirements shall be as follows:

<b>A. Lot Dimensions</b>	
A1 Minimum lot area	6,000 square feet
<b>B. Building Setbacks</b>	
B1 From road right-of-way	25 feet
B2 Minimum on-site building spacing (side)	25 feet
B3 Rear	25 feet
<b>C. Setbacks for unroofed decks, stoops, landings and similar features</b>	
C1 Front from road right-of-way	15 feet
C2 Side	20 feet
C3 Rear	15 feet
<b>D. Minimum Parking</b>	
D1 Required off street parking	2 per unit
<b>E. Height</b>	
E1 Principal Building (max)	35 feet
E2 Accessory Building (max)	20 feet
<b>F. Supplemental Regulations</b>	
F1 A maintenance easement of 10 feet in width must be obtained on the lot adjacent to the zero lot line side.	
F2 The opposite side yard must be maintained clear of any obstructions other than a three-foot eaves encroachment, swimming pools, normal landscaping, removable patio covers extending no more than five feet or garden walls or fences. In no case shall any encroachment other than a fence be placed within the required maintenance easement.	
F3 The zero lot line side must not be adjacent to a road right-of-way.	

- F. Single-family small lot. This dwelling type consists of a single-family detached or attached residence on an individual lot. No more than two units may be attached together. Dimensional requirements shall be as follows:

<b>A. Lot Dimensions</b>		
A1 Minimum Lot Area	3,750 square feet	
<b>B. Building Setbacks</b>		
B1 From public or private road right-	25 feet	
B2 The front setback may be reduced to 15 feet provided that the residential unit utilizes a rear alley for access and there are no driveways on the private or public road fronting the residential unit.		
B3 Side	Detached Option - 5 feet	Attached Option – 10 feet
B4 Rear	15 feet	
B5 Minimum building spacing	Attached Option – 20 feet	
<b>C. Setbacks for unroofed decks, stoops, landings and similar features</b>		
C1 Front from private/public road	15 feet	*Rear alley option – 10'
C2 Side (end unit)	5 feet	
C3 Rear	10 feet	
C4 Rear (from open space)	5 feet	
<b>D. Minimum Parking</b>		

## ZONING

D1 Required off street parking	2 per unit	
<b>E. Height</b>		
E1 Principal Building (max)	35 feet	
E2 Accessory Building (max)	20 feet	
<b>F. Supplemental Regulations</b>		
F1. A minimum of 20 landscape plantings shall be provided on each individual lot. At least 1/4 of the landscape plantings shall be trees, with the remainder being shrubs. The trees shall be a minimum of two inches in caliper at time of planting, and the shrubs shall be a minimum three.		
F2. Detached accessory structures may not exceed 150 square feet.		

- G. Multiplex. A "multiplex" is an attached residence containing three to four dwelling units. Units may or may not have independent outside access. Units within multiplex structures may be arranged side to side, back to back or vertically. Dimensional requirements shall be as follows:

<b>A. Lot Dimensions</b>	
A1 Minimum lot area per unit	3,000 square feet
A2 Maximum site impervious surface ratio	.50
<b>B. Building Setbacks</b>	
B1 From road right-of-way	35 feet
B2 From parking areas or driveways	20 feet
B3 Side	15 feet from perimeter boundary
B4 Rear	25 feet from perimeter boundary
<b>C. Setbacks for unroofed decks, stoops, landings and similar features</b>	
C1 Front from road right-of-way	25 feet
C2 Front from parking areas or driveways	15 feet
C3 Side	10 feet
C4 Rear	15 feet
<b>D. Minimum Parking</b>	
D1 Required off street parking	2 per unit
<b>E. Height</b>	
E1 Principal Building (max)	35 feet
E2 Accessory Building (max)	20 feet

- H. Townhouse, Back-to-back Townhouse. This dwelling type consists of a single-family attached dwelling unit from ground to roof, with individual outside access. Rows of townhouses shall contain no more than eight (8) dwelling units in a group. Back-to-back townhouses shall contain no more than sixteen (16) dwelling units in a group. Dimensional requirements shall be as follows:

<b>A. Lot Dimensions</b>		
A1 Minimum Lot Area	1,500 square feet	
A2 Minimum Lot Width	End Unit – 22 feet	Interior Unit - 18 feet
<b>B. Building Setbacks</b>		
B1 From public or private road right-of-	With Garage – 25 feet	Without Garage – 15 feet
B2 From off street parking lot	15 feet	
B3 Side	10 feet	
B4 Rear	20 feet	Back to Back Option – N/A
<b>C. Setbacks for unroofed decks, stoops, landings and similar features</b>		

## ZONING

C1 Front from off street parking lot	10 feet	
C2 Front from private/public road	15 feet	
C3 Side (end unit)	5 feet	
C4 Rear	5 feet	
<b>D. Minimum Parking</b>		
D1 Required off street parking	2 per unit	
<b>E. Height</b>		
E1 Principal Building (max)	40 feet	
E2 Accessory Building (max)	20 feet	

- I. Garden apartments. This housing type consists of buildings that contain multiple dwelling units that share a common yard area. The entire dwelling unit does not necessarily have to be on the same floor. Garden apartments shall be at least two stories high but no more than four stories and shall contain six (6) or more units in a single structure, not to exceed 16 units within a single structure. Dimensional requirements shall be as follows:

<b>A. Lot Dimensions</b>	
A1 Maximum site impervious surface ratio	.60
<b>B. Building Setbacks</b>	
B1 From public road right-of-way	35 feet
B2 From private road right-of-way, off street	20 feet
B3 Side (perimeter)	20 feet
B4 Rear (perimeter)	25 feet
B5 Rear for balconies and decks	20 feet
B6 Minimum on-site building spacing: Buildings placed side to side shall have a minimum distance of twenty (20) feet between buildings; buildings placed side to back shall have a minimum distance of thirty-five (35) feet between buildings. Buildings back to back shall have a minimum distance of fifty (50) feet between buildings.	
<b>C. Minimum Parking</b>	
C1 Required off street parking	2 per unit
<b>D. Height</b>	
D1 Principal Building (max):	55 feet
D2 Accessory Building (max)	20 feet

- J. Multifamily residential buildings. This housing type consists of multifamily buildings with a minimum of four dwelling unit entrances sharing an internal corridor per floor. The entire dwelling unit does not necessarily have to be on the same floor. External corridors are not permitted. Multifamily residential building shall only be located in areas designated in the Comprehensive Plan as neighborhood villages, urban centers or other areas planned for high density residential. Dimensional requirements shall be as follows:

<b>A. Lot Dimensions</b>	
A1 Maximum site impervious surface ratio	.60
<b>B. Building Setbacks</b>	
B1 From public road right-of-way	35 feet
B2 From off street parking lot or driveway	20 feet
B3 Side (perimeter)	50 feet

## ZONING

B4 Rear (perimeter)	50 feet
B5 Rear for balconies and decks	20 feet
B6 Minimum on-site building spacing: Minimum on-site building spacing. Buildings placed side to side shall have a minimum distance of 20 feet between buildings; buildings placed side to back shall have a minimum distance of 35 feet between buildings. Buildings back to back shall have a minimum distance of 50 feet between buildings.	
<b>C. Minimum Parking</b>	
C1 Required off street parking	2 per unit
<b>D. Height</b>	
D1 Principal Building (max): 60 feet provided that a multifamily residential building may be erected to a maximum of 80 feet if it is set back from road right-of-ways and from lit lines in addition to each of the required minimum yard dimensions, a distance of not less than one foot for each one foot of height that it exceeds the 60 foot limit.	
D2 Accessory Building (max)	20 feet

- K. Age-restricted multifamily housing. "Age-restricted multifamily housing" is multifamily buildings where individual dwelling units share a common outside access. They also share a common yard area, which is the sum of the required lot areas of all dwelling units within the building. Age-restricted multifamily housing shall only be permitted within proffered age-restricted developments. Elevator service shall be provided to each floor of age-restricted multifamily housing structures for use by residents and guests. Dimensional requirements shall be as follows:

<b>A. Lot Dimensions</b>	
A1 Minimum lot area	3 acres
A2 Maximum site impervious surface ratio	.60
A3 Maximum number of units per building	110
<b>B. Building Setbacks</b>	
B1 From road right-of-way	60 feet
B2 From off street parking lot or driveway	5 feet
B3 Side (perimeter): 100 feet from the perimeter boundary. An additional two feet from the perimeter boundary shall be added for every foot that the height of the building exceeds 40 feet when the adjacent use is single-family residences.	
B4 Rear (perimeter): 100 feet from the perimeter boundary. An additional two feet from the perimeter boundary shall be added for every foot that the height of the building exceeds 40 feet when the adjacent use is single-family residences.	
B5 Rear for balconies and decks	May extend 10 feet into a perimeter setback
B6 Minimum on-site building spacing: Buildings placed side to side shall have a minimum distance of twenty (20) feet between buildings; buildings placed side to back shall have a minimum distance of thirty-five (35) feet between buildings. Buildings back to back shall have a minimum distance of fifty (50) feet between buildings.	
<b>C. Minimum Parking</b>	
C1 Required off street parking	1.5 per unit
<b>D. Height</b>	
D1 Principal Building (max): The maximum structure height for any principal building shall be 40 feet. The Board of Supervisors may waive the forty-foot height limitation, provided that it will not negatively impact adjacent residential uses. In no case shall any principal building exceed 60 feet in height.	
D2 Accessory Building (max)	20 feet

## ZONING

- L. Height for other uses. The height for all other uses not otherwise specified shall not exceed 45 feet.
- M. Setbacks for accessory structures. Accessory structures shall be set back from all property lines a minimum of five feet, except for uses with a required enclosed yard.
- N. Setbacks for other uses. The following setbacks shall apply to uses not otherwise specified:
  - (1) Front setback shall be 35 feet.
  - (2) Side setbacks shall be 15 feet.
  - (3) Rear setback shall be 50 feet.
- O. Setbacks from business and industrial uses. All proposed structures shall be set back 50 feet from the boundary of land zoned for business or industrial uses or land currently containing business or industrial uses.
- P. Pipestem lots. The use of pipestem lots is permitted for single-family detached traditional, single-family detached urban and single-family detached cluster lot types, if all of the following design requirements are met:
  - (1) The total number of pipestem lots in a residential development may not exceed 5% of the total number of lots.
  - (2) Pipestem lots shall have a minimum road frontage of 20 feet.
  - (3) Pipestem lot driveways shall access only one lot.
  - (4) Minimum yards shall be as follows:
    - (a) Front, side and rear yards: 20 feet.
    - (b) Accessory buildings: 20 feet.
    - (c) Side yard of lots adjoining pipestem driveway yard: 15 feet.
  - (5) Pipestem lot driveways shall not adjoin other pipestem driveways.
  - (6) Unless specified differently above, pipestem lots shall comply with all other regulations of the Frederick County Zoning and Subdivision Ordinances.



## **Part 403 – MH1 Mobile Home Community District**

### **§ 165-403.01 Intent.**

The MH1 Mobile Home Community District is designed to provide for planned communities for mobile homes. This district is intended for the location of mobile homes on land under common ownership or for the creation of lots for mobile homes. Such planned developments are intended to be provided with appropriate roadways and amenities and suitable landscaping and transition areas to blend the mobile home community with surrounding land uses.

### **§ 165-403.02 Permitted uses.**

The following uses are allowed:

- A. Mobile homes.
- B. Mobile home parks.
- C. Mobile home subdivisions.
- D. Schools.
- E. Churches.
- F. Public parks, playgrounds and recreational uses.
- G. Accessory uses.
- H. Public utilities, including poles, lines, distribution transformers, pipes and meters, water and sewer facilities and lines.
- I. Fire stations and companies and rescue squads.
- J. Home occupations.
- K. Totally enclosed storage facilities for use by the residents of the mobile home park or subdivision.
- L. Business signs associated with schools, churches, public parks, playgrounds and recreational uses, fires stations and companies and rescue squads.
- M. Residential subdivision identification signs.
- N. Signs allowed in § 165-201.06B.

### **§ 165-403.03 Conditional uses.**

The following uses are permitted with a conditional use permit:

- A. Cottage occupations.

### **§ 165-403.04 Mobile home parks and subdivisions.**

Mobile homes may be located in planned developments on parcels of land under common ownership or as mobile home subdivisions. Such mobile home parks and subdivisions shall meet the following requirements:

A. Dimensional requirements.

- (1) Density. The gross density of any mobile home park or subdivision shall not exceed eight units per acre.
- (2) Spacing requirements. No mobile home shall be placed within 20 feet of another.
- (3) Lot requirements. Minimum lots of 4,000 square feet shall be established for each dwelling unit. The corners of such lots shall be clearly posted by permanent markers which shall be maintained.
- (4) Setbacks. All dwelling units shall be set back a minimum of 20 feet from any street right-of-way. All dwelling units shall be set back at least 10 feet from all common areas, parking lots and sidewalks. All accessory uses shall be set back at least five feet from any lot line or property boundary.
- (5) Perimeter. All structures shall be set back at least 50 feet from the perimeter boundary of the mobile home park.

B. Common areas. All mobile home parks and subdivisions shall have a common area of at least 4,000 square feet in area. In addition, at least 15% of the total gross area of all mobile home parks or subdivisions shall be in common areas. There shall be at least 50 square feet of common area for each dwelling unit.

- (1) Landscaping. All common areas shall be planted with appropriate landscaping, including trees, shrubs and grass lawns. This landscaping shall be properly maintained.
- (2) Recreation facilities. All mobile home parks and subdivisions shall contain at least one recreational unit as described by § 165-402.08 of this chapter. This recreational unit shall be intended to meet the needs of 30 dwelling units. One recreational unit shall be provided for each 30 dwelling units. The design and amount of recreational facilities shall be approved by the Administrator and the Department of Parks and Recreation at the time of site plan review.
- (3) Homeowners' associations. In the case of mobile home subdivisions, common areas shall be dedicated to and maintained by homeowners' associations. The mobile home subdivisions and the homeowners' associations shall meet all requirements of this chapter.

C. Streets.

- (1) All mobile home lots in a mobile home park shall have direct access to a dedicated public street which meets all requirements of the Virginia Department of Transportation.
- (2) Private streets in existing mobile home parks. The Planning Commission may allow new sections of existing mobile home parks, which are currently served by a complete system of private streets, to be provided with access using private streets. In such cases, the private streets must meet the following requirements:
  - (a) Street widths. The minimum right-of-way width for private streets in a mobile home park shall be 30 feet. Dead-end streets shall be provided with culs-de-sac, with a minimum radius of 40 feet. A minimum pavement width of 20 feet shall be provided, with a minimum shoulder width of six feet. The minimum paved radius for a cul-de-sac shall be 30 feet.

- (b) Street construction. Private streets shall be adapted to the topography and shall have suitable alignment and gradient for traffic safety, satisfactory surface drainage and proper functioning of sanitary and storm sewer systems. A surface of bituminous prime-and-double-seal treatment shall be applied on a base of no less than six inches of compacted gravel. The full width of the street shall be properly graded to provide suitable grades for pavements, adequate surface drainage and convenient access to the mobile home lots.
- (c) Intersections. Street intersections shall generally be at right angles. Offsets at intersections and intersections of more than two streets at one point shall be avoided.
- D. Off-street parking. At least two off-street parking spaces shall be provided for each dwelling unit. Mobile home parks and subdivisions may employ common parking lots to provide off-street parking. Such parking lots shall meet all requirements of this chapter.
- E. Sewer and water facilities. It must be certified by the Virginia Department of Health that each mobile home lot will be provided with an approved source of water supply and an approved means of sewage disposal before the mobile home park will be approved. Water and sewer service must be provided through the use of public or community systems. All community systems shall be dedicated to a public authority.

## **ARTICLE V PLANNED DEVELOPMENT DISTRICTS**

### **Part 501 – R4 Residential Planned Community District**

#### **§ 165-501.01 Intent.**

The intention of the Residential Planned Community District is to provide for a mixture of housing types and uses within a carefully planned setting. All land to be contained within the Residential Planned Community District shall be included within an approved master development plan. The layout, phasing, density and intensity of development is determined through the adoption of the master development plan by the Planning Commission and Board of Supervisors. Special care is taken in the approval of the master development plan to ensure that the uses on the land are arranged to provide for compatibility of uses, to provide environmental protection and to avoid adverse impacts on surrounding properties and facilities. The district is intended to create new neighborhoods with an appropriate balance between residential, employment and service uses. Innovative design is encouraged. Special care is taken in the approval of R4 developments to ensure that necessary facilities, roads and improvements are available or provided to support the R4 development. Planned community developments shall only be approved in conformance with the policies in the Comprehensive Plan.

#### **§ 165-501.02 Rezoning procedure.**

In order to have land rezoned to the R4 District, a master development plan, meeting all requirements of Article VIII of this chapter, shall be submitted with the rezoning application. The rezoning shall be reviewed and approved following the rezoning procedures described by this chapter, including procedures for impact analysis and conditional zoning. In adopting the rezoning, the master development plan submitted will be accepted as a condition proffered for the rezoning. The master development plan review procedures described by Article VIII must also be completed concurrently with or following the consideration of the rezoning.

- A. Impact analysis. Impact analysis, as required by this chapter, shall be used to evaluate all potential impacts, including impacts on surrounding lands, the environment and on public facilities and services.

- B. Land dedication. Land shall be dedicated in planned community developments for roads and facilities necessary to serve the development as described by the Comprehensive Plan, the Capital Improvements Program and adopted road improvement programs.
- C. Addition of land. The Board of Supervisors may approve the addition of land to an approved planned community through the procedures set forth in this chapter for the original approval of a planned community development.

**§ 165-501.03 Permitted uses.**

All uses are allowed in the R4 Residential Planned Community District that are allowed in the following zoning districts:

RP	Residential Performance District
B1	Neighborhood Business District
B2	Business General District
M1	Light Industrial District

**§ 165-501.04 Conditional uses.**

Uses listed as conditional uses shall not require a conditional use permit, but all uses shall meet the specific requirements set forth in this chapter for such uses.

**§ 165-501.05 Mixture of housing types required.**

Each planned community shall be expected to contain a mixture of housing types that is typical for existing and planned residential neighborhoods in Frederick County. No more than 40% of the area of portions of the planned community designated for residential uses shall be used for any of the following housing types: duplexes, multiplexes, atrium houses, weak-link townhouses, townhouses or garden apartments or any combination of those housing types.

**§ 165-501.06 Design requirements.**

- A. Minimum size. No planned community master development plan nor rezoning to the Residential Planned Community District shall be approved for less than 100 contiguous acres.
- B. Dimensional requirements.
  - (1) Areas shall be specifically designated for each different use on the master development plan. Within those areas, the uses shall meet the applicable dimensional requirements set forth for those uses in the RP, B1, B2 and M1 Zoning Districts.
  - (2) Alternative dimensional requirement plan. An alternative dimensional plan may be included with the master development plan for the development. This plan shall describe a system of dimensional requirements for all planned uses in the development. When these dimensional requirements are approved, they shall constitute enforceable amendments to this chapter, applying to the land included in the development, and shall replace other dimensional requirements contained in this chapter. Such alternative dimensional requirements shall be based on general concepts described by the plan submitted. The Planning Commission and Board of Supervisors shall only approve an alternative plan if the plan meets all of the intentions of this chapter, conforms to policies set forth in the Comprehensive Plan and follows generally accepted good planning practices.
- C. Residential density. The maximum allowed gross density for residences in the planned community development shall be four units per acre.

- D. Commercial and industrial areas. The areas used for commercial or industrial uses shall not exceed 50% of the gross area of the total planned community. Sufficient commercial and industrial areas shall be provided to meet the needs of the planned community, to provide an appropriate balance of uses and to lessen the overall impact of the planned community on Frederick County. A minimum of 10% of the gross area of the project shall be used for business and industrial uses.
- E. Open space. A minimum of 30% of the gross area of any proposed development shall be designated as common open space. This open space shall be for purposes of environmental protection and for the common use of residents of the development. No more than 50% of the required open space shall be within the following environmental areas: lakes and ponds, wetlands or steep slopes. The Director of Planning, upon recommendation of the Planning Commission, may allow a larger amount of steep slopes to be utilized where the developer can demonstrate a viable plan for the use of these areas. Open space land shall be dedicated to the property owners' association or to Frederick County. Land shall only be dedicated to Frederick County with the approval of the Board of Supervisors.
- F. Recreational facilities. One recreational unit or equivalent recreational facilities shall be provided for each 30 dwelling units. The facilities shall be in a configuration and location that is easily accessible to the dwelling units that they are designed to serve. The design and amount of facilities shall be approved by the Planning Commission in conjunction with the Director of Planning and the Department of Parks and Recreation. A recreational unit is designed to meet the recreational needs of 30 dwelling units. The units may be broken into smaller units or added together to meet the needs of the planned community.
- G. Buffers and screening.
- (1) Buffers and screening shall be provided between various uses and housing types as if the uses were located in the RP, B1, B2 or M1 Zoning District according to the uses allowed in those districts. Buffers and screening shall be provided accordingly as specified in § 165-203.02 of this chapter. Road efficiency buffers shall be provided according to the requirements of that section. In addition, along the perimeter boundary of the Residential Planned Community District, buffers and screens shall be provided in relation to adjoining properties as if the uses in the planned community were located in the RP, B1, B2 and M1 Zoning Districts.
  - (2) Alternative buffer and screening plan. An alternative plan for buffers and screening and the separation of uses may be included with the master development plan for the development. This plan shall describe a specific system of buffers, screening and use separation for all planned uses in the development. When these dimensional requirements are approved, they shall constitute enforceable amendments to this chapter applying to the land included in the development and shall replace other buffer and screening requirements contained in this chapter. Such alternative requirements shall be based on general concepts described by the plan submitted. The Planning Commission and Board of Supervisors shall only approve an alternative plan if the plan meets all of the intentions of this chapter, conforms to policies set forth in the Comprehensive Plan and follows generally accepted good planning practices. Buffer and screening requirements for the perimeter boundary of the planned community shall not be included in the alternative buffer and screening plans.
- H. Sewer and water facilities. All planned community developments shall be served by public sewer and water facilities owned by or dedicated to a public authority.
- I. Road access. All planned community developments shall have direct access to an arterial or collector road or to roads improved to arterial or collector standards. The planned community development shall be provided with a complete system of public streets dedicated to the Virginia Department of Transportation. All roads in the development shall be provided with curbing and gutters. The Board of Supervisors may approve certain exceptions to the requirement

for curbs and gutters, after review by the Planning Commission, in order to implement a particular stormwater management plan. The road system shall conform with the Frederick County Comprehensive Plan and with road improvement plans adopted by the County.

- J. Pedestrian access. A system of pedestrian access, in the form of paved sidewalks or paved interior walkways, shall be provided to allow walking between every use, structure or recreational facility. Such walkways shall be connected with existing walkways adjacent to the planned community development.
- K. Stormwater management. The requirements of § 165-201.09 of this chapter shall apply to the total planned community development.
- L. Landscaping. Landscaping shall be in conformance with an overall landscaping plan or unifying concept for the development.
- M. Phasing. A schedule of phases shall be submitted with each proposed planned community. The schedule shall specify the year in which each phase will be completely developed. No subdivision or site plans shall be approved in the planned community unless they are in accordance with the approved schedule.
  - (1) If a Residential Planned Community District is proposed to be developed in phases, over a period of time, common open space shall be provided with each phase in proportion to the fraction of the total area of the development in each phase. Recreational facilities shall be provided with each phase in proportion to the fraction of the total dwelling units in each phase.
  - (2) Essential street entrances to the planned residential community shall be provided with the initial phases of the development.
  - (3) A reasonable balance shall be maintained between residential and nonresidential uses. The phasing plan for the development shall include a reasonable portion of the nonresidential uses in all phases of the development.
- N. Property owners' association. All phases of a planned community development shall be included under a single property owners' association according to the requirements of this chapter.
- O. Modifications; applicability of other regulations.
  - (1) An applicant may request as part of an application for rezoning to the R4 District that a modification to specific requirements of the Subdivision Ordinance, this chapter or other requirements of the Frederick County Code applicable to physical development be granted. The applicant shall demonstrate that the requested modification is necessary or justified in the particular case by a demonstration that the public purpose of these ordinances, as applied to the particular case, would be met to at least an equivalent degree by such modification. The Board of Supervisors may approve or disapprove such request, in whole or in part, following review by the Planning Commission.
  - (2) The applicant shall provide sufficient information to enable evaluation of the request by the Board of Supervisors. Materials submitted should include or be supplemented by:
    - (a) Specification of the Code section(s) to be modified and the proposed alternative standard;
    - (b) Exhibits demonstrating application of the modified standard such as a detailed plan and/or elevation drawing; and

(c) Identification of the relationship of the modification to the overall community concept.

(3) The planned community development shall conform with all regulations of this chapter and the Frederick County Code unless specifically exempted by this article or modified by the Board of Supervisors through the rezoning process.

### **Part 502 – R5 Residential Recreational Community District**

#### **§ 165-502.01 Intent.**

The intention of the Residential Recreational Community District is to provide for a carefully planned recreational community which takes advantage of unique natural features and settings. Such communities shall be planned in a fashion that will protect and preserve natural and historic resources and features and that will protect and enhance the natural scenic value of the area to be developed and surrounding areas. The Residential Recreational Community District provides for a mixture of housing types and uses, including age-restricted communities, within a carefully planned setting. Special emphasis is placed on recreational and open space uses. Business and service uses are allowed to meet the needs of residential recreational communities.

#### **§ 165-502.02 Master development plan.**

All land to be contained within the Residential Recreational Community District shall be included within an approved master development plan. The layout, phasing, density and intensity of development is determined through the adoption of the master development plan by the Planning Commission and the Board of Supervisors. Special care is taken in the approval of the master development plan to ensure that the uses on the land are arranged to provide for compatibility of uses, to provide environmental protection and to avoid adverse impacts on surrounding properties and facilities. Innovative design is encouraged. Special care is taken in the approval of R5 developments to ensure that necessary facilities, roads and improvements are available or provided to support the R5 development. Residential recreational community developments shall only be approved in conformance with the policies in the Comprehensive Plan.

#### **§ 165-502.03 Rezoning procedure.**

In order to have land rezoned to the R5 Residential Recreation Community District, a master development plan, meeting all requirements of Article VIII of this chapter, shall be submitted with the rezoning application. The rezoning shall be reviewed and approved following the rezoning procedures described by this chapter, including procedures for impact analysis and conditional zoning. In adopting the rezoning, the master development plan submitted may be accepted as a condition proffered for the rezoning. The master plan review procedures described by Article VIII must also be completed concurrently with or following the consideration of the rezoning.

- A. Impact analysis. Impact analysis, as required by this chapter, shall be used to evaluate all potential impacts, including impacts on surrounding lands, the environment and on public facilities and services.
- B. Land dedication. Land shall be dedicated in residential recreational community developments for public roads and public facilities necessary to serve the development as described by the Comprehensive Plan, the Capital Improvements Program and adopted road improvement programs.
- C. Addition of land. The Board of Supervisors may approve the addition of land to an approved recreational residential community through the procedures set forth in this chapter for the original approval of a residential recreational community development.

**§ 165-502.04 Permitted uses.**

The following uses are allowed in the R5 Residential Recreational Community District:

- A. All uses allowed in the RP Residential Performance District.
- B. Age-restricted communities.
- C. All uses allowed in the B-1 Neighborhood Business District except for the following:
  - (1) Car washes.
  - (2) Funeral homes and crematories.
- D. Indoor and outdoor recreational facilities.
- E. Preserves and conservation areas.
- F. Restaurants.
- G. Hotels and lodges.
- H. Boat clubs and service areas.
- I. Service stations.
- J. Private campgrounds.
- K. Heliports or air strips.
- L. Recreational vehicle storage.
- M. General business offices.
- N. General merchandise store.
- O. Home furnishing store.
- P. Public sewer and water facilities and lines.
- Q. Waste recovery and recycling facility.
- R. Movie theater.

**§ 165-502.05 Design requirements.**

- A. Minimum size. No residential recreational community master development plan nor rezoning to the Residential Recreational Community District shall be approved for less than 500 contiguous acres.
- B. Dimensional requirements.
  - (1) Areas shall be specifically designated for each different use on the master development plan. Within those areas, the uses shall meet the applicable dimensional requirements set forth for those uses in the RP, B1 and B2.



(2) In age-restricted communities, garden apartments and townhouses may be approved with alternative dimensional requirements as described in this subsection.

(a) The alternative dimensional requirements for garden apartments shall be as follows:

[1] Front setback:

[a] Thirty-five feet from road right-of-way of public roads, greenways and neighborhood collectors.

[b] Twenty feet from road right-of-way of local streets and from parking areas and driveways.

[2] Side: 50 feet from perimeter boundary.

[3] Rear: 50 feet from perimeter boundary.

[4] Minimum on-site building spacing shall be as follows:

[a] Two-story buildings:

[i] Thirty feet front and side.

[ii] Fifty feet rear.

[b] Three- and four-story buildings:

[i] Forty feet side.

[ii] Fifty feet front and rear.

[5] Maximum building height.

[a] Maximum building height for principal structures shall be 65 feet.

[b] Maximum building height for accessory structures shall be 20 feet.

[6] One and one-half parking spaces shall be provided for each one-bedroom unit, and two parking spaces shall be provided for each two-bedroom unit.

(b) The alternative dimensional requirements for townhouses shall be as follows:

[1] Minimum lot area: 2,000 square feet.

[2] Minimum lot width: 20 feet.

[3] Front setback:

[a] Thirty-five feet from road right-of-way of public roads and greenways.

[b] Twenty feet from road right-of-way of neighborhood collectors, local streets and from parking areas and driveways.

[4] Side: 30 feet from perimeter boundary.

[5] Rear: 50 feet from perimeter boundary.

[6] Minimum building spacing:

[a] Thirty feet side.

[b] Fifty feet front and rear.

[7] Maximum building height.

[a] Maximum building height for principal structures shall be 35 feet.

[b] Maximum building height for accessory structures shall be 20 feet.

[8] Two parking spaces shall be provided per unit.

[9] Supplementary setbacks:

[a] With the townhouse housing type, decks may extend five feet into rear yard setback areas.

[b] Where the townhouse housing type abuts open space, decks may extend up to 12 feet into rear yard setback areas.

[c] Front porches, stoops and steps may extend eight feet into front yard setback areas.

(c) In age-restricted communities, the following landscaping alternative may be provided when utilizing the single-family small lot housing type that front on private streets: minimum landscape plantings, in addition to the required street trees, shall be three trees and 12 shrubs. Trees shall be a minimum of two inches in caliper at time of planting, and shrubs a minimum of 12 inches in height at time of planting.

(3) Existing lots. The Zoning Administrator may allow reduced yard setbacks on existing lots of record, by a distance of up to 25% of the required setback, where topography or other environmental constraints create a hardship. To be considered a hardship, all conditions specified in § 165-1001.02C(5) of the Frederick County Zoning Ordinance must be met.

C. Residential density. The gross density for residences in the residential recreational community development shall not exceed 2.3 units per acre for the development as a whole.

D. Commercial areas. Not more than 6% of the gross area of a residential recreational community shall be used for commercial uses. Commercial uses shall be located in village centers designated on the approved master development plan. The Planning Commission may require the submission of a generalized development plan depicting the type and location of uses, access and circulation patterns within identified village centers.

E. Vehicle storage areas shall not exceed eight acres in size, shall be screened from view of any public street or adjoining residential property by a category B buffer utilizing at a minimum a landscape screen and shall comply with the requirements of § 165-203.02D of this chapter.

F. Open space. A minimum of 35% of the gross area of any proposed development shall be designated as common open space. This open space shall be for purposes of environmental protection and for the common use of residents of the development. No more than 50% of the required open space shall be within lakes and ponds, wetlands or steep slopes. The Planning Commission may allow a larger amount of steep slopes to be utilized where the developer can demonstrate a viable plan for the use of these areas. Where age-restricted communities are approved with private streets, a minimum of 45% of open space shall be required.

- G. Recreational facilities. One recreational unit or equivalent recreational facilities shall be provided for each 30 dwelling units. The facilities shall be in a configuration and location that is easily accessible to the dwelling units that they are designed to serve. The design and amount of facilities shall be approved by the Planning Commission in conjunction with the Director of Planning and the Department of Parks and Recreation. When the single-family small lot housing type is used, the requirements of § 165-402.08, Recreational facilities, shall be met.
- H. Buffers and screening. Buffers and screening shall be provided between various uses and housing types as if the uses were located in the RP, B1 or B2 Zoning District according to the uses allowed in those districts. Buffers and screening shall be provided accordingly as specified in §165-203.02 of this chapter. Road efficiency buffers shall be provided according to the requirements of that section. In addition, along the perimeter boundary of the Residential Recreational Community District, buffers and screens shall be provided in relation to adjoining properties as if the uses in the planned community were located in the RP, B1 and B2 Zoning Districts. The Planning Commission may allow alternative methods for achieving buffer and screening requirements and may waive the interior residential screening and road efficiency buffer requirements in age-restricted communities.
- I. Sewer and water facilities. All residential recreational community developments shall be served by public sewer and water facilities owned by or dedicated to a public authority.
- J. Road access. All residential recreational community developments shall have direct access to an arterial or collector road or to roads improved to arterial or collector standards.
- K. Streets. The residential recreational community development shall be provided with a complete system of public streets dedicated to the Virginia Department of Transportation. The road system shall conform with the Frederick County Comprehensive Policy Plan and with road improvement plans adopted by the County.
- (1) Within any portion of a residential recreational community which qualifies as an age-restricted community, the Planning Commission may allow for the installation of private streets, provided that all streets conform to the construction details and materials of the Virginia Department of Transportation Standards and that a program for the perpetual maintenance of all streets is provided which is acceptable to the Commission.
- (a) Three classes of private streets shall be permitted in age-restricted communities and shall be identified on a MDP as follows:
- [1] Greenways. All private streets with a projected ADT of over 3,000 shall have a minimum right-of-way of 50 feet and shall have no direct lot frontage. Greenways shall be lined on both sides with street trees having a minimum caliper of two inches at the time of planting, spaced not more than 50 feet apart. Along the portions of right-of-way which abut mature woodland, the Planning Director may waive the requirement for street trees. The horizontal center line geometrics and vertical profile design shall meet the VDOT criteria for subdivision streets with a design speed of 30 miles per hour (mph).
- [2] Neighborhood collectors. All private streets with a projected ADT of over 400 shall have a minimum right-of-way of 50 feet and may have lot frontage. Neighborhood collectors shall be lined on both sides with street trees having a minimum caliper of two inches at the time of planting, spaced not more than 50 feet apart. The horizontal center line geometrics and vertical profile design shall meet the VDOT criteria for subdivision streets with a design speed of 30 mph.
- [3] Local streets. All private streets with a projected ADT of 400 or less shall have a minimum right-of-way of 30 feet and may have lot frontage. Local streets shall be lined with street trees having a

minimum caliper of two inches at the time of planting, spaced not more than 50 feet apart. The horizontal center line geometrics and vertical profile design shall meet the VDOT criteria for subdivision streets with a design speed of 20 mph.

- (b) The subdivision design plans and final subdivision plats for all lots contained within an age-restricted community that utilize private roads shall include the following language:

The proposed private streets will not be maintained by the Virginia Department of Transportation or the County of Frederick. The maintenance and improvement of said private streets shall be the sole responsibility of the owners of the lots within the age-restricted community which are provided access via the private streets.

- (2) Within R-5 residential recreation community developments approved prior to 1980, the Planning Commission may allow the extension of existing private roads if no other means of access is available.

- L. Curb and gutter. All public and private streets shall be provided with curb and gutter.
- M. Alternative access. A combined system of pedestrian and/or bicycle access, in the form of paved sidewalks, interior walkways or bike paths, shall be provided to allow walking or bicycling between every use, structure or recreational facility. Such access shall be connected with existing travelways adjacent to the residential recreational community development. In age-restricted communities, at the time of master development plan approval, the Planning Commission may allow local streets without sidewalks to be used and incorporated into the system of pedestrian and bicycle access. The type and nature of trails to be used shall be identified, detailed and approved on the master development plan.
- N. Stormwater management. The requirements of § 165-201.09 of this chapter shall apply to the total residential recreational community development.
- O. Landscaping. Landscaping shall be in conformance with an overall landscaping plan or unifying concept for the development.
- P. Phasing. If a Residential Recreational Community District is proposed to be developed in phases, common open space shall be provided within each phase in proportion to the fraction of the total area of the development in each phase. Recreational facilities shall be provided with each phase in proportion to the fraction of the total dwelling units in each phase. Essential street entrances to the planned residential community shall be provided with the appropriate phases of the development as scheduled on the approved master development plan.
- Q. Property owners' association. A single property owners' association shall be provided for all phases of a recreational community development according to the requirements of § 165-201.11 of this chapter.
- R. Environmental protection. Upon recommendation of the Planning Commission, the Board of Supervisors may allow waivers of, or variations to, the environmental requirements of § 165-201.08 of this chapter in residential recreational communities. Such waivers shall be shown on the master development plan. In such cases, the environmental features and their function shall be preserved to the greatest extent possible.
- S. Other regulations. The residential recreational community development shall conform with all regulations of this chapter and the Frederick County Code unless specifically exempted by this Part 502.

**Part 503  
(Reserved)**

**Part 504 – MS Medical Support District**

**§ 165-504.01 Intent.**

The MS (Medical Support) District is intended to provide for areas to support hospitals, medical centers, medical offices, clinics, and schools of medicine. These areas are intended to allow for a variety of support services and related residential land uses to be within close proximity of each other to provide for professional and patient convenience. All land to be contained within the Medical Support District shall be included within a master development plan to ensure that land uses are compatibly mixed, designed in a harmonious fashion, and developed to minimize adverse impacts to adjoining properties.

**§ 165-504.02 Permitted uses.**

- A. All land uses shall be developed in accordance with an approved master development plan that meets the criteria in Article VIII of this chapter.
- B. Structures are to be erected or land used for one or more of the identified uses. The permitted uses are identified by Standard Industrial Classification. All uses described by Standard Industrial Classification are allowed only if the major group, industry group number, or industry number general group titles are used.

(1) Educational support services:

<b>Allowed Uses</b>	<b>Standard Industrial Classification (SIC)</b>
Colleges, universities, professional schools, and junior colleges	822
Libraries	823
Nursing schools, practical	8249

(2) Research support services:

<b>Allowed Uses</b>	<b>Standard Industrial Classification (SIC)</b>
Research and development facilities for the following manufacturing groups:	283

	Drugs	
Commercial physical and biological research		8731
Noncommercial research organizations		8733
Testing laboratories		8734

(3) Professional and commercial support services.

<b>Allowed Uses</b>	<b>Standard Industrial Classification (SIC)</b>
Convenience stores	5411
Retail bakeries	546
Coffee stores, health food stores, and vitamin stores	5499
Retail uniform stores	5699
Eating places	5812
Drug stores and proprietary stores	591
Bookstores	5942
Stationary stores	5943
Gift shops, greeting card shops, and balloon shops	5947
Florists	5992
News dealers and news stands	5994

Optical goods stores	5995
Orthopedic and artificial limb stores	5999
Commercial banks	602
Credit unions	606
Life insurance offices	6311
Accident and health insurance offices	6321
Hospital and medical service plans offices	6324
Pension, health and welfare funds offices	6371
Insurance agents, brokers and service offices	6411
Real estate agents and managers offices	6531
Holding offices	671
Hotels and motels	701
Organizational hotels and lodging houses	704
Garment pressing and agents for laundries and dry cleaners	7212
Linen supplies	7213

Beauty shops	7231
Barbershops	7241
Photocopying and duplicating services	7334
Medical equipment rental and leasing	7352
Data entry, data processing, data verification, and optical scanning data service	7374
Product sterilization services	7389
Hearing aid repair and medical equipment repair, electrical	7629
Dental instrument repair, laboratory instrument repair, medical equipment repair, except electric, microscope repair, optical instrument repair, scientific instrument repair, except electric, and surgical instrument repair	7699
Physical fitness facilities	7991
Membership sports and recreation clubs	7997
Offices and clinics of doctors and dentists	801-804
Hospitals	806
Medical laboratories	8071



Dental laboratories	8072
Miscellaneous health and allied services	809
Adult day-care centers	8322
Child day-care services	8351
Public buildings, including the following:	
Social services offices	
Free medical clinics	

(4) Manufacturing and wholesaling support services:

<b>Allowed Uses</b>	<b>Standard Industrial Classification (SIC)</b>
Pharmaceutical machinery	3559
Surgical, medical, and dental instruments and supplies	384
Ophthalmic goods	385
Medical, dental, and hospital equipment and supplies	5047
Ophthalmic goods	5048
Laboratory equipment, except medical and dental	5049
Drugs, drug proprietaries, and druggist sundries	512

(a) All permitted manufacturing and wholesaling support services shall meet the flex-tech performance standards as identified in § 165-204.06C of this chapter.

(b) All outdoor lighting fixtures designed to illuminate parking lots, loading bay areas, maneuvering areas, staging areas, and outdoor storage areas shall be shielded to direct light downward.

(5) Related residential uses to support hospitals, medical centers, medical offices, clinics and schools of medicine:

<b>Allowed Uses</b>	<b>Standard Industrial Classification (SIC)</b>
Operators of apartment buildings	6513
Operators of dwellings other than apartment buildings	6514
Dormitories, commercially operated	7021
Nursing and personal care facilities	805
Residential care facilities	836
Dormitories, medical and allied health	(As defined)
Halfway house	(As defined)
Adult treatment home	(As defined)
Drug treatment home	(As defined)
Family care home	(As defined)
Group home	(As defined)
Protected population home	(As defined)

(6) Other related uses:

<b>Allowed Uses</b>	<b>Standard Industrial Classification (SIC)</b>
Ambulance service, road and vanpool operation	4119
Ambulance service, air	4522
Automobile parking	7521
Churches	8661
Fire protection	9224
Conference/events center	(As defined)
Fleet maintenance facility, medical and allied health	(As defined)
On-site utility systems	(As defined)
Telecommunications towers and facilities	(As defined)
Warehousing, medical and allied health services	(As defined)
Wellness centers	(As defined)

(7) Continuing-care retirement communities.

<b>Allowed Uses</b>	<b>Standard Industrial Classification (SIC)</b>
Operators of apartment buildings	6513
Operators of dwellings other than	6514

apartment buildings	
Nursing and personal care facilities	805
Residential care facilities	836

- (a) Independent-living facilities (as defined) may consist of any of the following residential structures: single-family small lot, duplex, multiplex, atrium house or garden apartments.
- (b) Home occupations (as defined).
- (c) Continuing-care retirement communities (as defined) must conform to the following performance standards:
- [1] All continuing-care retirement communities must be within a two-mile radius from the center of the Route 37 Medical Center Interchange.
  - [2] Maximum residential density shall not exceed 10 units per acre, provided the following:
    - [a] Single-family detached and single-family attached residential structures having individual access shall have an average lot area of 3,000 square feet per dwelling unit.
    - [b] All other residential land uses shall provide a minimum of 1,000 square feet of average lot area per bedroom.
  - [3] The continuing-care retirement community must consist of residential units which provide all of the following for its residents: independent-living facilities, congregate-care assisted-living facilities, and nursing home care.
  - [4] Occupancy of the dwelling units is restricted to older persons [as such term is used in the definition of "housing for older persons" in § 36-96.7 of the code of Virginia (1950, as amended)], with the following exceptions:
    - [a] The spouse of a resident, regardless of age; and
    - [b] The child of a resident, provided that the child requires convalescent care, regardless of the age of the child; and
    - [c] Resident staff necessary for operation of the facility are also allowed to live on site.
  - [5] The communities may provide ancillary services and facilities, such as, but not limited to, transportation, a common dining room and kitchen, recreation area, meeting or activity rooms, library, chapel, convenience commercial area, or other services and facilities for the enjoyment, service or care of the residents. Such facilities must be conveniently located in relation to the remainder of the development, particularly the dwelling units; they must not be externally advertised. The Board of Supervisors may restrict their use to residents and staff only.

**§ 165-504.03 District area, floor-to-area ratios, and residential gross densities.**

- A. All parcels that are zoned MS (Medical Support) District shall contain a minimum of 20 acres. These parcels shall be required to receive approval of a master development plan which meets all applicable requirements of Article VIII of this chapter.
- B. Parcels that are less than 20 acres in size that are contiguous to a master-planned MS (Medical Support) District development, including those parcels that are directly across public rights-of-way to a master-planned MS (Medical Support) District development, may be rezoned to the MS District.
- C. The Board of Supervisors may provide for the administrative approval of a parcel subdivision which fronts on private street systems during the master development plan approval process.
- D. Hospitals, office buildings, conference/events centers, wellness centers, and all land use permitted under § 165-504.02B(1), Educational support services, shall be allowed to develop a maximum floor-to-area ratio (FAR) of two. The maximum FAR shall be based on the total site area for a master-planned MS (Medical Support) District development that is to be developed as one parcel, or for the total site area of individual parcels in the development that are subdivided for development purposes.
- E. All permitted land uses other than those described in § 165-504.03D providing support services to this district shall be allowed to develop a maximum floor-to-area ratio (FAR) of one. The maximum FAR shall be determined as described in § 165-504.03D.
- F. The overall gross densities for permitted land uses identified in §165-504.02B(5) shall be calculated as described under this subsection:
  - (1) Single-family detached and single-family attached residential structures having individual access may have a minimum lot size or average lot area of 3,000 square feet per dwelling unit.
  - (2) All other related residential land uses shall provide a minimum of 1,000 square feet of lot size or average lot area per bedroom.

**§ 165-504.04 Access regulations.**

- A. All land uses permitted in this Part 504 shall be served by street systems that are constructed to the geometric design standards for urban collector streets and urban local streets. Such street systems may be private or may be dedicated to Frederick County for eventual acceptance into the state secondary road system.
- B. Parcels that contain portions of collector street systems that are intended to continue through to other parcels to meet the intent of the Frederick County Comprehensive Policy Plan shall be built to applicable state secondary road standards and shall be dedicated to Frederick County for eventual acceptance into the state secondary road system.
- C. Commercial entrances for permitted support services and entrances for related residential developments on urban collector streets shall have a minimum spacing requirement of 250 feet or minimum VDOT spacing, whichever is greater, between entrances.
- D. Commercial entrances for permitted support services and entrances for related residential developments shall have a minimum spacing requirement of 150 feet or minimum VDOT spacing, whichever is greater, from street intersections to provide for adequate vehicle stacking.

- E. Driveways serving individual related residential land uses shall only be permitted along urban local streets.
- F. All permitted land uses shall be designed to provide for internal traffic circulation and interparcel connectors to adjoining land uses to provide for access between uses without entering onto urban collector streets. The Board of Supervisors may grant a waiver to this requirement if topographic constraints or land use conflicts prevent interparcel connectivity or make it undesirable.

**§ 165-504.05 Structure and parking lot setback requirements.**

- A. All permitted educational, research, professional, commercial, and other related support services shall have a minimum front yard setback of 50 feet from any urban collector street and a minimum front yard setback of 35 feet from any urban local street.
- B. All permitted related residential uses and continuing care retirement communities shall have a minimum front yard setback of 25 feet from any public urban local street and a front yard setback of 20 feet from any private urban local road. On residential units utilizing a rear alley for access, the setback off of a private road may be reduced by 10 feet, provided there are not driveways on the private road to the residential unit. Structural front yard setbacks from private roads shall be measured from the edge of the access easement.
- C. Residential housing units within a continuing-care retirement community, to include single-family small lot, duplex and multiplex, shall have a minimum building spacing of 10 feet between units and no building can be within 50 feet of the perimeter boundary of the development, provided that all requirements of § 165-504.07 have been satisfied.
- D. All permitted support services and related residential land uses other than those described in § 165-504.05C are not proposed to have minimum side or rear yard setbacks. Individual parcels which are designed to have structures placed on a side or rear property line shall be provided with a maintenance easement on the adjoining parcel that is a minimum of 10 feet in width.
- E. Parking lots shall be set back a minimum of 20 feet from urban collector streets and shall be set back a minimum of 10 feet from urban local streets to provide for safe ingress and egress into developed parcels.
- F. Parking lots located between the urban collector street and the building front shall be developed to include an earth berm or natural topography that is a minimum of three feet in height above the finished grade developed at a slope of 3:1. Evergreen shrubbery that is a minimum of two feet in height at the time of planting shall be provided along the apex of the berm at a rate of 25 plantings per 100 linear feet. This element shall begin at the street right-of-way and end at the beginning of the parking lot. Parking lots located between the urban local street and the building front shall be developed to the standards set forth in § 165-202.01 of this chapter.
- G. Parcels which are designed to have parking lots located behind the building may have a reduced front yard setback of 20 feet from any urban collector street and 15 feet from any urban local street.

**§ 165-504.06 Height regulations.**

- A. The maximum structural height for hospitals, office buildings, and all land use permitted under § 165-504.02B(1), Educational support services, shall be 90 feet.
- B. The maximum structural height for residential care facilities, nursing and personal care facilities, dormitories, garden apartments and automobile parking structures shall be 70 feet.

- C. The maximum structural height for all other land uses permitted in this Part 504 shall be 35 feet.
- D. Structural setbacks for all land uses permitted under § 165-504.06A and 165-504.06B shall be increased one foot for every foot that the structure exceeds 35 feet in height. The increased structural setback shall be measured as follows:
- (1) From the minimum front yard setback established along urban collector streets and urban local streets for a master-planned MS (Medical Support) District development that is to be developed as one parcel, or from the minimum front, side, and rear yards of individual parcels that are subdivided for development purposes.
  - (2) From any required buffer area for a master-planned MS (Medical Support) District that is to be developed as one parcel, or for individual parcels that are subdivided for development purposes.
  - (3) From the minimum building separation distance established between residential and nonresidential land uses.
- E. A clear zone void of structures, signage, vegetation, and berms shall be established in areas determined by the Fire Marshal to ensure appropriate emergency access for all land uses permitted under § 165-504.06A and 165-504.06B. These identified areas shall begin at a distance of 25 feet from the structure and shall have a minimum width of 20 feet. An easement shall be obtained on adjoining properties to establish required clear zone areas if they cannot be provided on the individual lot proposed for development.

**§ 165-504.07 Open space, landscaped area, and buffer and screening regulations.**

- A. The minimum open space percentage for the MS (Medical Support) District shall include:
- (1) Twenty percent of the overall gross area of a master-planned MS (Medical Support) District that is to be developed as one parcel.
  - (2) Twenty-five percent of the total site area of individual parcels that are subdivided for support services and 30% of the total site area of individual parcels that are subdivided for related residential land uses.
- B. All open space areas shall be landscaped to provide for a grass cover and vegetative elements as required under § 165-202.01D(13), Parking lot landscaping, and § 165-203.02, Buffers and screening, of this chapter. Minimum standards for required vegetative elements include two-inch caliper trees and three-foot shrubs at the time of planting. Stormwater management facilities and landscaped parking lot raised islands shall be permitted to be calculated as part of the overall open space percentage.
- C. Buffer and screening requirements for the MS (Medical Support) District shall include:
- (1) Master development planned area that is to be developed as one parcel.
    - (a) A fifty-foot perimeter buffer from all adjoining parcels. The first 25 feet of this buffer area, measured from the adjoining property line, shall provide vegetative plantings, including a single row of evergreen trees on ten-foot centers that are a minimum of four feet at the time of planting, and a single row of deciduous trees spaced 30 feet apart that have a minimum two-inch caliper at the time of planting. An earth berm that is four feet in height and constructed on a slope of 3:1 shall be provided in addition to the vegetative plantings if the primary use of the adjoining property is residential. Parking and maneuvering areas may be established within the remainder of the buffer area, provided that all requirements of § 165-202.01D(13), Parking lot landscaping, are met.

- (b) A fifty-foot internal separation buffer between all support service land uses and related residential land uses meeting the vegetative planting and earth berm requirements specified in § 165-504.07C(1)(a) of this article.
  - (c) An internal residential separation buffer between detached, semi-detached, and all other related residential land uses containing a twenty-five-foot buffer with a single row of evergreen trees on ten-foot centers that are a minimum of four feet at the time of planting.
  - (d) Continuing-care retirement communities (as defined) shall be exempt from internal separation and internal residential separation buffers.
- (2) Master development planned area that is to be developed as individual parcels.
- (a) Buffer and screening requirements between all land uses which are not contained within the same categories identified in § 165-504.02B of this Part 504.
  - (b) All land uses required to provide buffers and screening internal to the MS (Medical Support) District shall meet the requirements of a B Category buffer as described in § 165-203.02 of this chapter; as well as all other applicable provisions of this section.
- (3) All parcels within the MS (Medical Support) District which adjoin parcels that are utilized for agricultural activities shall provide the following buffers:
- (a) A one-hundred-foot buffer adjacent to a parcel whose primary use is agriculture. Agricultural land use shall be considered to be any parcel zoned RA (Rural Areas) District whose primary use is not residential or orchard. A twenty-foot landscaped easement, measured from the adjoining property line, shall be provided which contains a single row of evergreen trees on ten-foot centers that are a minimum of four feet at the time of planting and an earth berm that is three feet in height and constructed on a slope of 3:1. Parking and maneuvering areas may be established within the remainder of the buffer area, provided that all requirements of § 165-202.01D(13), Parking lot landscaping, are met.
  - (b) A two-hundred-foot buffer adjacent to a parcel whose primary use is orchard. A forty-foot landscaped easement, measured from the adjoining property line, shall be provided which contains a double row of evergreen trees on ten-foot centers that are a minimum of four feet at the time of planting and an earth berm that is six feet in height and constructed on a slope of 3:1. Parking and maneuvering areas may be established within the remainder of the buffer area, provided that all requirements of § 165-202.01D(13), Parking lot landscaping, are met.
- (4) A road efficiency buffer meeting the requirements § 165-203.02E of this chapter shall be provided for all related residential land uses permitted in § 165-504.02B(5) of this article.

**§ 165-504.08 Sign regulations.**

A. Permitted signage.

- (1) Business signs.
- (2) Signs allowed in § 165-201.06B.
- (3) Multi-tenant complex signs.



(4) Freestanding building entrance signs.

- B. All business signs shall be monument-style signs that are a maximum of 12 feet in height. Business signs shall not exceed 100 square feet in area.
- C. All wall-mounted signs shall conform to § 165-201.06H(1) of this chapter.
- D. Signs setbacks shall conform to § 165-201.06E of this chapter, and sign spacing shall conform to § 165-201.06F of this chapter.
- E. Directional signs and on-site informational signs shall be set back a minimum of five feet from all urban collector streets, urban local streets, street intersections, and street entrances to provide for safe and adequate sight distance. Directional signs shall not exceed 50 square feet in area, and informational signs shall not exceed 20 square feet in area. Directional signs and informational signs shall be exempt from minimum spacing requirements between business signs and other directional signs.

**ARTICLE VI  
BUSINESS AND INDUSTRIAL ZONING DISTRICTS**

**Part 601 – Dimensional and Intensity Requirements**

**§ 165-601.01 Intent**

The following tables describe the business and industrial zoning districts in Frederick County, the intent of those districts and the uses allowed in each district. Standard industrial classification numbers are provided for particular uses to assist the Zoning Administrator in classifying uses. Determining whether a particular use should be classified under a particular category remains subject to interpretation on the part of the Zoning Administrator.

**§ 165-601.02 Dimensional and intensity requirements**

The following table describes the dimensional and intensity requirements for the business and industrial districts:

Requirement	District					
	B1	B2	B3	OM	M1	M2
Front yard setback on primary or arterial highways (feet)	50	50	50	50	75	75
Front yard setback on collector or minor streets (feet)	35	35	35	35	75	75
Side yard setbacks (feet)	-	-	15	15	25	25
Rear yard setbacks (feet)	-	-	15	15	25	25
Floor area to lot area ratio (FAR)	0.3	1.0	1.0	2.0	1.0	1.0
Minimum landscaped area (percentage of lot area)	35	15	25	15	25	15
Maximum height (feet)	35	35	35	60	60	60

**§ 165-601.03 Minimum landscaped area**

Minimum landscaped area. In the B2 Business General Zoning District, the Planning Commission may require that more than 15% of the area of a site shall be landscaped in order to meet the intent of this chapter.

Additional landscaped areas may be required to ensure that all unused areas are landscaped and to improve the general appearance and use of the site. In no case shall more than 25% of the site be required to be landscaped in the B2 Business General Zoning District.

**Part 602 – B1 Neighborhood Business District**

**§ 165-602.01 Intent.**

B1 Neighborhood Business District. The intent of this district is to provide small business areas to serve the daily household needs of surrounding residential neighborhoods. Uses allowed primarily consist of limited retailing and personal service uses. Business uses in this district should be small in size and should not produce substantial vehicle traffic in excess of what is usual in the residential neighborhoods.

**§ 165-602.02 Allowed Uses.**

Allowed Uses	Standard Industrial Classification (SIC)
Veterinary services for animal specialties (excluding horses), with all activities and animals kept within a fully enclosed primary structure	0742
Food stores	54
Apparel and accessory stores	56
Drugstores	591
Miscellaneous shopping goods stores	594
Finance, insurance and real estate offices	-
Personal services, except the following:	72
<i>Industrial launderers</i>	7217
Funeral homes and crematories	726
Car washes	7542
Videotape rental	784
Medical offices	801, 802, 803 and 804
Child day-care services	835
Civic, social and fraternal organizations	864
Public buildings	-
Public utility distribution facilities	-
Business signs	-
Signs allowed in § 165-201.06B	-
Freestanding building entrance signs	-
Multi-tenant complex signs	-
Electronic message signs	-
Residential uses which are accessory to allowed business uses	-

<b>Allowed Uses</b>	<b>Standard Industrial Classification (SIC)</b>
Parks	-
Churches	-
Restaurants	5812
Art dealers, art supplies and art framing	-
Fire stations, companies and rescue squads	-
Tobacco stores	5993
Accounting, auditing and bookkeeping services	--
Health clubs no larger than 10,000 square feet	7991

**Part 603 – B2 Business General District**

**§ 165-603.01 Intent.**

B2 Business General District. The intent of this district is to provide large areas for a variety of business, office and service uses. General business areas are located on arterial highways at major intersections and at interchange areas. Businesses allowed involve frequent and direct access by the general public but not heavy truck traffic on a constant basis other than that required for delivery of retail goods. General business areas should have direct access to major thoroughfares and should be properly separated from residential areas. Adequate frontage and depth should be provided, and access should be properly controlled to promote safety and orderly development. Nuisance factors are to be avoided.

**§ 165-603.02 Allowed Uses.**

Allowed uses shall be as follows:

<b>Allowed Uses</b>	<b>Standard Industrial Classification (SIC)</b>
Veterinary offices with all activities and animals kept within the fully enclosed primary structure, excluding the following:	074
Veterinary services livestock	0741
Animal specialty services, except veterinary, with all activities and animals kept within the fully enclosed primary structure	0752
Communication facilities and offices, including telephone, telegraph, radio, television and other communications, excluding the following:	48

	Communications services, not elsewhere classified	4899
	Paint, glass and wallpaper stores	523
	Hardware stores	525
	Retail nurseries and lawn and garden supply stores	526
	General merchandise stores	53
	Food stores, excluding the following:	54
	Fruit and vegetable stands	5431
	Automotive dealers and gasoline service stations	55
	Apparel and accessory stores	56
	Home furniture, furnishings and equipment stores	57
	Restaurants	58
	Miscellaneous retail, except for the following:	59
	Fuel dealers	598
	Finance, insurance and real estate offices	-
	Hotels and motels	701
	Organization hotels and lodging	704
	Personal services, including laundry and funeral services, excluding the following:	72
	<i>Linen supply</i>	7213
	<i>Dry cleaning plants</i>	7216
	<i>Industrial launderers</i>	7218
	<i>Escort services</i>	7299
	<i>Turkish baths</i>	7299
	<i>Steam baths</i>	7299
	Business services, excluding the following:	73
	<i>Outdoor ad services</i>	7312
	<i>Miscellaneous equipment rental</i>	735

	<i>Automobile recovery service</i>	7389
	<i>Automobile repossession service</i>	7389
	<i>Exhibits building of by industrial contractors</i>	7389
	<i>Filling of pressure containers (aerosol)</i>	7389
	<i>Gas systems contract conversion from manufactured to natural gas</i>	7389
	<i>Produce weighting service</i>	7389
	<i>Product sterilization service</i>	7389
	<i>Repossession service</i>	7389
	<i>Salvaging of damaged merchandise not engaged in sales</i>	7389
	<i>Scrap steel cutting</i>	7389
	Car washes	7542
	Miscellaneous repair services, excluding the following:	76
	<i>Welding repair</i>	7692
	<i>Agricultural equipment repair</i>	7699
	<i>Blacksmith shops</i>	7699
	<i>Boiler cleaning and repair</i>	7699
	<i>Cesspool cleaning</i>	7699
	<i>Coppersmithing</i>	7699
	<i>Dental and medical instrument repair</i>	7699
	<i>Engine repair</i>	7699
	<i>Farm machinery and tractor repair</i>	7699
	<i>Farriers</i>	7699
	<i>Horseshoeing</i>	7699
	<i>Industrial truck repair</i>	7699
	<i>Laboratory instrument repair</i>	7699
	<i>Machinery cleaning</i>	7699

	<i>Measuring and controlling instrument repair; mechanical</i>	7699
	<i>Meteorological instrument repair</i>	7699
	<i>Precision instrument repair</i>	7699
	<i>Repair of optical instruments</i>	7699
	<i>Repair of service station equipment</i>	7699
	<i>Scale repair service</i>	7699
	<i>Septic tank cleaning service</i>	7699
	<i>Sewer cleaning service</i>	7699
	<i>Surgical instrument repair</i>	7699
	<i>Tank and boiler cleaning service</i>	7699
	<i>Tank truck cleaning service</i>	7699
	<i>Taxidermists</i>	7699
	<i>Tinsmithing</i>	7699
	Motion picture theaters, except drive-in	7832
	Videotape rental	784
	Amusement and recreation services operated indoors	79
	Golf driving ranges and miniature golf courses	7999
	Health services	80
	Legal services	81
	Child day-care facilities	8351
	Membership organizations	86
	Engineering, accounting, research, management and related services, excluding the following:	87
	<i>Testing laboratories</i>	8734
	General business offices	-
	Model home sales offices	-
	Self-service storage facilities	-

Public buildings	-
Public utility distribution facilities	-
Business signs	-
Signs allowed in § 165-201.06B	-
Freestanding building entrance signs	-
Multi-tenant complex signs	-
Electronic message signs	-
Residential uses which are accessory to allowed business uses	-
Parks	-
Churches	-
Libraries	-
Electrical supplies	506
Hardware and plumbing and heating equipment	507
Commercial batting cages operated outdoors	-
Fire stations, companies and rescue squads	-
Commercial sport and recreation clubs	--
Social services, except for the following:	83
Residential care	836

**§ 165-603.03 Conditional Uses.**

Uses permitted with a conditional use permit shall be as follows:

<b>Conditional Uses</b>		<b>Standard Industrial Classification (SIC)</b>
Adult retail uses meeting the minimum requirements of this chapter, any conditions imposed by the Board of Supervisors, and with the following minimum conditions:		-----
(a)	Such uses shall be located at least 2,500 feet from the property line of existing adult retail uses, schools, churches, parks, day-care facilities and residential uses and districts.	



(b)	Such uses shall not be permitted in shopping centers and/or multi-tenant buildings.	
(c)	All merchandise display areas shall be limited to enclosed structures and shall not be visible from the outside.	
(d)	Business signs shall not exceed a maximum of 25 square feet. No wall- mounted signs or window displays shall be permitted.	
(e)	Hours of operation shall be limited to between 9:00 a.m. and 11:00 p.m.	

**Part 604 – B3 Industrial Transition District**

**§ 165-604.01 Intent.**

B3 Industrial Transition District. The intent of this district is to provide for heavy commercial activities, involving larger scale marketing or wholesaling, in locations that are separate from but in the vicinity of business and industrial areas. In some cases, such areas may be transitional, located between business and industrial areas. In these areas, there will be a mixture of automobile and truck traffic. Some of the uses in this district will require large areas of land and may have outdoor storage and display. It is intended that the uses in this district shall not be sources of noise, dust, smoke or other nuisances. Such industrial transition areas shall be provided with safe and sufficient access.

**§ 165-604.02 Allowed Uses.**

<b>Allowed Uses</b>	<b>Standard Industrial Classification (SIC)</b>
Veterinary services with all activities and animals kept within the fully enclosed primary structure	074
Animal specialty services, except veterinary, with all activities and animals kept within the fully enclosed primary structure	752
Landscape and horticultural services	078
Offices and storage facilities for building construction contractors, heavy construction contractors and special trade contractors	15, 16 and 17
Commercial printing	275
Local and suburban transit and interurban highway passenger transportation	41
Motor freight transportation and warehousing	42
Transportation by air	45
Transportation services	47

Allowed Uses	Standard Industrial Classification (SIC)	
Communication facilities and offices, including telephone, telegraph, radio, television and other communications		48
Electric, gas and other utility facilities and offices and trucking and warehousing, excluding the following:		49
	<i>Sanitary services</i>	495
Advertising specialties - wholesale		5199
Building materials, hardware, garden supply, mobile home dealers and retail nurseries		52
Automotive dealers and gasoline service stations		55
Wholesale trade businesses		-
Food stores		5411
Restaurants		58
Laundry, dry-cleaning and garment services, excluding the following:		721
	<i>Coin-operated laundries</i>	7215
	<i>Linen supply</i>	7213
	<i>Dry-cleaning plants</i>	7216
Business services		73
Automotive repair, services and parking		75
Miscellaneous repair services		76
Drive-in motion picture theaters		7833
Amusement and recreation services operated indoors		79
Self-service storage facilities		-
Vocational schools		824
Business associations		861
Professional membership organizations		862
Labor unions and similar labor organizations		863
Engineering, accounting, research, management and related services		87

<b>Allowed Uses</b>	<b>Standard Industrial Classification (SIC)</b>
Testing laboratories	8734
General business offices	-
Model home sales office	-
Accessory retailing	-
Public buildings	-
Public utility distribution facilities	-
Business signs	-
Signs allowed in § 165-201.06B	-
Freestanding building entrance signs	-
Multi-tenant complex signs	-
Electronic message signs	-
Residential uses which are accessory to allowed business uses	-
Parks	-
Flex-Tech	-
Fire stations, companies and rescue squads	-

**Part 605 – OM Office-Manufacturing Park District**

**§ 165-605.01 Intent.**

Office-Manufacturing (OM) Park District. The intent of this district is to implement the mixed-use industrial/office land use classification of the Comprehensive Policy Plan. The OM Park District is designed to provide areas for research-and-development centers, office parks, and minimal-impact industrial and assembly uses. Uses are allowed which do not create noise, smoke, dust or other hazards. This district shall be located in a campus-like atmosphere near major transportation facilities.

**§ 165-605.02 Permitted Uses.**

Permitted uses.

<b>Permitted Uses</b>	<b>Standard Industrial Classification (SIC)</b>
Furniture and related product manufacturing	25

Paperboard Containers and Boxes	265
Publishing industries	27
Pharmaceutical and medicine manufacturing	283
Excluding uses in italics:	
<i>Tires and inner tubes</i>	3011
Rubber and miscellaneous plastics manufacturing	30
Fabricated metal products	34
Industrial and commercial machinery and computer equipment manufacturing	35
Electronics and other electrical equipment and components manufacturing	36
Excluding uses in italics:	
<i>Storage batteries</i>	3691
<i>Primary batteries</i>	3692
Aircraft and parts manufacturing	372
Medical equipment and supplies manufacturing	38
Radio and Television Broadcasting Stations	483
Cable and Other Pay Television Services	484
Central Reserve Depository Institutions	601
Savings Institutions	603
Mortgage Bankers and Brokers	616
Nondepository Credit Institutions	61
Security and Commodity Brokers, Dealers, Exchanges, and Services	62
Insurance Carriers and Services	63-64
Real Estate	65
Holding and Other Investment Offices	67
Advertisement Agencies	731

Consumer Credit Reporting Agencies	732
Direct Mailing Services	733
Excluding the following: <i>Photocopying and Duplicating Services</i>	7334
Employment services	736
Computer programming, data processing, and other computer-related services	737
News Syndicates	7383
Doctors Offices and Clinics	801-804
Medical and Dental Laboratories	807
Legal services	81
Engineering, accounting, research management, and related services	87
Public administration	91-97
General Business Offices, including corporate, government or other offices not providing services to the general public on a regular basis as the primary use	---
Business signs	---
Signs allowed in § 165-201.06B	---
Freestanding building entrance signs	---
Multi-tenant complex signs	---
Electronic message signs	---

**§ 165-605.03 Secondary or Accessory Uses.**

Secondary or accessory uses. The following uses shall be permitted by right in the OM Park District but only in conjunction with and secondary to a permitted principal use in accordance with § 165-201.05.

Secondary Uses	Standard Industrial Classification (SIC)
Eating and drinking places, Except the following:	58
<i>Restaurants with drive-through uses</i>	---
<i>Food services contractors</i>	5821
<i>Caterers</i>	5821
<i>Mobile food services</i>	---
<i>Drinking places</i>	5813
Commercial banks	602
Credit Unions	606
Foreign Banks	608
Depository Banking Related Uses	609
Except the following: <i>Check cashing agencies</i> <i>Money order issuance</i> <i>Travelers' check issuance</i>	6099 6099 6099
Photocopying and Duplicating Services	7334
Office machinery and equipment rental and leasing	7359
Physical fitness facilities for employees	7991
Child day-care services	8351
Office machine repair and maintenance	7629
Dry-cleaning and laundry services, Except the following:	721
<i>Linen supply</i>	7213
<i>Dry-cleaning plants</i>	7216

<i>Industrial laundrerers</i>	7218
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**§ 165-605.04 Design Requirements.**

- A. Minimum size. No OM Park District rezoning shall be approved for less than 10 contiguous acres.
  - [1] There shall be no minimum lot size.
  - [2] There shall be no minimum lot width or depth.
  
- B. Development standards. The following standards shall apply in the OM Park District:
  - [1] This district shall be planned and developed with a harmonious coordination of uses, architectural styles, landscaping, parking, signs and outdoor lighting.
  - [2] This district shall be developed with a campus-like atmosphere and near major transportation facilities.
  - [3] Any building shall be faced on all sides facing road rights-of-way with durable, attractive, high-quality materials, comparable to clay, brick, stone, wood, architectural concrete masonry unit (e.g., regal stone, split face, precision, ground face) or precast concrete panels.
  - [4] Loading docks or loading entrances shall be blocked from view from public streets by utilizing board-on-board fencing, masonry walls, or evergreen tree plantings.
  - [5] Outdoor storage shall be prohibited.
  - [6] All OM Park Districts shall have access to a state road.
  
- C. The maximum structural height for office buildings shall not exceed 90 feet; the height for all other uses shall be regulated by § 165-601.02 and § 165-201.03.
  
- D. The maximum structural height for automobile parking structures shall not exceed 70 feet.

**Part 606 – M1 Light Industrial District**

**§ 165-606.01 Intent.**

M1 Light Industrial District. The intent of this district is to provide for a variety of light manufacturing, commercial office and heavy commercial uses in well-planned industrial settings. Uses are allowed which do not create noise, smoke, dust or other hazards. Uses are allowed which do not adversely affect nearby residential or business areas. Such industrial areas shall be provided with safe and sufficient access.

**§ 165-606.02 Allowed Uses.**

Allowed Uses		Standard Industrial Classification (SIC)
Landscape and horticultural services		078
Offices and storage facilities for building construction contractors, heavy construction contractors and special trade contractors		15, 16 and 17
Manufacturing as follows:		--
Dairy products		202
Canned, frozen and preserved fruits, vegetables and soup mixes		203
Bakery products		205
Sugar and confectionary products		206
Bottled and canned soft drinks and carbonated water		2086
Flavoring extracts and flavoring syrups		2087
Miscellaneous food preparations and products, excluding the following:		209
	<i>Canned and cured fish and seafood</i>	<i>2091</i>
	<i>Fresh or frozen fish and seafood</i>	<i>2092</i>
Textile mill products		22
Apparel or other finished products made from fabrics and similar material		23
Lumber and wood products, excluding the following:		24
	<i>Logging</i>	<i>241</i>
	<i>Sawmills and planing mills</i>	<i>242</i>
	<i>Wood preserving</i>	<i>2491</i>



Allowed Uses	Standard Industrial Classification (SIC)
Furniture and fixtures	25
Paperboard containers and boxes	265
Converted paper and paperboard products, except containers and boxes	267
Printing, publishing and allied industries	27
Drugs	283
Rubber and miscellaneous plastics products	30
Concrete block and brick and related products	3271
Fabricated metal products, excluding the following:	34
	<i>Coating, engraving and allied services</i>
	<i>Ammunition, Except for Small Arms</i>
	<i>Ordnance and Accessories, not elsewhere classified</i>
Industrial and commercial machinery and computer equipment	35
Electronics and other electrical equipment and components, excluding the following:	36
	<i>Storage batteries</i>
	<i>Primary batteries</i>
Transportation equipment	37
Measuring, analyzing and controlling instruments; photographic, medical and optical goods; and watches and clocks	38
Miscellaneous manufacturing industries	39
Local and suburban transit and interurban highway passenger transportation	41
Motor freight transportation and warehousing	42
Transportation by air	45
Transportation services	47
Communication facilities and offices, including telephone,	48

Allowed Uses	Standard Industrial Classification (SIC)
telegraph, radio, television and other communications	
Electric, gas and other utility facilities and offices and trucking and warehousing	49
Wholesale trade	-
Advertising specialties - wholesale	5199
Restaurants	58
Linen supply	7213
Dry cleaning plants	7216
Business services	73
Truck rental and leasing, without drivers	7513
Tire retreading	7534
Welding repair	7692
Agricultural equipment repair	7699
Boiler cleaning and repair	7699
Cesspool cleaning	7699
Coppersmithing	7699
Engine repair	7699
Farm machinery and tractor repair	7699
Industrial truck repair	7699
Machinery cleaning	7699
Measuring and controlling instrument repair; mechanical	7699
Meteorological instrument repair	7699
Precision instrument repair	7699
Repair of optical instruments	7699
Repair of service station equipment	7699

Allowed Uses	Standard Industrial Classification (SIC)
Scale repair service	7699
Septic tank cleaning service	7699
Sewer cleaning service	7699
Tank and boiler cleaning service	7699
Tank truck cleaning service	7699
Tinsmithing	7699
Vocational schools	824
Business associations	861
Professional membership organizations	862
Labor unions and similar labor organizations	863
Engineering, accounting, research, management and related services	87
Testing laboratories	8734
General business offices, including corporate, government or other offices not providing services to the general public on a regular basis as the primary use	--
Accessory retailing	--
Public buildings	--
Public utility distribution facilities	--
Business signs	--
Signs allowed in § 165-201.06B	--
Freestanding building entrance signs	--
Multi-tenant complex signs	--
Electronic message signs	--
Residential uses which are accessory to allowed business uses	--
Parks	--

<b>Allowed Uses</b>	<b>Standard Industrial Classification (SIC)</b>
Regional criminal justice, enforcement and detention facilities for Frederick County, Clarke County and the City of Winchester	--
Industrial launderers	7218
Truck or fleet maintenance facilities	--
Self-service storage facilities	--
Flex-Tech	--
Fire stations, companies and rescue squads	--

**Part 607 – M2 Industrial General District**

**§ 165-607.01 Intent.**

M2 Industrial General District. The intent of this district is to provide for a wide variety of manufacturing, commercial office and heavy commercial uses, including those which may not be compatible with nearby residential and business areas. Performance controls are used to control potential nuisances, especially in relation to zoning district boundaries. Such industrial areas shall be provided with safe and sufficient access.

**§ 165-607.02 Allowed Uses.**

<b>Allowed Uses</b>	<b>Standard Industrial Classification (SIC)</b>
All uses allowed in the M1 Light Industrial District	
Additional manufacturing as follows:	
Meat products	201
Grain mill products	204
Fats and oils	207
Beverages, including alcoholic beverages	208
Canned and cured fish and seafood	2091
Fresh or frozen fish and seafood	2092
Tobacco products	21
Logging	241
Sawmills and planing mills	242

Allowed Uses	Standard Industrial Classification (SIC)	
Wood preserving		2491
Paper and allied products		26
Chemicals and allied products		28
Petroleum refining and related industries		29
Leather and leather products		31
Stone, clay, glass and concrete products, excluding the following		32
	<i>Asbestos products</i>	3292
Primary metal industry		33
Coating, engraving and allied services		347
Ordinance and accessories		348
Storage batteries		3691
Primary batteries		3692
Communication services, not elsewhere classified		4899
Electric, gas, and sanitary services		49
Fuel dealers		598
Gas systems contract conversion from manufactured to natural gas		7389
Automotive repair, services and parking		75
Junkyards and automobile graveyards		--
Recycling operations		--
Manufacturing or wholesaling of explosives		--
Incinerators		--
Steam power plants		--
Heavy equipment storage yards		--
Flex-Tech		--

## **Part 608 – EM Extractive Manufacturing District**

### **§ 165-608.01 Intent.**

The intent of the Extractive Manufacturing District is to provide for mining and related industries, all of which rely on the extraction of natural resources. Provisions and performance standards are provided to protect surrounding uses from adverse impacts. It is also the intent of this article to avoid the encroachment of incompatible uses on the borders of the EM District.

### **§ 165-608.02 Permitted uses.**

The following uses shall be allowed:

- A. Surface or subsurface mining of rock, metal and nonmetallic ores.
- B. Oil and natural gas extraction and/or pumping, including storage of production produced on the site. No refining is allowed.
- C. Sand and gravel mining and processing.
- D. Crushed stone operations.
- E. Manufacture and processing of cement, lime and gypsum.
- F. Asphalt and concrete mixing plants.
- G. Brick, block and precast concrete products.
- H. Farming, agriculture, orchards, nurseries, horticulture, dairying and forestry.
- I. Accessory uses.
- J. Business signs.
- K. Public utilities, including poles, lines, distribution transformers, pipes, meters and sewer facilities.
- L. Signs allowed in § 165-201.06B.
- M. Freestanding building entrance signs.

### **§ 165-608.03 Performance standards.**

All uses shall conform to applicable state or federal regulations governing noise and vibration. The Zoning Administrator may require the submission of a copy of data submitted to state or federal agencies pertaining to these performance standards with the required site plan.

### **§ 165-608.04 Landscaping.**

Appropriate landscaping or screening may be required by the Zoning Administrator or Planning Commission within any required yard setback area in order to reasonably protect adjacent uses from noise, sight, dust or other adverse impacts.

**§ 165-608.05 Setback and yard requirements.**

A. Front setback.

- (1) All principle and accessory structures shall be set back 75 feet from any road, street or highway right-of-way.
- (2) Excavations shall be no closer than one hundred feet from any road, street or highway right-of-way. The Planning Commission may reduce the required front setback for excavation to 50 feet if it determines that, through the use of measures, such as landscaping or screening, the effective protection afforded to adjacent properties has not been reduced.

B. Side and rear setbacks. All principle and accessory structures shall be set back at least 25 feet from any side or rear property boundary.

- (1) No structure shall be closer than 100 feet from any property line zoned RA, RP, R4, R5 or MH1. The Planning Commission may reduce this required setback to 50 feet if it determines that, through the use of measures, such as landscaping or screening, the effective protection afforded to adjacent properties has not been reduced.
- (2) Excavations shall be no closer than one hundred feet from any property zoned RA, RP, R4, R5 or MH1. No excavation shall be located closer than 200 feet from any dwelling or platted residential subdivision. The Planning Commission may reduce these required setbacks to 50 feet if it determines that, through the use of measures, such as landscaping or screening, the effective protection afforded to adjacent properties has not been reduced.
- (3) All crushing or screening machinery shall be set back at least 300 feet from any property boundary. If such equipment is fully enclosed within a building which maintains the effective protection afforded adjacent properties, the Planning Commission may reduce this yard requirement to a minimum of 200 feet.

**§ 165-608.06 Height limitations.**

No structure shall exceed 45 feet in height.

**§ 165-608.07 Additional requirements.**

All uses in the EM District must conform with all state, federal and local regulations. All mining operators shall submit to the Zoning Administrator a copy of the operations plan required by state agencies with the required site plan.

**Part 609 – HE Higher Education District**

**§ 165-609.01 Intent.**

The HE Higher Education District is intended to permit institutions of higher education in appropriate areas. It is intended that uses in this district be properly separated from different uses in adjoining districts.

**§ 165-609.02 Permitted uses.**

Structures to be erected or land to be used shall be for one or more of the following uses:

- A. Institutions of higher education.
- B. Utilities necessary to serve allowed uses, including poles, lines, distribution transformers, pipes and meters.

- C. Accessory uses and structures.
- D. Off-street parking and loading.
- E. Business signs.
- F. Signs allowed in § 165-201.06B.
- G. Freestanding building entrance signs.

**§ 165-609.03 Yard requirements.**

- A. Structures shall be located 35 feet from any highway, street or road right-of-way.
- B. The minimum side yard for all structures shall be 15 feet.
- C. The minimum rear yard for all structures shall be 25 feet.

**§ 165-609.04 Buffers and screening.**

- A. The Planning Commission may require distance buffers, as defined in § 165-203.02A of this chapter, on lots which abut land in any residential district or land in other zoning districts which are predominantly residential in nature. The size of the distance buffers shall be based on the amount of separation needed.
- B. The Planning Commission may require landscaped screens or full landscaping, as defined by § 165-203.02B of this chapter, to separate uses in this district from adjoining residential uses and to achieve the intentions of this chapter.

**§ 165-609.05 Height limitation.**

Buildings, signs and structures may be erected up to 45 feet in height.



**ARTICLE VII  
OVERLAY DISTRICTS**

**Part 701 – AP1 Airport District**

**§ 165-701.01 Intent.**

The AP1 Airport District is intended to ensure the complete safety of the Winchester Regional Airport. It is intended to prevent the encroachment of airport hazards and requires existing potential airport hazards to be removed, altered, marked or lighted as deemed necessary by the Executive Director of the Winchester Regional Airport Authority. This article also provides for noise easements and noise abatement to protect adjoining zones from the exposure of airport noise.

**§ 165-701.02 Airport safety zones.**

A. In order to carry out the provisions of this district, zones are established which include all of the land and airspace of Frederick County with elevations equal to and above the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces as they apply to the Winchester Regional Airport. These zones are established as overlay zones and are shown on the County Map which is part of this chapter. The various zones are hereby established as follows:

- (1) Airport Zone. A zone that is centered about the runway and primary surface, with the floor set by the horizontal surface.
- (2) Approach Zone. A zone that extends away from both ends of the runway along the extended runway center line, with the floor set by the approach surface.
- (3) Conical Zone. A zone that circles around the periphery of and outward from the horizontal surface, with the floor set by the conical surface.
- (4) Horizontal Zone. A zone established as the area within the conical zone, with its center at the airport reference point and having a radius of 7,000 feet.
- (5) Transitional Zone. A zone that fans perpendicularly from the runway center line and approach surfaces, with the floor set by the transitional surface.

B. The source of the specific geometric standards for these zones are to be found in Part 77.25, Subchapter E, Airspace, of Title 14 of the Code of Federal Regulations or in successor Federal Regulations.

**§ 165-701.03 Height limitations.**

Except as otherwise provided in this district, no structure shall be erected, altered or maintained and no vegetation shall be allowed to grow in any zone created by this chapter to a height in excess of the height limit established for each zone, Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail. Such height limitations are hereby established for each of the zones in question as follows:

- A. Approach Zone: one foot in height for each 50 feet in horizontal distance beginning at a point 200 feet from and at the center-line elevation of the end of the runway and extending to a distance of 10,200 feet from the end of the runway; thence one foot in height for each 40 feet in horizontal distance to a point 50,200 feet from the end of the runway.
- B. Conical Zone: one foot in height for each 20 feet of horizontal distance, beginning at the periphery of the horizontal zone, extending to a height of 1,122.5 feet above the airport elevation.

- C. Horizontal Zone: 150 feet above the airport elevation or a height of 870 feet above mean sea level.
- D. Transitional Zone: one foot in height for each seven feet in horizontal distance, extending 200 feet beyond each end of the center line of the runway, extending to a height of 150 feet above the airport elevation, which is 720 feet above mean sea level. In addition to the foregoing, there are established height limits of one foot vertical height for each seven feet of horizontal distance measured from the edges of all approach zones for the entire length of the approach zones and extending upward and outward to the points where they intersect the horizontal or conical surfaces. Further, where the approach zone projects through and beyond the conical zone, a height limit of one foot for each seven feet of horizontal distance shall be maintained beginning at the edge of the approach zone and extending a distance of 5,000 feet from the edge of the approach zone measured normal to the center line of the runway extended.

**§ 165-701.04 Use restrictions.**

No permit shall be granted that would allow the establishment or creation of an airport hazard or a hazard to air navigation. Any permit granted in the airport zones may be conditioned to require the owner of the structure in question to install, operate and maintain, at the owner's expense, such markings and lights as may be deemed necessary by the FAA, the Virginia Department of Aviation or the Zoning Administrator. Notwithstanding any other provisions of this district and within the area below the horizontal limits of any zone established by this article, no use may be made of land or water within any zone established by this chapter in such a manner as to:

- A. Create electrical interference with navigational signals or radio communication between the airport and aircraft;
- B. Diminish the ability of pilots to distinguish between airport lights and other lights;
- C. Result in glare in the eyes of pilots using the airport;
- D. Impair visibility in the vicinity of the airport;
- E. Create the potential for bird strike hazards; or
- F. Otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.

**§ 165-701.05 Noise.**

- A. Noise abatement. The Executive Director of the Winchester Regional Airport Authority shall provide the County with a noise abatement plan that will be shown on a day-night average sound level (LDN) map. This map will provide the County with all land that is encompassed within zones of 65 LDN and above. It shall be the responsibility of the Planning Department to keep and maintain these LDN maps, as well as review all requests for development that fall within the LDN zones to determine the noise impacts on said development.
- B. Noise easements. It shall be the responsibility of the developer to provide a noise easement for any development that occurs within the noise abatement zones specified on the day-night average sound level (LDN) map. This noise easement shall hold harmless the Winchester Regional Airport from any lawsuit regarding noise pollution for any development that occurs within the specified LDN map zones described above. This noise easement shall be required for said development after the effective date of this chapter.

**§ 165-701.06 Nonconforming uses.**

- A. Notwithstanding the provisions for nonconforming uses as established by this chapter, the owner of any existing nonconforming structure or vegetation is hereby required to permit the installation, operation and maintenance of markers and lights as deemed necessary by the FAA, the Virginia Department of Aviation, the Executive Director of the Winchester Regional Airport Authority or the Zoning Administrator to indicate to operators of aircraft the presence of that airport obstruction. These markers and lights shall be installed, operated and maintained at the expense of the airport owners and not the owner of the nonconforming structure or vegetation in question.
- B. No permit shall be granted that would allow a nonconforming use, structure or vegetation to be made or become higher or to become a greater hazard to air navigation than it was on the effective date of this chapter or any amendments thereto or than it is when the application for a permit is made.
- C. Whenever the Zoning Administrator determines that a nonconforming structure or vegetation has been abandoned or more than 50% torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or vegetation to exceed the applicable height limit or otherwise deviate from the airport district regulations contained in this article.

#### **§ 165-701.07 Appeals**

- A. Prior to being considered by the Board of Zoning Appeals, the application for a variance from the requirements of the Airport District shall be accompanied by a determination from the Virginia Department of Aviation as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall only be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice and will be in accordance to the spirit of this chapter. Additionally, no application for a variance to the requirements of this chapter may be considered by the Board of Zoning Appeals unless a copy of the application has been furnished to the Executive Director of the Winchester Regional Airport Authority for advice as to the aeronautical effects of the variance.
- B. Any variance granted may be conditioned to require the owner of the structure in question to install, operate and maintain, at the owner's expense, such markings and lights as may be deemed necessary by the FAA, the Virginia Department of Aviation or the Zoning Administrator. If deemed proper with reasonable cause by the Board of Zoning Appeals, this condition may be modified to require the owner of the structure in question to permit the airport owner, at the airport owner's expense, to install, operate and maintain the necessary markings and lights.

#### **Part 702 – FP Floodplain Districts**

##### **§ 165-702.01. Purpose.**

The purpose of these provisions are to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- A. Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
- B. Restricting or prohibiting certain uses, activities, and development from locating within districts

subject to flooding;

- C. Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and,
- D. Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

**§ 165-702.02. Applicability.**

These provisions shall apply to all lands within the jurisdiction of Frederick County and identified as being in the 100-year floodplain by the Federal Insurance Administration.

**§ 165-702.03. Compliance and Liability.**

- A. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this chapter and any other applicable regulations which apply to uses within the jurisdiction of this chapter.
- B. The degree of flood protection sought by the provisions of this chapter is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that districts outside the floodplain district, or that land uses permitted within such district, will be free from flooding or flood damages.
- C. Records of actions associated with administering this chapter shall be kept on file and maintained by the Frederick County Zoning Administrator.
- D. This chapter shall not create liability on the part of Frederick County or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

**§ 165-702.04. Abrogation and Greater Restrictions.**

This chapter supersedes any ordinance currently in effect in flood-prone districts. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this chapter.

**§ 165-702.05. Severability.**

If any section, subsection, paragraph, sentence, clause, or phrase of this Part 702 shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this Part 702. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this chapter are hereby declared to be severable.

**§ 165-702.06. Description of Districts.**

- A. Basis of districts. The various floodplain districts shall include areas subject to inundation by waters of the one-hundred-year flood. The basis for the delineation of these districts shall be the Flood Insurance Rate Maps (FIRM) for Frederick County prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 2, 2009, as amended.

- (1) The Floodway District is delineated for purposes of this article using the criteria that certain areas within the floodplain must be capable of carrying the waters of the one-hundred (100)-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table 2 of the above-referenced Flood Insurance Study and shown on the accompanying Flood Boundary and Floodway Map or Flood Insurance Rate Maps.
- (2) The Special Floodplain District shall be those areas identified as an AE Zone on the maps accompanying the Flood Insurance Study for which one hundred (100)-year flood elevations have been provided. The basis for the outermost boundary of this district shall be the one-hundred-year flood elevations contained in the flood profiles of the above-referenced Flood Insurance Study and shown on the accompanying Flood Insurance Rate Maps.
- (3) The Approximated Floodplain District shall be those areas identified as an A Zone on the maps accompanying the Flood Insurance Studies. In these zones, no detailed flood profiles or elevations are provided, but the one hundred year floodplain boundary has been approximated.

B. Overlay concept.

- (1) The floodplain districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Maps, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.
- (2) Where there happens to be any conflict between the provisions or requirements of any of the floodplain districts and those of any underlying district, those pertaining to the floodplain districts shall apply.
- (3) In the event that any provision concerning a floodplain district is declared inapplicable as a result of any legislative or administrative actions or judicial discretion, the basis underlying district provisions shall remain applicable.

**§ 165-702.07. Flood Insurance Rate Map.**

The boundaries of the Special Flood Hazard Area and Floodplain Districts are established as shown on the Flood Insurance Rate Map, which are by reference made a part of this chapter and which shall be kept on file at the Frederick County offices.

**§ 165-702.08. District boundary changes.**

The delineation of any of the floodplain districts may be revised by Frederick County where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the United States Army Corps of Engineers or other qualified agency or individual documenting the necessity for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

**§ 165-702.09. Interpretation of District Boundaries.**

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the

location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

**§ 165-702.10. Permit and Application Requirements.**

- A. Permit Requirement. All development and/or construction activities occurring within any floodplain district shall be undertaken only upon the issuance of a permit. Such development and/or construction activities shall be undertaken only in strict compliance with the provisions of this chapter and with all other applicable codes and regulations, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC), the Frederick County Zoning and Subdivision Ordinances and the Erosion and Sediment Control Ordinance. Prior to the issuance of any such permit, the Zoning Administrator shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, development and/or construction activities adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.
  - 1. In circumstances where a permit is not required, all development and/or construction activities occurring within any floodplain district shall be undertaken only upon approval by the Zoning Administrator.
  
- B. Alteration or Relocation of a Watercourse. Prior to any proposed alteration or relocation of any channel or of any watercourse within this jurisdiction, a permit shall be obtained from the U. S. Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any one of these organizations). Further notification of the proposal shall be given to all adjacent jurisdictions, the Division of Dam Safety and Floodplain Management (Department of Conservation and Recreation), and the Federal Insurance Administration.
  
- C. Site Plans and Permit Applications. All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:
  - 1. The elevation of the Base Flood at the site.
  - 2. The elevation of the lowest floor (including basement).
  - 3. For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.
  - 4. The elevation of the one-hundred-year flood.
  - 5. Topographic information showing existing and proposed ground elevations.

**§ 165-702.11. General Standards for all Special Flood Hazard Areas.**

In all special flood hazard areas the following provisions shall apply:

- A. New construction and substantial improvements shall be according to the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.
  
- B. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

- C. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- D. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- E. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- I. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this chapter shall meet the requirements of "new construction" as contained in this chapter.
- J. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this chapter, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.
- K. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction, a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission. Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and the Federal Insurance Administration.
- L. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

**§ 165-702.12. Specific Standards.**

In all special flood hazard areas where base flood elevations have been provided in the Flood Insurance Study or generated according to §165-702.13A, the following provisions shall apply:

- A. Residential Construction. New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than one (1) foot above the base flood elevation.
- B. Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one (1) foot above the base flood elevation. Buildings located in all A, and AE zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

C. Elevated Buildings. Enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

1. Not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
2. Be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
3. Include, in Zones A, AO, and AE, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
  - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
  - b. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
  - c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
  - d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
  - e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
  - f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

D. Standards for Manufactured Homes and Recreational Vehicles

1. All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must meet all the requirements for new construction, including the elevation and anchoring requirements in § 165-702.11A and B, and § 165-702.12A.
2. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision in which a manufactured home has not incurred substantial damage as the result of a flood shall be elevated so that either
  - a. The lowest floor of the manufactured home is elevated no lower than one (1) foot above the base flood elevation; or
  - b. The manufactured home chassis is supported by reinforced piers or other foundation



elements of at least equivalent strength that are no less than 36 inches in height above grade; or

- c. And be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement.
3. All recreational vehicles placed on sites must either:
    - a. be on the site for fewer than 180 consecutive days;
    - b. be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or
    - c. Meet all the requirements for manufactured homes in § 165-702.12D.

**§ 165-702.13. Standards for the Floodway District.**

The following provisions shall apply within the Floodway District:

- A. Encroachments, including fill, new construction, substantial improvements or other development, shall be prohibited unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood.
  1. Development activities which increase the water surface elevation of the base flood may be allowed, provided that the developer first applies, with the Frederick County's endorsement, for a conditional Flood Insurance Rate Map and floodway revision, and receives the approval of the Federal Emergency Management Agency.
  2. The following uses shall also be permitted in the Floodway District:
    - a) Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.
    - b) Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, hiking and horseback riding trails, wildlife and natural preserves, game farms, fish hatcheries, trap and skeet game ranges and hunting and fishing areas.
    - c) Accessory residential uses, such as yard areas, gardens, play areas and pervious loading areas.
- B. If §165-702.15A is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this ordinance.
- C. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured home (mobile home) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.
- D. In the Floodway District, a conditional use permit shall be required for accessory industrial and commercial uses, such as yard areas, pervious parking and loading areas, airport landing strips and other similar uses and activities, provided that they cause no increase in flood heights and/or velocities. All uses, activities and structural developments shall be undertaken in strict compliance with the floodproofing provisions contained in all other applicable codes and regulations.

**§ 165-702.14. Standards for the Special Floodplain District.**

The following provisions shall apply within the Special Floodplain District:

- A. Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A and AE on the Flood Insurance Rate Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within Frederick County.
- B. Development activities in Zones A and AE, on the Frederick County Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer or applicant first applies, with Frederick County's endorsement, for a conditional Flood Insurance Rate Map revision, and receives the approval of the Federal Emergency Management Agency.

**§ 165-702.15. Standards for Approximated Floodplain District.**

The following provisions shall apply with the Approximate Floodplain District:

- A. The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one hundred-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred-year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Frederick County Engineer.
- B. When such base flood elevation data is utilized, the lowest floor shall be one (1) foot above the base flood elevation. During the permitting process, the developer or applicant shall obtain:
  - 1) The elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,
  - 2) If the structure has been flood-proofed in accordance with the requirements of this Part 702, the elevation to which the structure has been flood-proofed.

**§ 165-702.16. Standards for Subdivision Proposals.**

- A. All subdivision proposals shall be consistent with the need to minimize flood damage.
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

**§ 165-702.17. Design criteria for utilities and facilities.**

- A. New sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) are prohibited in the Special Flood Hazard Areas and Floodplain Districts.
- B. Replacement sanitary sewer facilities and private package sewer treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into the floodwaters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.
- C. All new or replacement water facilities shall be designed to minimize or eliminate infiltration of floodwaters into the systems and be located and constructed to minimize or eliminate flood damages.
- D. All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from building and on-site waste disposal sites. The Board of Supervisors may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.
- E. All utilities, such as gaslines, electrical and telephone systems, being placed in flood-prone areas should be elevated (where possible) and constructed to minimize the change of impairment during a flooding occurrence.

**§ 165-702.18. Factors to be considered in granting variances.**

- A. In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of this chapter and consider the following additional factors:
  - (1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development or activity within any Floodway District that will cause any increase in the one-hundred-year flood elevation.
  - (2) The danger that materials may be swept on to other lands or downstream to the injury of others.
  - (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
  - (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
  - (5) The importance of the services provided by the proposed facility to the community.
  - (6) The requirements of the facility for a waterfront location.
  - (7) The availability of alternative locations not subject to flooding for the proposed use.

- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - (9) The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area.
  - (10) The safety of access by ordinary and emergency vehicles to the property in time of flood.
  - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.
  - (12) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
  - (13) Such other factors which are relevant to the purposes of this article.
- B. The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to the County Engineer for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.
  - C. Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in unacceptable or prohibited increases in flood heights, additional threats to public safety or extraordinary public expense; and will not create nuisances, cause fraud or victimization of the public or conflict with local laws or ordinances.
  - D. Variances shall be issued only after the Board of Zoning Appeals has determined that **the** variance will be the minimum required to provide relief.
  - E. The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one-hundred-year flood elevation increases the risks to life and property and will result in increased premium rates for flood insurance.
  - F. A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

**§ 165-702.19. Existing Structures in Floodplain Areas.**

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

- A. Existing structures in the Floodway Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.
- B. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any flood plain areas to an extent or amount of less than fifty (50) percent of its market value shall conform to the VA USBC.

- C. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the VA USBC.

**§ 165-702.20. Penalties for Violations.**

- A. Any person who fails to comply with any of the requirements or provisions of this article or directions of the Zoning Administrator or any authorized employee of Frederick County shall be guilty of a misdemeanor and subject to the penalties outlined in §165-101.08 of this Chapter.
- B. In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this Part 702. The imposition of a fine or penalty for any violation of, or noncompliance with, this Part 702 shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliances within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this Part 702 may be declared by Frederick County to be a public nuisance and abated as such. Flood insurance may be withheld from structures constructed in violation of this Part 702.

**Part 703 – HA Historic Area Overlay Zone**

**§ 165-703.01 Intent.**

The HA Historic Area Overlay Zone is intended to protect, enhance and aid in the perpetuation of especially noteworthy examples or elements of Frederick County's cultural, social, economic, religious, political, agricultural, military, industrial or architectural history in order to:

- A. Foster civic pride and an appreciation for historic values.
- B. Maintain and improve property values by providing incentives for upkeep and rehabilitation.
- C. Protect and enhance the County's attractiveness to tourists and visitors.
- D. Provide for the education and general welfare of the people of the County.
- E. Encourage nomination of qualified historic properties to the state and national registers.

**§ 165-703.02 Establishing overlay boundaries.**

HA Zones may be created by amending the Zoning Chapter as provided for in Article I of this chapter. Following a public hearing, the Historic Resources Advisory Board (HRAB) may initiate a proposal to the Planning Commission and the Board of Supervisors for amendments, including the establishment of HA Zones and the revision of existing HA Zones. A proposal for such amendment(s) may also be submitted by residents of an area that wish it to be designated as an historic area.

- A. The HRAB or applicant shall submit a report to support the proposed amendment. The report shall suggest the historic boundaries as well as describe the historic and/or architectural significance of the buildings, structures or sites to be protected, current planning affecting the area, present development trends and conditions in the area and the public objectives for preservation.
- B. A public hearing shall be held by the Board of Supervisors prior to adoption of a proposed zone. Notice shall be sent to all property owners within the boundaries of the proposed zone, indicating the time and place of the public hearing. The notice shall also state that residents may express their opposition to the proposed district in writing. The Board of Supervisors shall alter the boundaries of the proposed zone to exclude those property owners expressing opposition.

- C. Any area to be designated as an HA Zone shall in fact include landmarks, buildings, structures or sites determined to be of historical and/or architectural significance. All stated recommendations of the HRAB which supplement or modify the general regulations of this Part 703 may be adopted by the Board of Supervisors and applied to the zone created.
- D. At the time an overlay zone is established, the Board of Supervisors may create an additional position and appoint a member to the HRAB. The member appointed shall be the owner of property within the newly established zone and shall serve a term of two years.

**§ 165-703.03 Criteria for determining historic significance.**

The significance of an historic area shall be based on cultural, architectural and historical factors and shall be documented in a written report, which shall include a discussion of the following:

A. Architectural style.

- (1) Presence of distinguishing characteristics of a recognized style.
- (2) Significance of architectural design.
- (3) Scale and/or interrelationship of structures and/or environmental features.
- (4) Significant patterns of development.
- (5) Quality of workmanship.
- (6) Amount of surviving original material.
- (7) Original location and/or use.
- (8) Remaining outbuildings or dependencies.
- (9) Surrounding environment, gardens, landscaping and walks.
- (10) Overall aesthetic quality.
- (11) Original integrity of the structure and its details.

B. Historic and/or cultural significance.

- (1) Association with historic person.
- (2) Association with historic events.
- (3) Work of leading architect or master craftsman.
- (4) Site or structure of cultural significance.

C. Additional information.

- (1) A description of existing structures and uses likely to have an adverse effect on the character of the district, including those near and visually related to the district, with maps, photographs and other data indicating the reasons for such an effect.

- (2) A list of structures within the zone which notes which structures are contributing and which are not. Surviving building types and structures not historic in themselves but adding to the character of an historic area need to be looked at as potentially deserving preservation.
- (3) An analysis of lands not occupied by structures, including lands near and visually related to the district. For public lands, ownership, use and location shall be indicated. For private lands, assessed valuation shall be added as well as existing zoning and planned land use.
- (4) Recommendations concerning supplemental regulations to be applied to the historic area under consideration for the purpose of preventing changes which are incompatible with the buildings, structures or sites to be preserved. Such regulations may include permitted and prohibited principal and accessory uses and structures, minimum lot and yard requirements, maximum lot coverage by all buildings, maximum height of structures, off-street parking and loading requirements, control of signs and exterior illumination and the control of significant exterior alterations to existing buildings.

**§ 165-703.04 General regulations.**

Within the Historic Area Overlay Zone, these regulations shall apply:

- A. New construction, reconstruction and significant exterior alterations. No building or structure, including signs, shall be erected, reconstructed or substantially altered in exterior appearance unless the HRAB approves of the proposed activity's compatibility with the historic, cultural and/or architectural aspects of the zone and issues a certificate of appropriateness.
- B. Matters to be considered in passing upon the appropriateness of construction, reconstruction or significant exterior alteration of buildings or structures by the HRAB. The HRAB shall not consider interior alterations and shall only impose restrictions for the purpose of preventing development incompatible with the historic aspects of the area.
- C. The HRAB shall consider the Secretary of the Interior's Standards for Rehabilitation and the following in evaluating the appropriateness of architectural features:
  - (1) The extent to which the proposed action will affect the overall character and continuity of the area.
  - (2) Whether elements of the general design, such as scale, height and proportion of the proposed work are visually compatible with the surrounding area.
  - (3) Whether the texture and materials proposed are compatible with existing structures in the area.
- D. Demolition. No contributing building or structure within any HA Zone shall be demolished or removed, until a certificate of appropriateness is issued by the HRAB. The demolition or removal of a noncontributing structure may be authorized by the Zoning Administrator.
- E. Matters to be considered in determining whether to grant a permit for razing or demolition. The HRAB shall consider any and all of the following criteria:
  - (1) Would the removal be detrimental to the public interest?
  - (2) Could the building only be reproduced at great expense or difficulty due to its unique or unusual texture, material or design?
  - (3) Would demolition of the structure result in the loss of a significant historic place in Frederick County?

F. Offer for sale. The owner of a building, structure or site in a historic district shall, by right, be entitled to demolish the same, provided that:

- (1) The property owner has applied for a demolition permit.
- (2) The property owner has made a bona fide offer to sell the structure and land on which it is located to an individual or group which makes reasonable assurances that it will preserve the landmark. The property shall be offered at a price reasonably related to its fair market value as determined by an independent appraisal for the period established by the schedule below:

<b>Time Period (months)</b>	<b>Asking Price</b>
3	Less than \$25,000
4	Between \$25,000 and \$40,000
5	Between \$40,000 and \$55,000
6	Between \$55,000 and \$75,000
7	Between \$75,000 and \$90,000
12	Over \$90,000

G. Hazardous buildings or structures can be demolished without consideration by HRAB with written approval of the Zoning Administrator, stating the conditions which justify the demolition.

H. Moving or relocation. No landmark, building or structure within a district shall be removed or relocated if the move would be detrimental to the public interest or the historic integrity of the structure unless approved by the HRAB.

I. Uses permitted. Within the Historic Area Overlay Zone, general regulations and permitted uses shall be the same as provided within the respective underlying zoning districts except where such regulations are modified or amended by recommendation of the HRAB and adoption of the Board of Supervisors.

J. Exceptions. Where the strict interpretation of these regulations creates an undue hardship, the HRAB may make recommendations for reasonable exemptive relief.

**§ 165-703.05 Administration.**

A. Zoning Administrator. The County Zoning Administrator shall not authorize a permit for any erection, reconstruction, significant exterior alteration, demolition or razing of a building, structure or site in the HA Historic Area Overlay Zone until the same has been approved and a certificate of appropriateness issued by the HRAB, following the procedures set forth below.

B. Upon receipt of an application for such a permit in the Historic Area Overlay Zone, the Zoning Administrator shall follow the procedures below:

- (1) A copy of the application for such a permit, together with a copy of the site plan and the building plans and specifications filed by the applicant shall be forwarded to the HRAB.
- (2) A file of all such applications and related materials shall be maintained.



- C. Materials to be submitted for review. Twelve copies of all materials prepared in relation to the application shall be submitted by the applicant. The Zoning Administrator or the HRAB may require submission of any or all of the following: architectural plans, site plans, landscaping plans, design for proposed signs with appropriate detail as to character, proposed exterior lighting arrangements, elevations of all portions of structure with important relationships to public view (with indications as to visual construction materials, design of doors and windows and relationships to adjoining structures) and such other exhibits and reports as are necessary for these determinations.
- D. Fees. The Board of Supervisors shall establish a schedule of fees for the submission and review of an application for a certificate of appropriateness.
- E. Other approvals required. In any case in which an applicant's proposal also requires the approval of the Board of Zoning Appeals, approval by the Board of Zoning Appeals shall be obtained prior to action by the HRAB.
- F. Action of the Historic Resources Advisory Board. The HRAB shall return, within 60 days after submission of the application, its decision concerning granting a certificate of appropriateness for the erection, reconstruction, significant exterior alteration, restoration, razing or demolition or relocation of all or part of any building within the HA Zone.
  - (1) If the HRAB grants a certificate of appropriateness, it shall authorize the Zoning Administrator to issue a permit for the work specified in the application. If the HRAB disapproves the application, the reasons shall be stated in writing and forwarded to the applicant, and the Zoning Administrator shall disapprove the application for the required permit. The disapproval shall indicate what changes in the plans and specifications would enable the proposal to meet the conditions for protecting and preserving the historical character of the HA Zone. If the applicant determines that he will make the suggested changes, he shall so advise the HRAB in writing, which shall act accordingly.
  - (2) In the case of disapproval, the application shall not be resubmitted for consideration until 12 months have elapsed from the date of disapproval unless the indicated changes in plans and specifications have been incorporated into the reapplication. The applicant may appeal the disapproval to the Board of Supervisors.

#### **Part 704 – IA Interstate Area Overlay District**

##### **§ 165-704.01 Intent.**

The IA Interstate Area Overlay District is intended to provide commercial businesses within an identified area the ability to utilize business signs that are in excess of the limits specified in § 165-201.06 of this chapter. This flexibility is provided to inform the traveling public of business service opportunities at specific interstate interchange areas. The standards within this Part 704 are designed to allow for additional visibility for commercial businesses while minimizing negative impacts to view sheds, the traveling public and residential properties that are adjacent to or within the proximity of the overlay district. Established boundaries are based on reasonable sight distances and policies set forth in the Comprehensive Plan and are intended to designate each interstate interchange area and provide guidance for considering the addition of subsequent properties.

##### **§ 165-704.02 District boundaries.**

Properties that are included within the Interstate Area Overlay District shall be delineated on the Official Zoning Map for Frederick County. This map shall be maintained and updated by the Frederick County Department of Planning and Development.

**§ 165-704.03 Establishment of Districts**

- A. The Frederick County Board of Supervisors may apply the Interstate Area Overlay District to properties within the proximity of interstate interchange areas upon concluding that:
  - (1) The property is in conformance with the idealized interchange development pattern recommendation of the Frederick County Comprehensive Plan.
  - (2) The placement of a sign meeting the requirements of this section will not have an adverse impact on adjoining properties whose primary use is residential.
  - (3) The property has met the requirements of Article I of this chapter, as well as the requirements of § 15.2-2286 of the Code of Virginia 1950, as amended.
- B. The Interstate Area Overlay District shall be in addition to and shall overlay all other zoning districts where it is applied so that any parcel of land within the Interstate Area Overlay District shall also be within one or more zoning districts as specified within this chapter. The effect shall be the creation of regulations and requirements of both the underlying zoning district(s) and the Interstate Area Overlay District.

**§ 165-704.04 Qualifying criteria.**

A. On property that is delineated on the Official Zoning Map as being part of the Interstate Area Overlay District, the following uses shall be authorized to erect a commercial business sign that complies with the requirements of § 165-704.05 of this Part 704. Such commercial business signs complying with the requirements of § 165-704.05 of this Part 704 shall hereinafter be referred to as interstate overlay signs.

<b>Qualifying Uses</b>	<b>Standard Industrial Classification (SIC)</b>
Gasoline service stations	5541
Eating and drinking establishments	58
Hotel and lodging establishments	70

B. Qualifying uses specified under § 165-704.04A that are authorized on property through the issuance of a conditional use permit in the RA Rural Areas District may be entitled to erect an interstate overlay sign that is of a greater height and size than is permitted in the underlying zoning district, provided that the property has met the requirements of Article I of this chapter, the business sign complies with the requirements of §165-704.05 of this Part 704 and the qualifying use is located on property that is delineated on the Official Zoning Map as being part of the Interstate Area Overlay District.

**§ 165-704.05 District regulations.**

- A. Permitted signs. Permitted signs shall be as follows:
  - (1) Interstate overlay signs.
  - (2) Signs permitted in the underlying zoning district(s).
- B. Prohibited signs. Prohibited signs shall be as follows:
  - (1) Off-premises business signs.

(2) Signs prohibited in the underlying zoning district(s).

C. Number of freestanding commercial business signs. On any parcel within the Interstate Area Overlay District, one interstate overlay sign that complies with the requirements set forth in this Part 704 may be erected.

D. Setback requirements.

(1) All portions of an interstate overlay sign shall be set back a minimum of 10 feet from any lot line or property boundary line and shall meet all other applicable setback requirements.

(2) When any interstate overlay sign exceeds the height requirement of the underlying zoning district(s) and is located on property that adjoins or is across a right-of-way from property that is in the RP Residential Performance District, the HE Higher Education District or any property which has a residence as its primary use, the setback shall be the normal setback plus one foot for every foot over the maximum height of the underlying zoning district(s).

(3) The Planning Commission may waive any portion of the setback described in §165-704.05D(2) if it can be demonstrated that the setback requirement cannot be met due to the irregular size or shape of the parcel.

E. Spacing requirements. The spacing requirements between an interstate overlay sign and signs in the underlying zoning district(s) shall comply with the requirements in §165-201.06F of this chapter and shall meet all other applicable spacing requirements.

F. Maximum size.

(1) No interstate overlay sign shall exceed a total of 300 square feet in area.

(2) When more than one qualifying use is located on a single parcel within the Interstate Area Overlay District, a single support structure may be erected which contains one or more signs, the total combined square footage of which shall not exceed 500 square feet in area.

G. Illumination. Neither the direct nor reflected light from any illuminated interstate overlay sign shall create an increase in the ambient footcandle at the property line, create glare into or upon other structures or create glare onto a public thoroughfare so as to create a traffic hazard for operators of motor vehicles.

H. Maintenance and permits.

(1) All signs that are erected in the Interstate Area Overlay District shall meet the maintenance and permit requirements as specified in §§ 165-201.06K and 165-201.06L of this chapter.

(2) If required, appropriate easements shall be secured by any property owner that desires to erect an interstate overlay sign prior to the issuance of a sign permit in order to ensure that required maintenance can be performed.

I. Permitted heights.

(1) All interstate overlay signs shall be located a minimum of 25 feet in height above the base of the sign support structure.

(2) The maximum height for interstate overlay signs shall be determined by the nearest interstate exit number and shall be based on an elevation above mean sea level as set out below:

Exit Number		Maximum Business Sign Height (feet above mean sea level)
302	(Middletown and Rt. 11 South)	760
307	(Stephens City and Rt. 277)	800
310	(Kernstown and Rt. 37)	805
313	(Rt. 50/17 and Rt. 522)	805
315	(Rt. 7 and Berryville Avenue)	750
317	(Rt. 11 North and Rt. 37)	815
321	(Clearbrook and Rt. 11 North)	700
323	(Whitehall and Rt. 11 North)	710

**Part 705 – TNDB Traditional Neighborhood Design-Business Overlay District**

**§ 165-705.01 Intent.**

- A. The TNDB (Traditional Neighborhood Design-Business) Overlay District is intended to implement the comprehensive plan goals of supporting a business climate conducive to economic activity and orderly economic growth, providing a variety of housing types and locations to meet the varied needs and income levels of the County's present and future population, providing for adequate and safe pedestrian and bicycle travel and promoting traditional neighborhood design in urban centers and neighborhood villages, all of the foregoing being deemed to advance and promote the health, safety and general welfare of the public and the orderly development of Frederick County.
- B. The TNDB (Traditional Neighborhood Design-Business) Overlay District provides parcels within the County's Urban Development Area (UDA), or parcels located in areas identified as a potential urban center or neighborhood village in the Comprehensive Plan which are located within the Sewer and Water Service Area, the ability to utilize traditional neighborhood design criteria that are different from the criteria specified in Article VI of this chapter. Parcels within this district should be located along major roadways and prominent road intersections that are located in close proximity to existing or planned residential areas.
- C. This flexibility is provided to enable traditional neighborhood design which includes a mix and integration of uses, a mix and diversity of housing types, increased density, walkability, connectivity, traditional neighborhood structure, high quality architecture and urban design, sustainability and environmental quality and enhanced design and planning.

**§ 165-705.02 District boundaries.**

Properties that are included within the TNDB (Traditional Neighborhood Design-Business) Overlay District shall be delineated on the Official Zoning Map for Frederick County. This map shall be maintained and updated by the Frederick County Department of Planning and Development.

**§ 165-705.03 Establishment of districts.**

- A. The Frederick County Board of Supervisors may apply the TNDB (Traditional Neighborhood Design-Business) Overlay District, following the procedures of Article I of this chapter, to B1 Neighborhood Business District and B2 Business General District properties of less than 20 acres, upon concluding that:
  - (1) The parcel is located within the Urban Development Area, or located in an area identified as a potential urban center or neighborhood village in the Comprehensive Plan which is located within the Sewer and Water Service Area.
  - (2) The requirements of this section will not have an adverse impact on adjoining properties whose primary use is residential.
- B. The TNDB (Traditional Neighborhood Design-Business) Overlay District shall be in addition to and shall overlay all other zoning districts where it is applied so that any parcel of land within the TNDB (Traditional Neighborhood Design-Business) Overlay District shall also be within one or more zoning districts as specified within this chapter. The effect shall be the creation of regulations and requirements for the TNDB (Traditional Neighborhood Design-Business) Overlay District that are in addition to, or supersede, as the case may be, those for the underlying zoning district(s).

**§ 165-705.04 Use, density, dimensional and intensity regulations.**

- A. Use. Any use allowed in the underlying zoning district shall be allowed. Residential dwelling units shall be permitted within the same buildings as other permitted uses, provided that such dwellings units shall be located above the ground floor of the building so as not to interrupt the commercial frontage in the district.
- B. Residential density. Maximum gross density shall be 10 units per acre.
- C. Dimensional and intensity requirements. The following dimensional and intensity requirements shall supersede those of the underlying zoning district:

<b>Requirement</b>	<b>TNDB (Traditional Neighborhood Design-Business) Overlay District</b>
Minimum front yard setback on primary or arterial highways (feet)	30
Maximum front yard setback on primary or arterial highways (feet)	50
Minimum front yard setback on Collector or minor streets (feet)	10
Maximum front yard setback on collector or minor streets (feet)	20

Side yard setbacks (feet)	--
Rear yard setbacks (feet)	--
Floor area to lot area ratio (FAR)	1.00
Minimum landscaped area (percentage of lot area)	15%
Maximum height (feet)	45
Maximum (number) of habitable floors	3

- D. A waiver from the maximum front yard setback on collector or minor streets may be granted by the Board of Supervisors at the time of rezoning to enable areas open to the public such as pocket parks and outdoor seating.
- E. All other dimensional and intensity requirements of §§ 165-601.01 and 165-601.02 of this chapter shall apply.

**§ 165-705.05 Off-street parking; parking lots.**

Off-street parking shall be provided on each lot or parcel on which any use is established according to the requirements of this section.

A. Required parking spaces.

- (1) Required parking spaces for residential dwelling units shall be dedicated and delineated solely for use by the residents and identified on the site plan for the development.
- (2) Number of required off-street parking spaces for residential dwelling units:

Number of bedrooms	Off-Street Parking Spaces
Efficiency	1.0
1	1.0
2 plus	2.0

- (3) Required parking spaces for commercial uses shall be in accordance with § 165-202.01 of this chapter. The Zoning Administrator may allow some variation in the standards for required parking for the commercial uses based on detailed parking demand studies provided by the applicant.
  - (4) On-street parking can be counted towards meeting the required parking in § 165-202.01 of this chapter, provided such parking is located within 400 feet of the subject principal use.
- B. Location of parking and circulation areas. Areas devoted to parking or circulation of vehicles shall not be located between a primary structure on a lot and the street, nor shall such areas be located closer to the street than the primary structure on the lot.

- C. All other regulations concerning off-street parking and parking lots shall be as required in § 165-202.01 of this chapter.

**§ 165-705.06 Design standards.**

- A. A harmonious coordination of uses, architectural styles, signs and landscaping shall be provided to ensure the aesthetic quality and value of the development.
- B. Doors and entrances. Buildings must have a primary entrance door oriented towards the street or adjacent plazas, parks, squares, sidewalks or pedestrian passageways. Entrances at building corners may be used to satisfy this requirement. Building entrances may include doors to individual shops or businesses, lobby entrances, entrances to pedestrian-oriented plazas, or courtyard entrances to a cluster of shops or businesses.
- C. Windows. A minimum of 40% of the street-facing building facades between two feet and eight feet in height must be comprised of windows that allow views of indoor space or product display areas.
- D. Central plaza. A plaza that is centrally located within the district shall be provided and shall be a minimum of 5,000 square feet in area or 2% of the total acreage of the site, whichever is greater. At least one side of the plaza shall adjoin a road. The plaza shall include public amenities, such as ponds, fountains, public areas, plant beds, benches, drinking fountains, clock pedestals and the like. Buildings that adjoin the plaza shall be a minimum of two stories.
- E. Sidewalks and pedestrian walkways. Sidewalks shall be installed along all building entrances and along all streets. Sidewalks located along primary building entrances utilized for the general public shall be a minimum of 10 feet wide. All other sidewalks shall be a minimum of five feet wide.
- F. Trails. All planned bike trails as identified in the Comprehensive Plan shall be provided along any road within the proposed overlay district. Trails shall be a minimum of 10 feet wide and have a paved surface.
- G. Buffers and screening. Buffers and screening shall be provided on each lot or parcel on which any use is established according to the requirements of this section.
  - (1) Buffers and screening requirements shall be provided as required in § 165-203.02 of this chapter for the underlying zoning district. Any residential dwelling units shall be treated as commercial floor space solely for the purpose of buffers and screening requirements. Zoning district buffers shall not be required along any existing road rights-of-way which border the development. The Board of Supervisors may grant a waiver to reduce the required buffer distance requirements with the consent of the adjacent (affected) property owners. Should a waiver be granted, the distance requirements of § 165-203.02 may be reduced, provided the full screening requirements of the section are met.
  - (2) Loading areas shall be landscaped, screened and buffered from view as seen from adjoining streets and residential areas.
- H. Street trees. One street tree shall be provided for every 30 feet of street frontage. Street trees shall be planted no more than 10 feet from rights-of-way. Acceptable trees shall be based on the list of street trees include in § 165-203.01B of this chapter. Street trees shall be a minimum of three-inch caliper at the time of planting.

**§ 165-705.07 Master Development Plan (MDP).**

- A. The Director of Planning and Development may waive the requirements of a master development plan in the TNDB (Traditional Neighborhood Design-Business) Overlay District for sites less than 10

acres in accordance with § 165-801.03C(2) through (6) of this chapter. The Director of Planning and Development may also waive the requirements of a master development plan in the TNDB (Traditional Neighborhood Design-Business) Overlay District provided that a proffer statement, accepted by the Board of Supervisors, associated with the development contains a plan which shows:

- (1) The proposed location and arrangement of all street and utility systems.
- (2) The proposed location of entrances to the development from existing streets.
- (3) A conceptual plan for stormwater management and description of the location of all stormwater facilities designed to serve more than one parcel.
- (4) The location and treatment proposed for all historical structures and sites recognized as significant by the Frederick County Board of Supervisors or as identified on the Virginia Historical Landmarks Commission Survey for Frederick County.

B. All other regulations concerning master development plans shall be as required in Article VIII of this chapter.

**§ 165-705.08 Signage.**

A. Projecting signs. Signs which project from the face of the building shall be permitted subject to the following:

- (1) The maximum sign area shall be six square feet on any side of the building.
- (2) The distance from the lower edge of the signboard to the ground shall be eight feet or greater.
- (3) The height of the top edge of the signboard shall not exceed the height of the wall from which it projects for single-story buildings, or the height of the sill or bottom of any second-story window for multi-story buildings.
- (4) The distance from the building to the signboard shall not exceed six inches.
- (5) The width of the signboard shall not exceed three feet.

B. Awning signs. Where awnings are provided over windows or doors, awning signage is permitted with the following provisions:

- (1) Maximum of eight square feet of signage area on an awning.
- (2) No backlit awnings are allowed.

C. Wall-mounted signs shall be permitted to encompass 1.5 square feet for every 1.0 linear foot of building frontage, provided that the total area of the wall-mounted sign does not exceed 150 square feet. Wall-mounted signs shall not exceed 18 feet in height.

D. Freestanding business signs shall not exceed 50 square feet in area. Freestanding business signs shall not exceed 12 feet in height.

E. All other sign regulations shall be as required in § 165-201.06 of this chapter for the underlying zoning district.



**ARTICLE VIII  
DEVELOPMENT PLANS AND APPROVALS**

**Part 801 – Master Development Plans**

**§ 165-801.01 Intent.**

The purpose of the master development plan (MDP) is to promote orderly and planned development of property within Frederick County. It is the purpose of the MDP to ensure that such development occurs in a manner that suits the characteristics of the land, is harmonious with adjoining property and is in the best interest of the general public. The MDP shall be used to illustrate the characteristics of the property proposed for development and of surrounding properties.

**§ 165-801.02 When required.**

A. A preliminary Master Development Plan (MDP) and a final MDP shall be submitted to the Director of Planning and Development for Planning Commission and Board of Supervisors approval prior to any subdivision or development of property in any of the following zoning districts:

RP	Residential Performance District
R4	Residential Planned Community District
R5	Residential Recreational Community District
MH1	Mobile Home Community District
HE	High Education District
MS	Medical Support District
B1	Neighborhood Business District
B2	Business General District
B3	Industrial Transition District
OM	Office-Manufacturing Park District
M1	Industrial Light District
M2	Industrial General District
EM	Extractive Manufacturing District

B. The MDP shall at least include all contiguous land under single or common ownership in the above zoning districts.

C. A preliminary MDP may be submitted with an application for a rezoning but shall not be considered binding until approval of a final MDP.

**§ 165-801.03 Waivers.**

A. RP, R4, R5, MS and MH1 Districts. The Director of Planning and Development may waive the requirements of a MDP in the Residential Performance District, the Residential Planned Community District, the Residential Recreational Community District, Medical Support District and the Mobile Home Community District, if the proposed property for subdivision or development:

- (1) Contains 10 or less traditional detached single-family dwelling units;
- (2) Is not an integral portion of a property proposed or planned for future development or subdivision;
- (3) Is planned to be developed in a manner that is harmonious with surrounding properties and land uses;
- (4) Does not substantially affect the purpose and intent of its zoning district and the intent of this article.

B. M1, EM and M2 Districts. The Director of Planning and Development may waive the requirement of a MDP in the M1 Light Industrial Zoning District, the EM Extractive Manufacturing Zoning District or the M2 Industrial General Zoning District if the proposed subdivision or development:

- (1) Includes no new streets, roads or rights-of-way, does not further extend any existing or dedicated street, road or rights-of-way and does not significantly change the layout of any existing or dedicated street, road or rights-of-way;
- (2) Does not propose any stormwater management system designed to serve more than one lot and does not necessitate significant changes to existing stormwater management systems designed to serve more than one lot;
- (3) Is not an integral portion of a property proposed or planned for future development or subdivision;
- (4) Is planned to be developed in a manner that is harmonious with surrounding properties and land uses; and
- (5) That such development does not substantially affect the purpose and intent of this chapter.

C. B1, B2, B3 and HE Districts. The Director of Planning and Development may waive the requirement of a master development plan in the B1 Neighborhood Business, B2 Business General, B3 Industrial Transition or HE Higher Education Zoning Districts if the proposed subdivision or development:

- (1) Contains less than five acres in the B1 District and less than 10 acres in the B2, B3 or HE District;
- (2) Includes no new streets, roads or rights-of-way, does not further extend any existing or dedicated street and does not significantly change the layout of any existing or dedicated street;
- (3) Does not propose any stormwater management system designed to serve more than one lot and does not necessitate significant changes to existing stormwater management systems designed to serve more than one lot;
- (4) Is not an integral portion of a property proposed or planned for future development or subdivision;
- (5) Is planned to be developed in a manner that is harmonious with surrounding properties and land uses; and
- (6) That such development does not substantially affect the purpose and intent of this chapter.

**§ 165-801.04 Review conference.**

Prior to submission of a preliminary master development plan for approval, the applicant shall request a review conference with the County staff. The purpose of the review conference is to review and discuss the nature of the proposal in relation to the requirements of the County Code and to discuss the preparation of a master development plan.

**§ 165-801.05 Preapplication conference.**

Applicants who are proposing a development with a mixture of housing types or uses or with housing types or uses that are different from those on adjoining properties shall request a preapplication conference with the Planning Commission. Applicants for other types of development proposals may request such a conference.

- A. The purpose of the preapplication conference shall be to discuss the proposal in relation to the requirements of the County Code and to obtain advice on the preparation of the master development plan.
- B. At the preapplication conference, the applicant shall provide a land use plan describing the following:
  - (1) The general location of the site.
  - (2) The general location of proposed roads.
  - (3) The general location of proposed uses, environmental areas, housing types or open space.
  - (4) The uses on adjoining properties.
- C. The Planning Commission may, at its sole discretion, make or refuse to make recommendations as the result of the preapplication conference. Any recommendations made by the Planning Commission at or in response to the preapplication conference shall not be binding upon the applicant or upon the Planning Commission in its review of the preliminary master development plan.

**§ 165-801.06 Preliminary master development plan.**

Applicants shall submit 42 copies of the preliminary MDP to the Department of Planning and Development, together with completed application materials required by the Department of Planning and Development. Final approval of the preliminary MDP shall be given by the Board of Supervisors.

- A. Applicants shall provide comments on the proposed development from various agencies or developments as required by the Department of Planning and Development. The submission shall be complete and the application shall commence when the plans, application materials and agency comments have been received by the Director of Planning and Development, when a review conference has been held, when a preapplication conference has been held, if required, and when the preliminary master development plan has been reviewed by the Design Review Committee, if required.
- B. The Director of Planning and Development may require the applicant to present the preliminary MDP to a design review committee for review. The committee shall make recommendations to the Planning Commission concerning whether the plan meets the requirements of the Frederick County Code.
- C. When the submission is complete, the Director of Planning and Development shall submit the plans, application materials and comments to the Planning Commission for its consideration.

(1) The Planning Commission shall act on the preliminary MDP within 60 days of the date of the presentation of the plan to the full Commission. The Planning Commission shall either approve the plan, approve it with required changes or deny the plan. If the Planning Commission fails to act within 60 days, the plan shall be submitted to the Board of Supervisors without recommendation.

(2) The Planning Commission shall notify the Board of Supervisors of its action on the proposed preliminary MDP and of any required changes or reasons for denial. If the preliminary MDP is denied by the Planning Commission, the applicant may choose to withdraw the application and resubmit it with changes as a new plan, rather than proceeding to the Board of Supervisors. However, the applicant may choose to proceed with the recommendation of denial to the Board of Supervisors.

D. Following the action of the Planning Commission, copies of the plan, application materials and agency comments shall be submitted to the Board of Supervisors for its consideration. The Board shall either approve the preliminary MDP, approve it with required changes or deny the plan.

E. The preliminary MDP submitted to the Board of Supervisors for review shall not be substantially changed from plans reviewed by the Planning Commission. Changes may be made that were discussed or required by the Planning Commission. Other substantial changes to the plan shall require that the Planning Commission review the plan as a new preliminary MDP.

F. Site plans or final subdivision plats may be submitted concurrently with preliminary master development plans for review according to the procedures set forth in this chapter and Chapter 144, Subdivision of Land, of the County Code. Any such plans may be considered concurrently by the Planning Commission and may be referred to the Board of Supervisors for approval.

#### **§ 165-801.07 Final master development plan.**

A. Applicants shall submit 14 copies of the final MDP to the Department of Planning and Development. Final approval of the final MDP shall be given by the Director of Planning and Development.

B. The Director shall approve the final MDP if a preliminary MDP was approved by the Board of Supervisors and if all required changes have been made and all requirements of the County Code have been met, within 60 days of its submission. Failure of the Director to act in 60 days shall be deemed approval.

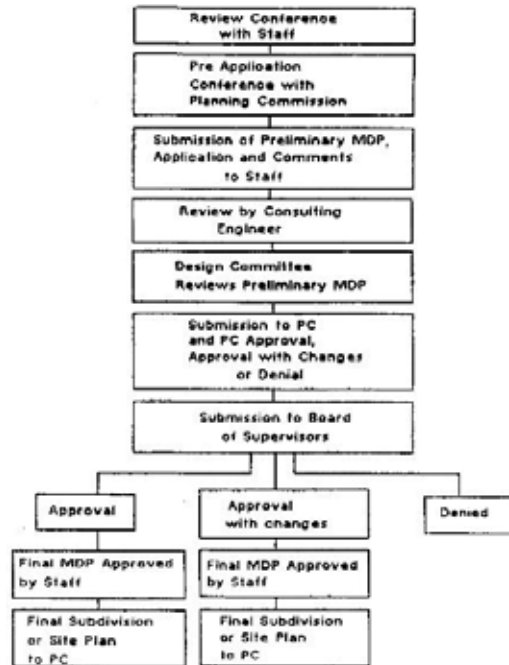
#### **§ 165-801.08 Changes to approved plans.**

Changes to an approved MDP shall occur only after approval by the Planning Commission and the Board of Supervisors using the procedures required for the approval of a new plan. The Director of Planning and Development may approve minor changes without following the full procedures, if such approval does not violate the intent of this chapter and section. Such minor changes shall not include increases in the density or intensity of development, changes to entrance or street layout, changes to stormwater layout or other major design changes.

#### **§ 165-801.09 Preliminary master development plan submission.**

A preliminary MDP shall be submitted for review and approval by the Planning Commission and the Board of Supervisors. The preliminary MDP is to serve as a conceptual review plan and is not intended to show the location of individual lot lines or structures.

## Master Development Plan Approval Process



### § 165-801.10 Contents of preliminary master development plans.

- A. All required items shall be shown clearly on the plan. All preliminary MDP's shall be prepared in accordance with the following specifications:
- (1) The scale shall be one inch equals 100 feet or larger (the ratio of feet to inches shall be no more than one hundred feet to one inch) or at a scale acceptable to the Director. The scale shall be sufficient so that all features are discernible.
  - (2) No sheet shall exceed 42 inches in size unless approved by the Director of Planning and Development. If the MDP is prepared on more than one sheet, match lines shall clearly indicate where the sheets join.
  - (3) All MDP's shall include a North arrow, a scale and a legend describing all symbols.
  - (4) A boundary survey of the entire property related to true meridian and certified by a certified Virginia surveyor, architect or engineer, with all dimensions in feet and decimals of feet, is required for all MDP'S.
  - (5) The total area of the property shall be specified on the MDP.
  - (6) The topography shall be shown at contour intervals acceptable to the Director.
  - (7) The title of the proposed project; the date, month, year the plan was prepared or revised; the name of the applicant(s), owner(s) and contract owner(s); and the names of the individuals or firms preparing the plan shall be clearly specified.
  - (8) A schedule of phases, with the approximate location of phase boundaries and the order in which the phases are to be developed, shall be provided.
  - (9) The use of all adjoining properties shall be clearly designated on the MDP.

(10) An inset map shall be provided showing the location of the project along with the location of all existing or approved public roads, streets or rights-of-way within 2,000 feet of the boundaries of the project.

B. Contents of a preliminary master development plan in the Residential Performance District, the Residential Planned Community District, the Residential Recreational Community District and the Mobile Home Community District. The preliminary MDP shall contain a conceptual plan, showing the location and functional relationship between all proposed housing types and land uses, including the following information:

- (1) A land use plan, showing the location, arrangement and approximate boundaries of all proposed land uses.
- (2) The approximate acreage in common open space, in each use and housing type and in roads, streets or rights-of-way for each phase and the total development.
- (3) The location and approximate boundaries of proposed housing types conceptually shown in accord with residential performance dimensional requirements.
- (4) The proposed number of dwelling units of each type in each phase and in the total development.
- (5) The location and approximate boundaries of existing environmental features, including floodplains, lakes and ponds, wetlands, natural stormwater retention areas, steep slopes and woodlands.
- (6) The location of environmental protection land to be included in common open space.
- (7) The approximate acreage of each type of environmental protection land, the amount and percentage of each type that is to be disturbed and the amount and percentage of each type to be placed in common open space.
- (8) The amount, approximate boundaries and location of common open space, with the percentage of the total acreage of the site to be placed in common open space.
- (9) The location and general configuration of recreational facilities, with a general statement of the types of recreational facilities to be provided.
- (10) The location and extent of proposed buffers, with statements, profiles, cross sections or examples clearly specifying the screening to be provided.
- (11) The proposed location, arrangement, and right-of-way widths of roads and streets, including roads and streets providing access to adjoining parcels, shall be in accordance with § 165-202.04.
- (12) The location and arrangement of street entrances, driveways and parking areas.
- (13) The approximate location of sewer and water mains with statements concerning the connection with and availability of existing facilities.
- (14) A conceptual plan for stormwater management with the location of stormwater facilities designed to serve more than one lot.
- (15) Calculations describing all proposed bonus factors with the location of and specifications for bonus improvements, when proposed.

(16) The location and treatment proposed for all historical structures and sites recognized as significant by the Frederick County Board of Supervisors or as identified on the Virginia Historical Landmarks Commission Survey for Frederick County.

(17) A history of all land divisions that have occurred in relation to the tract since the adoption of this requirement.

C. Contents of a preliminary master development plan in the M1 Light Industrial District, the M2 Industrial General District, the EM Extractive Manufacturing District, the HE Higher Education District, the B1 Neighborhood Business District, the B2 Business General District, the B3 Industrial Transition District, the OM Office-Manufacturing Park District and the MS (Medical Support) District. The preliminary MDP shall contain a conceptual plan, showing the location and functional relationship between streets and land uses, including the following:

(1) A conceptual plan, showing the location and arrangement of proposed uses.

(2) The existing environmental features, including floodplains, lakes and ponds, wetlands, natural stormwater detention areas, steep slopes and woodlands, as defined.

(3) The proposed location and arrangement of all streets and utility systems.

(4) The proposed location of entrances to the development from existing public streets.

(5) A conceptual plan for stormwater management and description and the location of all stormwater facilities designed to serve more than one parcel.

(6) The location and treatment proposed for all historical structures and sites recognized as significant by the Frederick County Board of Supervisors or identified on the Virginia Historical Landmarks Commission Survey for Frederick County.

(7) All proposed buffering and screening required by this chapter.

(8) The use of adjoining parcels and the location of adjoining streets and utilities.

**§ 165-801.11 Final master development plans.**

A. The final MDP shall conform with the requirements in §§ 165-801.04 through 165-801.10.

B. Descriptions of changes made since approval of the preliminary MDP or as required with approval of the preliminary MDP shall be provided.

C. An approval block and signature lines for the Director of Planning and Development shall be provided.

**§ 165-801.12 Master development plan review fees.**

The Board of Supervisors may adopt a schedule of fees to be paid by the applicant to the County for the costs associated with the review of the MDP.

**Part 802 – Site Plans**

**§ 165-802.01 Activities requiring site plans.**

A. In order to ensure that the requirements of this chapter have been met, a site plan shall be required to be submitted to the County for the following uses:

- (1) Any use in the business or industrial zoning districts, the EM Extractive Manufacturing District, the MS Medical Support District, or the HE Higher Education District.
- (2) Any nonresidential use in which automobile parking space is to be used by more than one establishment.
- (3) Any of the following residential uses not required to submit a subdivision design plan for approval:
  - (a) Duplexes.
  - (b) Multiplexes.
  - (c) Atrium houses.
  - (d) Weak-link townhouses.
  - (e) Townhouses.
  - (f) Garden apartments.
  - (g) Other allowed multifamily residential uses.
- (4) Convalescent and nursing homes and allowed nonresidential uses in the RP, R4 and R5 Zoning Districts.
- (5) Public and semipublic uses and buildings.
- (6) Required landscaped buffers and landscaped screens.
- (7) Required recreational facilities.
- (8) Any parcel of land proposed to contain more than one dwelling unit, except those allowed as agricultural accessory uses.
- (9) Mobile home parks.
- (10) The use, change of use or construction of any improvement or facility that is to be reviewed by the Planning Commission to determine conformance with the Comprehensive Plan under § 15.2-2232 of the Code of Virginia.

- B. The Zoning Administrator may require a site plan to be submitted with an application for a conditional use permit.
- C. No permit shall be issued for the construction of any building or improvement on the site of any of the above uses until the site plan is approved.
- D. All nonbusiness or nonindustrial uses in a residential subdivision shall submit a subdivision design plan, as required in the Frederick County Subdivision Ordinance, instead of a site plan.

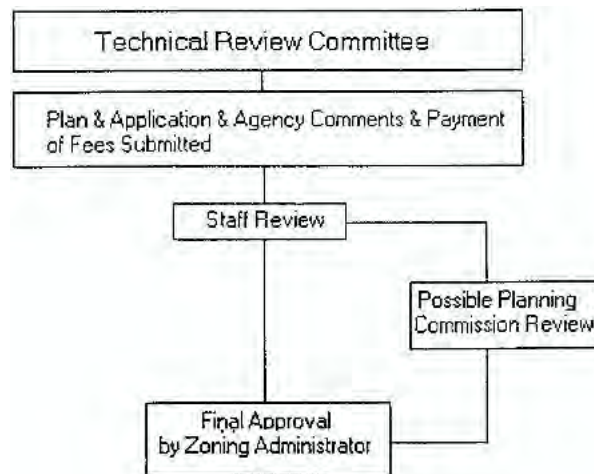
**§ 165-802.02 Site plan applications; review.**

- A. Applicants shall submit two copies of the site plan to the Zoning Administrator for review, along with applicable fees and completed application materials required by the Zoning Administrator. Final approval of the site plan shall be given by the Zoning Administrator. At least five copies of the site plan are required to be submitted to the Zoning Administrator for final approval.
- B. Applicants shall provide comments on the site plan from various agencies as required by the Department of Planning and Development.
- C. The Zoning Administrator may require the applicant to present the site plan to the Technical Review Committee for review. The Committee shall make recommendations to the Zoning Administrator concerning whether the plan meets the requirements of the Frederick County Code.



- D. A site plan submission shall be considered to be complete when the fees, plans, application materials and comments have been received and when the Technical Review Committee has reviewed the plan, if required.
- E. When the site plan submission is complete, the Zoning Administrator may submit the site plan to the Planning Commission for its review.
  - (1) The Zoning Administrator shall determine whether to submit the site plan to the Planning Commission based on the following considerations:
    - (a) The scale or intensity of the proposed use.
    - (b) Potential impacts on surrounding properties.
    - (c) Potential traffic hazards or congestion.
  - (2) In addition, the Planning Commission may request that the site plan be presented to the Commission for its review.
- F. The Planning Commission may make recommendations to the Zoning Administrator concerning the site plan. The Zoning Administrator shall incorporate such recommendations into the review of the site plan. The site plan shall be finally approved or denied by the Zoning Administrator.
- G. Approval of the site plan shall expire within five years of the approval date unless building permits have been obtained for construction.
- H. The Zoning Administrator or his designated representative shall periodically inspect the site during construction to ensure that the site plan requirements are met.
- I. No certificate of occupancy shall be issued for any use or site requiring a site plan until all requirements shown on the approved site plan have been met and all improvements shown on the site plan have been provided. If structures and improvements have been provided sufficient to guarantee public health and safety but if all site plan improvements have not been completed, a certificate of occupancy shall only be issued if a bond with surety or other acceptable guaranties have been provided to insure that all approved improvements will be provided. Such guaranties shall be for a limited time period acceptable to the Zoning Administrator, during which time said improvement shall be completed.

**Site Plan Review Process**



J. The Board of Supervisors, by resolution, may establish a schedule of fees for the review of site plans.

**§ 165-802.03 Site plan contents.**

The site plan shall be clearly legible and shall be drawn at a scale acceptable to the Zoning Administrator. The site plan shall include three general sections, the project information section, the calculations section, and the site plan and details section. The information required for each section is listed below:

A. Project information section.

- (1) A title that includes the name of the proposed or existing business and a subtitle which describes the proposed development.
- (2) The name, address, and phone number of the landowner, developer, and designer.
- (3) The Frederick County Property Identification Number (PIN) of all lots included on the site plan.
- (4) The number and type of dwelling units included on the site plan for residential uses.
- (5) The total land area and total developed land area of all lots included on the site plan.
- (6) A detailed description of the proposed use or uses of the development, as well as a description of the existing use or uses.
- (7) A reference to any other site plan or master development plan approved by the County for the site.
- (8) The date the site plan was prepared and a list of all revisions made, including the date and a description of why the site plan was revised.
- (9) A table of contents including all pages of the site plan.
- (10) A list of all proposed utility providers, with their address, name and phone number.
- (11) An inset map showing the location of the site, along with the location of streets, roads and land uses within 500 feet of the property.
- (12) A statement listing all requirements and conditions placed on the land included in the site plan resulting from approval of conditional zoning or a conditional use permit.
- (13) A description of setbacks or conditions placed on the site as a result of an approved variance.
- (14) The name of the Magisterial District within which property is located.

B. Calculations section.

- (1) Calculations showing the floor area ration (FAR) of the site, including the maximum allowed FAR, total ground floor area, total floor area, and total lot area.
- (2) Calculations showing the total number of required and proposed parking spaces, including the total number of existing and proposed spaces.
- (3) Calculations showing the total number of required handicap spaces, including the total number of existing and proposed spaces.
- (4) Calculations showing the total number of required loading spaces, including the total number of existing and proposed spaces.
- (5) Calculations showing the total number of required perimeter and interior trees required, including the number of provided trees.
- (6) Calculations showing the percentage of the property that will be landscaped and the percentage of woodlands disturbed.

C. Site plan and details section.

- (1) The location of all adjoining lots with the owner's name, specific use, zoning, and zoning boundaries shown.
- (2) The location of all existing or planned rights-of-way and easements that adjoin the property, with street names, widths, and speed limits shown.
- (3) All nearby entrances that are within 200 feet of any existing or proposed entrances to the site.

- (4) All existing and proposed driveways, parking and loading spaces, parking lots and a description of surfacing material and construction details to be used. The size and angle of parking spaces, aisles, maneuvering areas, and loading spaces shall be shown.
- (5) A North arrow.
- (6) A graphic scale and statement of scale.
- (7) A legend describing all symbols and other features that need description.
- (8) A boundary survey of the entire parcel and all lots included with distances described at least to the nearest hundredth of a foot.
- (9) The present zoning of all portions of the site, with the location of zoning boundaries.
- (10) The location of all existing and proposed structures, with the height, specific use, ground floor area, and total floor area labeled.
- (11) The location of all existing and proposed outdoor uses, with the height, specific use, and land area labeled.
- (12) Existing topographic contour lines at intervals acceptable to the Zoning Administrator. Proposed finished grades shall be shown by contour.
- (13) The location of the front, side, and rear yard setback lines required by the applicable zoning district.
- (14) The location and boundaries of existing environmental features, including streams, floodplains, lakes and ponds, wetlands, natural stormwater retention areas, steep slopes, and woodlands.
- (15) The location of outdoor trash receptacles.
- (16) The location of all outdoor lighting fixtures.
- (17) The location, dimensions, and height of all signs.
- (18) The location of required buffers, landscaping buffers, and landscaped screens, including examples, typical cross sections or diagrams of screening to be used. The location and dimensions of required fencing, berms, and similar features shall be specified.
- (19) The location of recreational areas and common open space.
- (20) The location of all proposed landscaping with a legend; the caliper, scientific name, and common name of all deciduous trees; the height at planting, scientific name, and common name of all evergreen trees and shrubs.
- (21) The height at planting, caliper, scientific name, and common name shall be provided for all proposed trees. The height at planting, scientific name and common name shall be provided for all shrubs.
- (22) The location of sidewalks and walkways.
- (23) The location and width of proposed easements and dedications.
- (24) A stormwater management plan describing the location of all stormwater management facilities with design calculations and details.
- (25) A soil erosion and sedimentation plan describing methods to be used.
- (26) The location and size of sewer and water mains and laterals serving the site.
- (27) Facilities necessary to meet the requirements of the Fire Code.
- (28) A signed seal of the certified Virginia land surveyor, architect, or engineer who prepared the plan.
- (29) A space labeled "Approved by the Frederick County Zoning Administrator" for the signature of the Zoning Administrator, approval date, and a statement that reads "site plan valid for five years from approval date."

D. Other information or statements may be required on the site plan by the Zoning Administrator to ensure that all requirements of the Frederick County Code are met.

E. All site plans shall conform with master development plans that have been approved for the land in question.

F. When required, deed restrictions, deeds of dedication, agreements, contracts, guaranties or other materials shall be submitted with the site plan.

**§ 165-802.04 Required improvements.**

A. All improvements and construction on the site shall conform with the approved site plan and the requirements of the Frederick County Code.

- B. The Zoning Administrator may require a bond with surety or other acceptable guaranties to insure the completion of required improvements. Such guaranties shall be in the estimated amount of the required improvements. Such guaranties shall be for a period of completion set by the Zoning Administrator with consultation with the applicant. Such guaranties shall be released when the required improvements have been completed.

**ARTICLE IX  
NONCONFORMING USES, STRUCTURES AND SIGNS**

**Part 901 – Nonconforming Uses, Structures and Signs.**

**§ 165-901.01 Continuation of pre-existing uses, structures & signs.**

Any use which does not conform to the requirements of this chapter at the effective adoption date of this chapter may be continued so long as it remains otherwise lawful. Structures and land may continue to be used as they were at the effective adoption date so long as they remain otherwise lawful. Any use, structure, or sign which subsequently becomes nonconforming as a result of amendments to this chapter may continue as it was at the time of the adoption of the amendment, as long as it remains otherwise lawful. Such nonconforming uses, structures, and signs shall conform to all laws in effect at the time when the use, structure, and signs were established.

- A. If any change of ownership, possession or lease of any legally nonconforming use, structure, or sign occurs, the use, structure, or sign may continue according to the requirements of this article.
- B. When the boundaries of a district are changed, any uses, structures, or signs which become nonconforming as a result of such change shall be subject to the provisions of this article.

**§ 165-901.02 Discontinuance.**

- A. If any legally nonconforming use or legally nonconforming sign is discontinued for a period exceeding one year after the enactment of this chapter, it shall be deemed to be abandoned, and any use or sign thereafter shall conform to the requirements of this chapter.
- B. Seasonal legally nonconforming uses that have been in continuous operation for a period of two years or more prior to the adoption of this chapter may be continued.

**§ 165-901.03 Re-establishing discontinued legally nonconforming use.**

Any use that was legally nonconforming under the provisions of this article and that was discontinued due to abandonment may be reestablished by obtaining a conditional use permit. Such conditional use permit shall be granted only for a use that is of equal or lesser nonconformity than the original use in relation to intensity, type of use, dimensional requirements or other requirements. Such requests to reestablish an abandoned use shall be considered following the procedures for conditional use permits in this chapter.

**§ 165-901.04 Expansions and modifications.**

- A. Legally nonconforming uses, structures, and signs listed below may not expand. These uses and structures may be modified if the result decreases the degree of nonconformity.

- (1) Landfills.
- (2) Junkyards.
- (3) Trash heaps.
- (4) Automobile graveyards.

(5) Signs.

- B. Legally nonconforming uses listed below may expand or modify one time if the expansion or modification does not increase the degree of nonconformity and does not expand beyond 3,500 square feet or 50%, whichever is less. Measurements shall be based on gross floor area for structures and total land area for uses.
- (1) Parking lots.
  - (2) Driveways.
  - (3) Loading areas.
  - (4) Outdoor storage and processing areas.
  - (5) Outdoor display areas.
- C. All legally nonconforming uses and structures not specified in § 165-901.04A or § 165-901.04B may expand or modify one time if the expansion or modification does not increase the degree of nonconformity, and does not result in an overall expansion of more than 2,000 square feet or 50%. Measurements shall be based on gross floor area for structures and total land area for uses. Legally nonconforming residential structures may expand beyond 2,000 square feet or 50% if the expansion or modification does not increase the degree of nonconformity. The Zoning Administrator may allow the expansion of legally nonconforming structures and the construction of new structures with the same setback of the existing legally nonconforming structure, provided that all other conditions of the Frederick County Zoning Ordinance are met.
- D. Whenever a nonconforming use is changed to another use, it shall only be changed to a use that is of equal or less nonconformity in terms of the type or intensity of the use.
- E. A legally nonconforming use or structure that is located within the floodplain districts may be expanded one time, provided that they meet the conditions set forth in this article as well as Article VII, § 165-702.19, of this chapter.

**§ 165-901.05 Legally nonconforming lots of record.**

Any lot of record at the time of the adoption of this chapter, which is less in area or frontage than the requirements of this chapter, may be used for uses allowed by this chapter when yard and setback requirements are met. The current setbacks for the particular Zoning District in question are to be applied for all lots, unless the most recent legally approved and recorded plat of the property clearly depicts all appropriate terminology and numeric information for different setbacks.

**§ 165-901.06 Restoration or replacement.**

If a legally nonconforming use or structure is destroyed or damaged in any manner, it may be repaired or restored, provided any such repair or restoration is completed within 12 months from the date the legally nonconforming use or structure was destroyed or damaged. The Planning Commission may approve a waiver to allow an extension up to 18 months from the date the legally nonconforming use or structure was destroyed or damaged if requested by the owner. All legally nonconforming signs that are destroyed or damaged in any manner may be repaired or restored only if all work is completed within six months from the date the legally nonconforming sign was destroyed or damaged.

**ARTICLE X**  
**BOARD OF ZONING APPEALS**

**Part 1001 – Board of Zoning Appeals**

**§ 165-1001.01 Appointment; organization; terms.**

A Board of Zoning Appeals shall be appointed by the Circuit Court according to the requirements and provisions of the Code of Virginia. The Board of Zoning Appeals shall organize and conduct itself according to all requirements of the Code of Virginia. The Board of Zoning Appeals shall consist of five members appointed for five-year terms.

**§ 165-1001.02 Powers & duties.**

A. Administrative appeals. The Board of Zoning Appeals shall hear and decide appeals from any order, requirement, decision or determination made by the Zoning Administrator, Director of Planning and Development or other administrative officer with authority to administer or enforce the requirements of this chapter.

(1) Procedures. An appeal to the Board of Zoning Appeals may be taken by any person, department, board, County or municipality aggrieved or affected by any decision of the Zoning Administrator. Such appeal shall be taken within 30 days after the decision by filing with the Zoning Administrator and Board of Zoning Appeals a notice of appeal specifying the grounds thereof. The Zoning Administrator shall transmit to the Board all the papers constituting the record upon which the action appealed was taken. An appeal shall stay all proceedings in furtherance of the action appealed unless the Zoning Administrator certifies to the Board that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the Board or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown.

(2) The Board shall fix a reasonable time for the hearing of an application or appeal and shall give public notice thereof as well as due notice to the parties in interest. It shall decide the appeal within 60 days. The Board may reverse or affirm wholly or partly or may modify an order, requirement, decision or determination appealed according to the procedures described in the Code of Virginia.

B. Map interpretations. The Board of Zoning Appeals shall hear and decide applications for the interpretation of the Zoning District Map after notice to the owners of the property affected and after a public hearing held according to the requirements of the Code of Virginia. The Board shall interpret the map in such a way as to carry out the intent and purpose of this chapter for the particular district in question. The Board shall not have the power to change substantially the locations of district boundaries as established by this chapter. The Board shall not have power to rezone property.

C. Variances. The Board of Zoning Appeals shall hear and decide applications for variances from specific terms or requirements of this chapter in specific cases. Variances shall only be granted by the Board in the following cases:

(1) When granting the variance will not be contrary to the public interest.

(2) When owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances shall only be granted when the property owner can show that his property was acquired in good faith and where the owner can show that the hardship was not self-inflicted. Variances shall be granted where, by reason of the exceptional conditions on the property at the time of the effective date of this chapter, the strict application of the requirements of this chapter would effectively prohibit or unreasonably restrict the use of the property. Variances shall be granted to alleviate a clearly demonstrable hardship approaching confiscation. Variances shall not be granted to provide a special privilege or convenience sought by

the applicant. A variance shall not be granted when the condition being alleviated is of a recurring nature so that the condition could better be alleviated by a zoning amendment.

(3) When the granting of the variance will maintain the intent of this chapter.

(4) Variances shall be granted to alleviate the following types of conditions:

- (a) Narrowness, shallowness, size or shape of a specific piece of property.
- (b) Exceptional topographic conditions.
- (c) Extraordinary conditions concerning the use of adjacent properties.
- (d) Other extraordinary conditions of the specific parcel of land.

(5) Variances shall only be authorized if the Board finds the following:

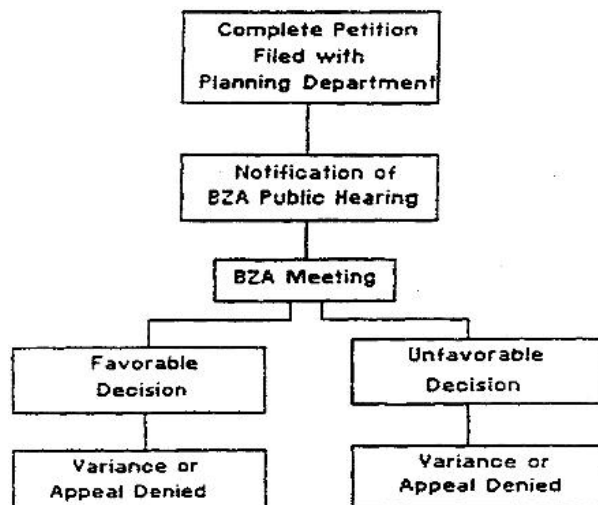
- (a) That the strict application of this chapter would produce undue hardship as described above.
- (b) That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- (c) That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by granting the variance.

(6) No variance shall be granted for any proposed use, development or activity in the Floodway District that will cause any increase in flood levels during the one-hundred-year flood.

(7) When considering a variance application located within the floodplain districts, additional factors contained in ARTICLE VII, § 165-702.18, must be followed.

D. Procedures. Applications for variances shall be made to the Zoning Administrator in accordance with rules adopted by the Zoning Administrator. Plans, maps and other application materials shall be provided by the applicant as required. Variances; shall be promptly transmitted to the Board of Zoning Appeals for public hearing. No variance shall be granted until after notice and a public hearing is held according to the requirements of the Code of Virginia. Applications for variances shall be accompanied by a nonrefundable fee in an amount as set by resolution of the Board of Supervisors from time to time.

### APPEALS AND VARIANCES



- E. Conditions. In granting a variance, the Board of Zoning Appeals may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guaranty or bond to ensure that the conditions imposed are being and will continue to be complied with.
  
- F. Decisions of the Board of Zoning Appeals may be appealed to the Circuit Court according to procedures set forth in the Code of Virginia.



**ARTICLE XI  
BUFFER & SCREENING DIAGRAMS**

**Part 1101 – Buffer & Screening Diagrams**

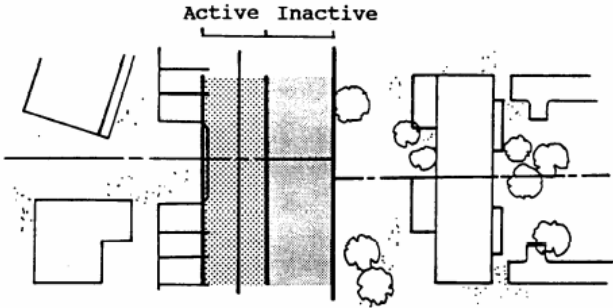
**§ 165-1101.01 Buffer & Screening Diagrams.**

*165 Attachment 1*

County of Frederick

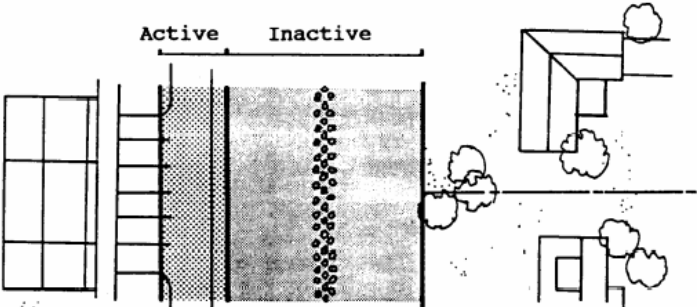
example: A BUFFER CATEGORY

(SCALE: 1"=50')



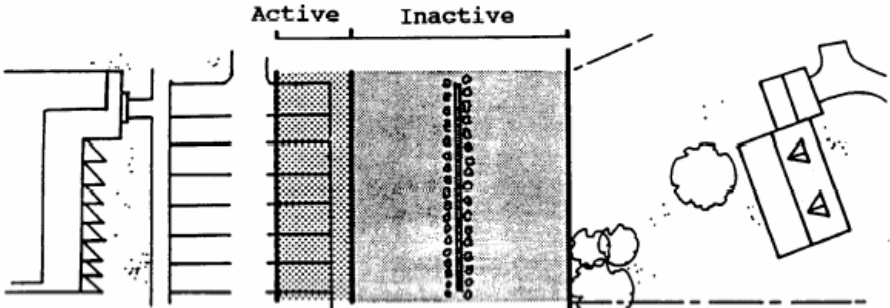
(NO LANDSCAPING OR SCREENING)

example: B BUFFER CATEGORY



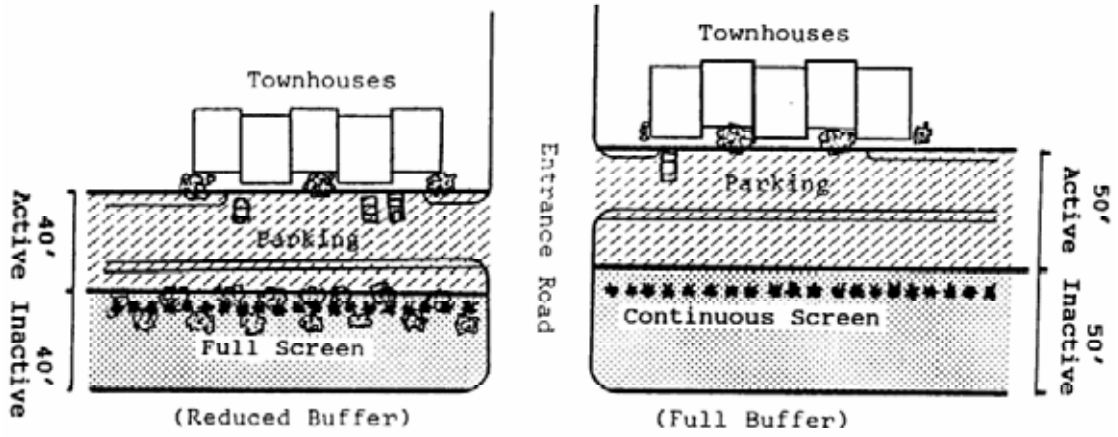
(FULL LANDSCAPING)

example: C BUFFER CATEGORY



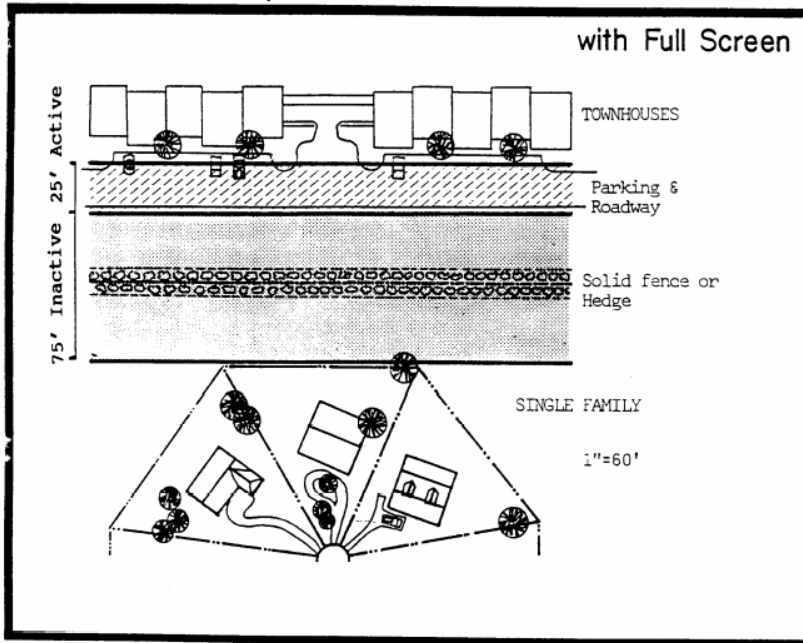
(FULL SCREEN)

# ROAD EFFICIENCY BUFFERS

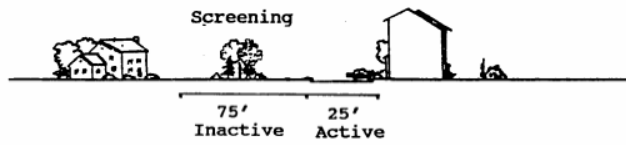


- Roadway -

# Example Buffer and Screening

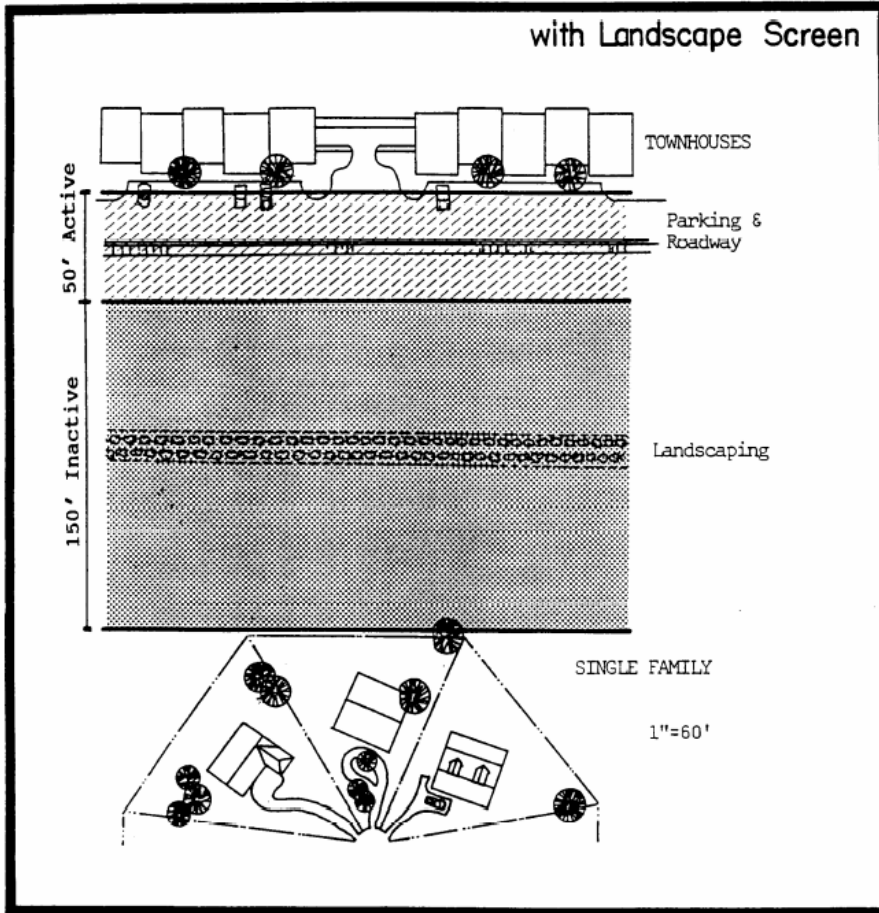


## CROSS SECTION

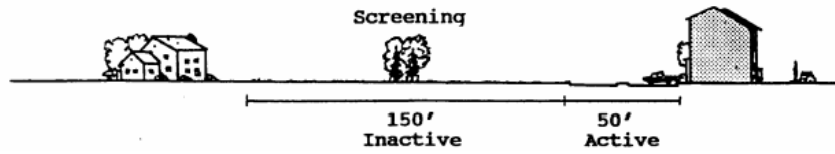


# Example Buffer and Screening

with Landscape Screen



CROSS SECTION



# Example Buffer

with No Screening

